

Public Law 112–91  
112th Congress

An Act

To amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

Jan. 31, 2012  
[H.R. 3800]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Airport and Airway Extension Act of 2012”.

Airport and  
Airway  
Extension Act  
of 2012.  
26 USC 1 note.

**SEC. 2. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.**

(a) **FUEL TAXES.**—Subparagraph (B) of section 4081(d)(2) of the Internal Revenue Code of 1986 is amended by striking “January 31, 2012” and inserting “February 17, 2012”.

26 USC 4081.

(b) **TICKET TAXES.**—

(1) **PERSONS.**—Clause (ii) of section 4261(j)(1)(A) of such Code is amended by striking “January 31, 2012” and inserting “February 17, 2012”.

(2) **PROPERTY.**—Clause (ii) of section 4271(d)(1)(A) of such Code is amended by striking “January 31, 2012” and inserting “February 17, 2012”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on February 1, 2012.

26 USC 4081  
note.

**SEC. 3. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.**

(a) **IN GENERAL.**—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended—

(1) by striking “February 1, 2012” and inserting “February 18, 2012”; and

(2) by inserting “or the Airport and Airway Extension Act of 2012” before the semicolon at the end of subparagraph (A).

(b) **CONFORMING AMENDMENT.**—Paragraph (2) of section 9502(e) of such Code is amended by striking “February 1, 2012” and inserting “February 18, 2012”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on February 1, 2012.

26 USC 9502  
note.

**SEC. 4. EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—Section 48103(9) of title 49, United States Code, is amended to read as follows:

Time period.

“(9) \$1,344,535,519 for the period beginning on October 1, 2011, and ending on February 17, 2012.”.

(2) OBLIGATION OF AMOUNTS.—Subject to limitations specified in advance in appropriation Acts, sums made available for a portion of fiscal year 2012 pursuant to the amendment made by paragraph (1) may be obligated at any time through September 30, 2012, and shall remain available until expended.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) of such title is amended by striking “January 31, 2012,” and inserting “February 17, 2012,”.

#### SEC. 5. EXTENSION OF EXPIRING AUTHORITIES.

(a) Section 40117(l)(7) of title 49, United States Code, is amended by striking “February 1, 2012.” and inserting “February 18, 2012.”.

Time period.

(b) Section 41743(e)(2) of such title is amended by striking “and \$2,016,393 for the portion of fiscal year 2012 ending before February 1, 2012,” and inserting “and \$2,295,082 for the portion of fiscal year 2012 ending before February 18, 2012,”.

(c) Section 44302(f)(1) of such title is amended—

(1) by striking “January 31, 2012,” and inserting “February 17, 2012,”; and

(2) by striking “April 30, 2012,” and inserting “May 17, 2012,”.

(d) Section 44303(b) of such title is amended by striking “April 30, 2012,” and inserting “May 17, 2012,”.

(e) Section 47107(s)(3) of such title is amended by striking “February 1, 2012.” and inserting “February 18, 2012.”.

(f) Section 47115(j) of such title is amended by striking “February 1, 2012,” and inserting “February 18, 2012,”.

(g) Section 47141(f) of such title is amended by striking “January 31, 2012.” and inserting “February 17, 2012.”.

(h) Section 49108 of such title is amended by striking “January 31, 2012,” and inserting “February 17, 2012,”.

(i) Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking “February 1, 2012,” and inserting “February 18, 2012,”.

(j) Section 186(d) of such Act (117 Stat. 2518) is amended by striking “February 1, 2012,” and inserting “February 18, 2012,”.

(k) Section 409(d) of such Act (49 U.S.C. 41731 note) is amended by striking “January 31, 2012.” and inserting “February 17, 2012.”.

#### SEC. 6. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

Section 106(k)(1)(H) of title 49, United States Code, is amended to read as follows:

Time period.

“(H) \$3,692,555,464 for the period beginning on October 1, 2011, and ending on February 17, 2012.”.

#### SEC. 7. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101(a)(8) of title 49, United States Code, is amended to read as follows:

Time period.

“(8) \$1,044,541,913 for the period beginning on October 1, 2011, and ending on February 17, 2012.”.

#### SEC. 8. RESEARCH, ENGINEERING, AND DEVELOPMENT.

Section 48102(a)(16) of title 49, United States Code, is amended to read as follows:

“(16) \$64,092,459 for the period beginning on October 1, 2011, and ending on February 17, 2012.”. Time period.

**SEC. 9. ESSENTIAL AIR SERVICE.**

Section 41742(a)(2) of title 49, United States Code, is amended by striking “and \$50,309,016 for the period beginning on October 1, 2011, and ending on January 31, 2012,” and inserting “and \$54,699,454 for the period beginning on October 1, 2011, and ending on February 17, 2012,”. Time period.

Approved January 31, 2012.

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**LEGISLATIVE HISTORY—H.R. 3800:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Jan. 24, considered and passed House.

Jan. 26, considered and passed Senate.



Public Law 112–92  
112th Congress

An Act

Feb. 1, 2012

[H.R. 3237]

SOAR Technical  
Corrections Act.

To amend the SOAR Act by clarifying the scope of coverage of the Act.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “SOAR Technical Corrections Act”.

**SEC. 2. USE OF FUNDS.**

Section 3007(a)(4)(F) of the Scholarships for Opportunity and Results Act (Public Law 112–10; 125 Stat. 203) is amended to read as follows:

“(F) ensures that, with respect to core academic subjects (as such term is defined in section 9101(11) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(11)), participating students are taught by a teacher who has a baccalaureate degree or equivalent degree, whether such degree was awarded in or outside of the United States.”.

**SEC. 3. NATIONALLY NORM-REFERENCED STANDARDIZED TESTS.**

Section 3008(h) of the Scholarships for Opportunity and Results Act (Public Law 112–10; 125 Stat. 205) is amended by striking paragraph (2) and inserting the following:

“(2) ADMINISTRATION OF TESTS.—The Institute of Education Sciences shall administer nationally norm-referenced standardized tests, as described in paragraph (3)(A) of section 3009(a), to students participating in the evaluation under section 3009(a) for the purpose of conducting the evaluation under such section, except where a student is attending a participating school that is administering the same nationally norm-referenced standardized test in accordance with the testing requirements described in paragraph (1).

“(3) TEST RESULTS.—Each participating school that administers the nationally norm-referenced standardized test described in paragraph (2) to an eligible student shall make the test results, with respect to such student, available to the Secretary as necessary for evaluation under section 3009(a).”.

**SEC. 4. EVALUATIONS.**

Section 3009(a)(3) of the Scholarships for Opportunity and Results Act (Public Law 112–10; 125 Stat. 206) is amended—

(1) in subparagraph (A), by inserting before the semicolon the following: “in a manner consistent with section 3008(h)”; and

(2) in subparagraph (C), by inserting “, if requested by the Institute of Education Sciences,” after “will participate”.

Approved February 1, 2012.

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LEGISLATIVE HISTORY—H.R. 3237:

HOUSE REPORTS: No. 112–315 (Comm. on Oversight and Government Reform).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 6, considered and passed House.

Vol. 158 (2012): Jan. 23, considered and passed Senate.



Public Law 112–93  
112th Congress

An Act

Feb. 10, 2012  
[H.R. 3801]

To amend the Tariff Act of 1930 to clarify the definition of aircraft and the offenses penalized under the aviation smuggling provisions under that Act, and for other purposes.

Ultralight  
Aircraft  
Smuggling  
Prevention Act  
of 2012.  
19 USC 1654  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may cited as the “Ultralight Aircraft Smuggling Prevention Act of 2012”.

**SEC. 2. CLARIFICATION OF DEFINITION OF AIRCRAFT AND OFFENSES UNDER AVIATION SMUGGLING PROVISIONS OF THE TARIFF ACT OF 1930.**

(a) IN GENERAL.—Section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) is amended—

- (1) by redesignating subsection (g) as subsection (h); and
- (2) by inserting after subsection (f) the following:

“(g) DEFINITION OF AIRCRAFT.—In this section, the term ‘aircraft’—

“(1) has the meaning given that term in section 40102 of title 49, United States Code; and

“(2) includes a vehicle described in section 103.1 of title 14, Code of Federal Regulations.”.

(b) CRIMINAL PENALTIES.—Subsection (d) of section 590 of the Tariff Act of 1930 (19 U.S.C. 1590(d)) is amended in the matter preceding paragraph (1) by inserting “, or attempts or conspires to commit,” after “commits”.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to violations of any provision of section 590 of the Tariff Act of 1930 on or after the 30th day after the date of the enactment of this Act.

**SEC. 3. INTERAGENCY COLLABORATION.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has worked collaboratively with the Department of Homeland Security to identify equipment, technology, and expertise used by the Department of Defense that could be leveraged by the Department of Homeland Security to help fulfill its missions.

(2) As part of that collaborative effort, the Department of Homeland Security has leveraged Department of Defense equipment, technology, and expertise to enhance the ability of U.S. Customs and Border Protection to detect, track, and engage illicit trafficking across the international borders

19 USC 1590  
note.

between the United States and Mexico and the United States and Canada.

(3) Leveraging Department of Defense equipment, technology, and expertise is a cost-effective inter-agency approach to enhancing the effectiveness of the Department of Homeland Security to protect the United States against a variety of threats and risks.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should—

(1) continue the broad program of cooperation and collaboration with the Secretary of Homeland Security described in subsection (a); and

(2) ensure that the Department of Homeland Security is able to identify equipment and technology used by the Department of Defense that could also be used by U.S. Customs and Border Protection to enhance its efforts to combat illicit trafficking across the international borders between the United States and Mexico and the United States and Canada, including equipment and technology that could be used to detect and track the illicit use of ultralight aircraft.

Approved February 10, 2012.

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LEGISLATIVE HISTORY—H.R. 3801 (S. 1974):

CONGRESSIONAL RECORD, Vol. 158 (2012):

Jan. 25, considered and passed House.

Jan. 26, considered and passed Senate.



Public Law 112–94  
112th Congress

An Act

Feb. 14, 2012  
[H.R. 588]

To redesignate the Noxubee National Wildlife Refuge as the Sam D. Hamilton  
Noxubee National Wildlife Refuge.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. REDESIGNATION OF THE NOXUBEE NATIONAL WILDLIFE  
REFUGE.**

(a) **IN GENERAL.**—The Noxubee National Wildlife Refuge, located in the State of Mississippi, is redesignated as the “Sam D. Hamilton Noxubee National Wildlife Refuge”.

16 USC 668dd  
note.

(b) **BOUNDARY REVISION.**—Nothing in this Act prevents the Secretary of the Interior from making adjustments to the boundaries of the Sam D. Hamilton Noxubee National Wildlife Refuge (referred to in this section as the “Refuge”), as the Secretary determines to be appropriate, to carry out the mission of the National Wildlife Refuge System in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and any other applicable authority.

(c) **ADDITION OF LAND.**—Nothing in this Act prevents the Secretary of the Interior from adding to the Refuge new land or parcels of the National Wildlife Refuge System, as the Secretary determines to be appropriate, to carry out the mission of the National Wildlife Refuge System in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and any other applicable authority.

(d) **REFERENCES.**—Any reference in any statute, rule, regulation, executive order, publication, map, paper, or other document of the United States to the Noxubee National Wildlife Refuge is deemed to refer to the Sam D. Hamilton Noxubee National Wildlife Refuge.

Approved February 14, 2012.

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**LEGISLATIVE HISTORY—H.R. 588:**

HOUSE REPORTS: No. 112–279 (Comm. on Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Nov. 14, considered and passed House.

Vol. 158 (2012): Feb. 1, considered and passed Senate.





Public Law 112–95  
112th Congress

An Act

To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2011 through 2014, to streamline programs, create efficiencies, reduce waste, and improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes.

Feb. 14, 2012  
[H.R. 658]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “FAA Modernization and Reform Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

FAA  
Modernization  
and Reform Act  
of 2012.  
49 USC 40101  
note.

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to title 49, United States Code.
- Sec. 3. Effective date.

**TITLE I—AUTHORIZATIONS**

**Subtitle A—Funding of FAA Programs**

- Sec. 101. Airport planning and development and noise compatibility planning and programs.
- Sec. 102. Air navigation facilities and equipment.
- Sec. 103. FAA operations.
- Sec. 104. Funding for aviation programs.
- Sec. 105. Delineation of Next Generation Air Transportation System projects.

**Subtitle B—Passenger Facility Charges**

- Sec. 111. Passenger facility charges.
- Sec. 112. GAO study of alternative means of collecting PFCs.
- Sec. 113. Qualifications-based selection.

**Subtitle C—Fees for FAA Services**

- Sec. 121. Update on overflights.
- Sec. 122. Registration fees.

**Subtitle D—Airport Improvement Program Modifications**

- Sec. 131. Airport master plans.
- Sec. 132. AIP definitions.
- Sec. 133. Recycling plans for airports.
- Sec. 134. Contents of competition plans.
- Sec. 135. Grant assurances.
- Sec. 136. Agreements granting through-the-fence access to general aviation airports.
- Sec. 137. Government share of project costs.
- Sec. 138. Allowable project costs.
- Sec. 139. Veterans’ preference.
- Sec. 140. Minority and disadvantaged business participation.
- Sec. 141. Special apportionment rules.
- Sec. 142. United States territories minimum guarantee.
- Sec. 143. Reducing apportionments.
- Sec. 144. Marshall Islands, Micronesia, and Palau.

- Sec. 145. Use of apportioned amounts.
- Sec. 146. Designating current and former military airports.
- Sec. 147. Contract tower program.
- Sec. 148. Resolution of disputes concerning airport fees.
- Sec. 149. Sale of private airports to public sponsors.
- Sec. 150. Repeal of certain limitations on Metropolitan Washington Airports Authority.
- Sec. 151. Midway Island Airport.
- Sec. 152. Miscellaneous amendments.
- Sec. 153. Extension of grant authority for compatible land use planning and projects by State and local governments.
- Sec. 154. Priority review of construction projects in cold weather States.
- Sec. 155. Study on national plan of integrated airport systems.
- Sec. 156. Airport privatization program.

#### TITLE II—NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION

- Sec. 201. Definitions.
- Sec. 202. NextGen demonstrations and concepts.
- Sec. 203. Clarification of authority to enter into reimbursable agreements.
- Sec. 204. Chief NextGen Officer.
- Sec. 205. Definition of air navigation facility.
- Sec. 206. Clarification to acquisition reform authority.
- Sec. 207. Assistance to foreign aviation authorities.
- Sec. 208. Next Generation Air Transportation System Joint Planning and Development Office.
- Sec. 209. Next Generation Air Transportation Senior Policy Committee.
- Sec. 210. Improved management of property inventory.
- Sec. 211. Automatic dependent surveillance-broadcast services.
- Sec. 212. Expert review of enterprise architecture for NextGen.
- Sec. 213. Acceleration of NextGen technologies.
- Sec. 214. Performance metrics.
- Sec. 215. Certification standards and resources.
- Sec. 216. Surface systems acceleration.
- Sec. 217. Inclusion of stakeholders in air traffic control modernization projects.
- Sec. 218. Airspace redesign.
- Sec. 219. Study on feasibility of development of a public internet web-based resource on locations of potential aviation obstructions.
- Sec. 220. NextGen research and development center of excellence.
- Sec. 221. Public-private partnerships.
- Sec. 222. Operational incentives.
- Sec. 223. Educational requirements.
- Sec. 224. Air traffic controller staffing initiatives and analysis.
- Sec. 225. Reports on status of greener skies project.

#### TITLE III—SAFETY

##### Subtitle A—General Provisions

- Sec. 301. Judicial review of denial of airman certificates.
- Sec. 302. Release of data relating to abandoned type certificates and supplemental type certificates.
- Sec. 303. Design and production organization certificates.
- Sec. 304. Cabin crew communication.
- Sec. 305. Line check evaluations.
- Sec. 306. Safety of air ambulance operations.
- Sec. 307. Prohibition on personal use of electronic devices on flight deck.
- Sec. 308. Inspection of repair stations located outside the United States.
- Sec. 309. Enhanced training for flight attendants.
- Sec. 310. Limitation on disclosure of safety information.
- Sec. 311. Prohibition against aiming a laser pointer at an aircraft.
- Sec. 312. Aircraft certification process review and reform.
- Sec. 313. Consistency of regulatory interpretation.
- Sec. 314. Runway safety.
- Sec. 315. Flight Standards Evaluation Program.
- Sec. 316. Cockpit smoke.
- Sec. 317. Off-airport, low-altitude aircraft weather observation technology.
- Sec. 318. Feasibility of requiring helicopter pilots to use night vision goggles.
- Sec. 319. Maintenance providers.
- Sec. 320. Study of air quality in aircraft cabins.
- Sec. 321. Improved pilot licenses.

##### Subtitle B—Unmanned Aircraft Systems

- Sec. 331. Definitions.

- Sec. 332. Integration of civil unmanned aircraft systems into national airspace system.
- Sec. 333. Special rules for certain unmanned aircraft systems.
- Sec. 334. Public unmanned aircraft systems.
- Sec. 335. Safety studies.
- Sec. 336. Special rule for model aircraft.

#### Subtitle C—Safety and Protections

- Sec. 341. Aviation Safety Whistleblower Investigation Office.
- Sec. 342. Postemployment restrictions for flight standards inspectors.
- Sec. 343. Review of air transportation oversight system database.
- Sec. 344. Improved voluntary disclosure reporting system.
- Sec. 345. Duty periods and flight time limitations applicable to flight crewmembers.
- Sec. 346. Certain existing flight time limitations and rest requirements.
- Sec. 347. Emergency locator transmitters on general aviation aircraft.

### TITLE IV—AIR SERVICE IMPROVEMENTS

#### Subtitle A—Passenger Air Service Improvements

- Sec. 401. Smoking prohibition.
- Sec. 402. Monthly air carrier reports.
- Sec. 403. Musical instruments.
- Sec. 404. Extension of competitive access reports.
- Sec. 405. Airfares for members of the Armed Forces.
- Sec. 406. Review of air carrier flight delays, cancellations, and associated causes.
- Sec. 407. Compensation for delayed baggage.
- Sec. 408. DOT airline consumer complaint investigations.
- Sec. 409. Study of operators regulated under part 135.
- Sec. 410. Use of cell phones on passenger aircraft.
- Sec. 411. Establishment of advisory committee for aviation consumer protection.
- Sec. 412. Disclosure of seat dimensions to facilitate the use of child safety seats on aircraft.
- Sec. 413. Schedule reduction.
- Sec. 414. Ronald Reagan Washington National Airport slot exemptions.
- Sec. 415. Passenger air service improvements.

#### Subtitle B—Essential Air Service

- Sec. 421. Limitation on essential air service to locations that average fewer than 10 enplanements per day.
- Sec. 422. Essential air service eligibility.
- Sec. 423. Essential air service marketing.
- Sec. 424. Notice to communities prior to termination of eligibility for subsidized essential air service.
- Sec. 425. Restoration of eligibility to a place determined to be ineligible for subsidized essential air service.
- Sec. 426. Adjustments to compensation for significantly increased costs.
- Sec. 427. Essential air service contract guidelines.
- Sec. 428. Essential air service reform.
- Sec. 429. Small community air service.
- Sec. 430. Repeal of essential air service local participation program.
- Sec. 431. Extension of final order establishing mileage adjustment eligibility.

### TITLE V—ENVIRONMENTAL STREAMLINING

- Sec. 501. Overflights of national parks.
- Sec. 502. State block grant program.
- Sec. 503. Airport funding of special studies or reviews.
- Sec. 504. Grant eligibility for assessment of flight procedures.
- Sec. 505. Determination of fair market value of residential properties.
- Sec. 506. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels.
- Sec. 507. Aircraft departure queue management pilot program.
- Sec. 508. High performance, sustainable, and cost-effective air traffic control facilities.
- Sec. 509. Sense of Congress.
- Sec. 510. Aviation noise complaints.
- Sec. 511. Pilot program for zero-emission airport vehicles.
- Sec. 512. Increasing the energy efficiency of airport power sources.

### TITLE VI—FAA EMPLOYEES AND ORGANIZATION

- Sec. 601. Federal Aviation Administration personnel management system.
- Sec. 602. Presidential rank award program.

- Sec. 603. Collegiate training initiative study.
- Sec. 604. Frontline manager staffing.
- Sec. 605. FAA technical training and staffing.
- Sec. 606. Safety critical staffing.
- Sec. 607. Air traffic control specialist qualification training.
- Sec. 608. FAA air traffic controller staffing.
- Sec. 609. Air traffic controller training and scheduling.
- Sec. 610. FAA facility conditions.
- Sec. 611. Technical correction.

## TITLE VII—AVIATION INSURANCE

- Sec. 701. General authority.
- Sec. 702. Extension of authority to limit third-party liability of air carriers arising out of acts of terrorism.
- Sec. 703. Clarification of reinsurance authority.
- Sec. 704. Use of independent claims adjusters.

## TITLE VIII—MISCELLANEOUS

- Sec. 801. Disclosure of data to Federal agencies in interest of national security.
- Sec. 802. FAA authority to conduct criminal history record checks.
- Sec. 803. Civil penalties technical amendments.
- Sec. 804. Consolidation and realignment of FAA services and facilities.
- Sec. 805. Limiting access to flight decks of all-cargo aircraft.
- Sec. 806. Consolidation or elimination of obsolete, redundant, or otherwise unnecessary reports; use of electronic media format.
- Sec. 807. Prohibition on use of certain funds.
- Sec. 808. Study on aviation fuel prices.
- Sec. 809. Wind turbine lighting.
- Sec. 810. Air-rail code sharing study.
- Sec. 811. D.C. Metropolitan Area Special Flight Rules Area.
- Sec. 812. FAA review and reform.
- Sec. 813. Use of mineral revenue at certain airports.
- Sec. 814. Contracting.
- Sec. 815. Flood planning.
- Sec. 816. Historical aircraft documents.
- Sec. 817. Release from restrictions.
- Sec. 818. Sense of Congress.
- Sec. 819. Human Intervention Motivation Study.
- Sec. 820. Study of aeronautical mobile telemetry.
- Sec. 821. Clarification of requirements for volunteer pilots operating charitable medical flights.
- Sec. 822. Pilot program for redevelopment of airport properties.
- Sec. 823. Report on New York City and Newark air traffic control facilities.
- Sec. 824. Cylinders of compressed oxygen or other oxidizing gases.
- Sec. 825. Orphan aviation earmarks.
- Sec. 826. Privacy protections for air passenger screening with advanced imaging technology.
- Sec. 827. Commercial space launch license requirements.
- Sec. 828. Air transportation of lithium cells and batteries.
- Sec. 829. Clarification of memorandum of understanding with OSHA.
- Sec. 830. Approval of applications for the airport security screening opt-out program.

## TITLE IX—FEDERAL AVIATION RESEARCH AND DEVELOPMENT

- Sec. 901. Authorization of appropriations.
- Sec. 902. Definitions.
- Sec. 903. Unmanned aircraft systems.
- Sec. 904. Research program on runways.
- Sec. 905. Research on design for certification.
- Sec. 906. Airport cooperative research program.
- Sec. 907. Centers of excellence.
- Sec. 908. Center of excellence for aviation human resource research.
- Sec. 909. Interagency research on aviation and the environment.
- Sec. 910. Aviation fuel research and development program.
- Sec. 911. Research program on alternative jet fuel technology for civil aircraft.
- Sec. 912. Review of FAA's energy-related and environment-related research programs.
- Sec. 913. Review of FAA's aviation safety-related research programs.
- Sec. 914. Production of clean coal fuel technology for civilian aircraft.
- Sec. 915. Wake turbulence, volcanic ash, and weather research.
- Sec. 916. Reauthorization of center of excellence in applied research and training in the use of advanced materials in transport aircraft.

- Sec. 917. Research and development of equipment to clean and monitor the engine and APU bleed air supplied on pressurized aircraft.  
 Sec. 918. Expert review of enterprise architecture for NextGen.  
 Sec. 919. Airport sustainability planning working group.

#### TITLE X—NATIONAL MEDIATION BOARD

- Sec. 1001. Rulemaking authority.  
 Sec. 1002. Runoff election rules.  
 Sec. 1003. Bargaining representative certification.  
 Sec. 1004. Oversight.

#### TITLE XI—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES

- Sec. 1100. Amendment of 1986 code.  
 Sec. 1101. Extension of taxes funding airport and airway trust fund.  
 Sec. 1102. Extension of airport and airway trust fund expenditure authority.  
 Sec. 1103. Treatment of fractional aircraft ownership programs.  
 Sec. 1104. Transparency in passenger tax disclosures.  
 Sec. 1105. Tax-exempt bond financing for fixed-wing emergency medical aircraft.  
 Sec. 1106. Rollover of amounts received in airline carrier bankruptcy.  
 Sec. 1107. Termination of exemption for small jet aircraft on nonestablished lines.  
 Sec. 1108. Modification of control definition for purposes of section 249.

#### TITLE XII—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010

- Sec. 1201. Compliance provision.

#### SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

#### SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

49 USC 40101  
note.

## TITLE I—AUTHORIZATIONS

### Subtitle A—Funding of FAA Programs

#### SEC. 101. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.—Section 48103 is amended to read as follows:

##### **“§ 48103. Airport planning and development and noise compatibility planning and programs**

“(a) IN GENERAL.—There shall be available to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 to make grants for airport planning and airport development under section 47104, airport noise compatibility planning under section 47505(a)(2), and carrying out noise compatibility programs under section 47504(c) \$3,350,000,000 for each of fiscal years 2012 through 2015.

“(b) AVAILABILITY OF AMOUNTS.—Amounts made available under subsection (a) shall remain available until expended.”.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended in the matter preceding paragraph (1) by striking “After” and

all the follows before “the Secretary” and inserting “After September 30, 2015,”.

**SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 48101(a) is amended by striking paragraphs (1) through (8) and inserting the following:

- “(1) \$2,731,000,000 for fiscal year 2012.
- “(2) \$2,715,000,000 for fiscal year 2013.
- “(3) \$2,730,000,000 for fiscal year 2014.
- “(4) \$2,730,000,000 for fiscal year 2015.”.

(b) **SET-ASIDES.**—Section 48101 is amended—

- (1) by striking subsections (c), (d), (e), (h), and (i); and
- (2) by redesignating subsections (f) and (g) as subsections (c) and (d), respectively.

**SEC. 103. FAA OPERATIONS.**

(a) **IN GENERAL.**—Section 106(k)(1) is amended by striking subparagraphs (A) through (H) and inserting the following:

- “(A) \$9,653,000,000 for fiscal year 2012;
- “(B) \$9,539,000,000 for fiscal year 2013;
- “(C) \$9,596,000,000 for fiscal year 2014; and
- “(D) \$9,653,000,000 for fiscal year 2015.”.

(b) **AUTHORIZED EXPENDITURES.**—Section 106(k)(2) is amended—

- (1) by striking subparagraphs (A), (B), (C), and (D);
- (2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (A), (B), and (C), respectively; and
- (3) in subparagraphs (A), (B), and (C) (as so redesignated) by striking “2004 through 2007” and inserting “2012 through 2015”.

(c) **AUTHORITY TO TRANSFER FUNDS.**—Section 106(k) is amended by adding at the end the following:

Determination. “(3) **ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.**—Notwithstanding any other provision of law, in each of fiscal years 2012 through 2015, if the Secretary determines that the funds appropriated under paragraph (1) are insufficient to meet the salary, operations, and maintenance expenses of the Federal Aviation Administration, as authorized by this section, the Secretary shall reduce nonsafety-related activities of the Administration as necessary to reduce such expenses to a level that can be met by the funding available under paragraph (1).”.

**SEC. 104. FUNDING FOR AVIATION PROGRAMS.**

(a) **AIRPORT AND AIRWAY TRUST FUND GUARANTEE.**—Section 48114(a)(1)(A) is amended to read as follows:

“(A) **IN GENERAL.**—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year pursuant to sections 48101, 48102, 48103, and 106(k) shall—

“(i) in fiscal year 2013, be equal to 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

“(ii) in fiscal year 2014 and each fiscal year thereafter, be equal to the sum of—

“(I) 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

“(II) the actual level of receipts plus interest credited to the Airport and Airway Trust Fund for the second preceding fiscal year minus the total amount made available for obligation from the Airport and Airway Trust Fund for the second preceding fiscal year.

Such amounts may be used only for the aviation investment programs listed in subsection (b)(1).”

(b) TECHNICAL CORRECTION.—Section 48114(a)(1)(B) is amended by striking “subsection (b)” and inserting “subsection (b)(1)”.

(c) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—Section 48114(a)(2) is amended by striking “2007” and inserting “2015”.

(d) ESTIMATED LEVEL OF RECEIPTS PLUS INTEREST DEFINED.—Section 48114(b)(2) is amended—

(1) in the paragraph heading by striking “LEVEL” and inserting “ESTIMATED LEVEL”; and

(2) by striking “level of receipts plus interest” and inserting “estimated level of receipts plus interest”.

(e) ENFORCEMENT OF GUARANTEES.—Section 48114(c)(2) is amended by striking “2007” and inserting “2015”.

#### **SEC. 105. DELINEATION OF NEXT GENERATION AIR TRANSPORTATION SYSTEM PROJECTS.**

Section 44501(b) is amended—

(1) in paragraph (3) by striking “and” after the semicolon;

(2) in paragraph (4)(B) by striking “defense.” and inserting “defense; and”; and

(3) by adding at the end the following:

“(5) a list of capital projects that are part of the Next Generation Air Transportation System and funded by amounts appropriated under section 48101(a).”.

## **Subtitle B—Passenger Facility Charges**

#### **SEC. 111. PASSENGER FACILITY CHARGES.**

(a) PFC DEFINED.—Section 40117(a)(5) is amended to read as follows:

“(5) PASSENGER FACILITY CHARGE.—The term ‘passenger facility charge’ means a charge or fee imposed under this section.”.

(b) PILOT PROGRAM FOR PFC AUTHORIZATIONS AT NONHUB AIRPORTS.—Section 40117(l) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraph (8) as paragraph (7).

(c) CORRECTION OF REFERENCES.—

(1) SECTION 40117.—Section 40117 is amended—

(A) in the section heading by striking “fees” and inserting “charges”;

(B) in the heading for subsection (e) by striking “FEES” and inserting “CHARGES”;

(C) in the heading for subsection (l) by striking “FEE” and inserting “CHARGE”;

(D) in the heading for paragraph (5) of subsection (1) by striking “FEE” and inserting “CHARGE”;

(E) in the heading for subsection (m) by striking “FEES” and inserting “CHARGES”;

(F) in the heading for paragraph (1) of subsection (m) by striking “FEES” and inserting “CHARGES”;

(G) by striking “fee” each place it appears (other than the second sentence of subsection (g)(4)) and inserting “charge”; and

(H) by striking “fees” each place it appears and inserting “charges”.

(2) OTHER REFERENCES.—

(A) Subtitle VII is amended by striking “fee” and inserting “charge” each place it appears in each of the following sections:

(i) Section 47106(f)(1).

(ii) Section 47110(e)(5).

(iii) Section 47114(f).

(iv) Section 47134(g)(1).

(v) Section 47139(b).

(vi) Section 47521.

(vii) Section 47524(e).

(viii) Section 47526(2).

(B) Section 47521(5) is amended by striking “fees” and inserting “charges”.

(3) CLERICAL AMENDMENT.—The analysis for chapter 401 is amended by striking the item relating to section 40117 and inserting the following:

“40117. Passenger facility charges.”.

#### **SEC. 112. GAO STUDY OF ALTERNATIVE MEANS OF COLLECTING PFCS.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of alternative means of collecting passenger facility charges imposed under section 40117 of title 49, United States Code, that would permit such charges to be collected without being included in the ticket price. In conducting the study, the Comptroller General shall consider, at a minimum—

(1) collection options for arriving, connecting, and departing passengers at airports;

(2) cost sharing or allocation methods based on passenger travel to address connecting traffic; and

(3) examples of airport charges collected by domestic and international airports that are not included in ticket prices.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the study, including the Comptroller General’s findings, conclusions, and recommendations.

#### **SEC. 113. QUALIFICATIONS-BASED SELECTION.**

It is the sense of Congress that airports should consider the use of qualifications-based selection in carrying out capital improvement projects funded using passenger facility charges collected under section 40117 of title 49, United States Code, with the goal of serving the needs of all stakeholders.



## Subtitle C—Fees for FAA Services

### SEC. 121. UPDATE ON OVERFLIGHTS.

(a) ESTABLISHMENT AND ADJUSTMENT OF FEES.—Section 45301(b) is amended to read as follows:

“(b) ESTABLISHMENT AND ADJUSTMENT OF FEES.—

“(1) IN GENERAL.—In establishing and adjusting fees under this section, the Administrator shall ensure that the fees are reasonably related to the Administration’s costs, as determined by the Administrator, of providing the services rendered.

“(2) SERVICES FOR WHICH COSTS MAY BE RECOVERED.—Services for which costs may be recovered under this section include the costs of air traffic control, navigation, weather services, training, and emergency services that are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States.

“(3) LIMITATIONS ON JUDICIAL REVIEW.—Notwithstanding section 702 of title 5 or any other provision of law, the following actions and other matters shall not be subject to judicial review:

“(A) The establishment or adjustment of a fee by the Administrator under this section.

“(B) The validity of a determination of costs by the Administrator under paragraph (1), and the processes and procedures applied by the Administrator when reaching such determination.

“(C) An allocation of costs by the Administrator under paragraph (1) to services provided, and the processes and procedures applied by the Administrator when establishing such allocation.

“(4) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

“(5) COSTS DEFINED.—In this subsection, the term ‘costs’ includes operation and maintenance costs, leasing costs, and overhead expenses associated with the services provided and the facilities and equipment used in providing such services.”.

(b) ADJUSTMENT OF FEES.—Section 45301 is amended by adding at the end the following:

“(e) ADJUSTMENT OF FEES.—In addition to adjustments under subsection (b), the Administrator may periodically adjust the fees established under this section.”.

### SEC. 122. REGISTRATION FEES.

(a) IN GENERAL.—Chapter 453 is amended by adding at the end the following:

#### “§ 45305. Registration, certification, and related fees

49 USC 45305.

“(a) GENERAL AUTHORITY AND FEES.—Subject to subsection (b), the Administrator of the Federal Aviation Administration shall establish and collect a fee for each of the following services and activities of the Administration that does not exceed the estimated costs of the service or activity:

“(1) Registering an aircraft.

“(2) Reregistering, replacing, or renewing an aircraft registration certificate.

“(3) Issuing an original dealer’s aircraft registration certificate.

“(4) Issuing an additional dealer’s aircraft registration certificate (other than the original).

“(5) Issuing a special registration number.

“(6) Issuing a renewal of a special registration number reservation.

“(7) Recording a security interest in an aircraft or aircraft part.

“(8) Issuing an airman certificate.

“(9) Issuing a replacement airman certificate.

“(10) Issuing an airman medical certificate.

“(11) Providing a legal opinion pertaining to aircraft registration or recordation.

“(b) LIMITATION ON COLLECTION.—No fee may be collected under this section unless the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

“(c) FEES CREDITED AS OFFSETTING COLLECTIONS.—

“(1) IN GENERAL.—Notwithstanding section 3302 of title 31, any fee authorized to be collected under this section shall—

“(A) be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

“(B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed, including all costs associated with collecting the fee; and

“(C) remain available until expended.

“(2) CONTINUING APPROPRIATIONS.—The Administrator may continue to assess, collect, and spend fees established under this section during any period in which the funding for the Federal Aviation Administration is provided under an Act providing continuing appropriations in lieu of the Administration’s regular appropriations.

“(3) ADJUSTMENTS.—The Administrator shall adjust a fee established under subsection (a) for a service or activity if the Administrator determines that the actual cost of the service or activity is higher or lower than was indicated by the cost data used to establish such fee.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 453 is amended by adding at the end the following:

“45305. Registration, certification, and related fees.”.

(c) FEES INVOLVING AIRCRAFT NOT PROVIDING AIR TRANSPORTATION.—Section 45302(e) is amended—

(1) by striking “A fee” and inserting the following:

“(1) IN GENERAL.—A fee”; and

(2) by adding at the end the following:

“(2) EFFECT OF IMPOSITION OF OTHER FEES.—A fee may not be imposed for a service or activity under this section during any period in which a fee for the same service or activity is imposed under section 45305.”.

## Subtitle D—Airport Improvement Program Modifications

### SEC. 131. AIRPORT MASTER PLANS.

Section 47101(g)(2) is amended—

- (1) in subparagraph (B) by striking “and” at the end;
- (2) by redesignating subparagraph (C) as subparagraph (D); and
- (3) by inserting after subparagraph (B) the following:  
“(C) consider passenger convenience, airport ground access, and access to airport facilities; and”.

### SEC. 132. AIP DEFINITIONS.

(a) AIRPORT DEVELOPMENT.—Section 47102(3) is amended—

- (1) in subparagraph (B)(iv) by striking “20” and inserting “9”;
- (2) in subparagraph (G) by inserting “and including acquiring glycol recovery vehicles,” after “aircraft,”; and
- (3) by adding at the end the following:  
“(M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.

“(N) terminal development under section 47119(a).

“(O) acquiring and installing facilities and equipment to provide air conditioning, heating, or electric power from terminal-based, nonexclusive use facilities to aircraft parked at a public use airport for the purpose of reducing energy use or harmful emissions as compared to the provision of such air conditioning, heating, or electric power from aircraft-based systems.”.

(b) AIRPORT PLANNING.—Section 47102(5) is amended to read as follows:

“(5) ‘airport planning’ means planning as defined by regulations the Secretary prescribes and includes—

“(A) integrated airport system planning;

“(B) developing an environmental management system;

and

“(C) developing a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit.”.

(c) GENERAL AVIATION AIRPORT.—Section 47102 is amended—

- (1) by redesignating paragraphs (23) through (25) as paragraphs (25) through (27), respectively;
- (2) by redesignating paragraphs (8) through (22) as paragraphs (9) through (23), respectively; and
- (3) by inserting after paragraph (7) the following:

“(8) ‘general aviation airport’ means a public airport that is located in a State and that, as determined by the Secretary—

“(A) does not have scheduled service; or

“(B) has scheduled service with less than 2,500 passenger boardings each year.”.

(d) REVENUE PRODUCING AERONAUTICAL SUPPORT FACILITIES.—

Section 47102 is amended by inserting after paragraph (23) (as redesignated by subsection (c)(2) of this section) the following:

“(24) ‘revenue producing aeronautical support facilities’ means fuel farms, hangar buildings, self-service credit card aeronautical fueling systems, airplane wash racks, major rehabilitation of a hangar owned by a sponsor, or other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport.”.

(e) **TERMINAL DEVELOPMENT.**—Section 47102 (as amended by subsection (c) of this section) is further amended by adding at the end the following:

“(28) ‘terminal development’ means—

“(A) development of—

“(i) an airport passenger terminal building, including terminal gates;

“(ii) access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and

“(iii) walkways that lead directly to or from an airport passenger terminal building; and

“(B) the cost of a vehicle described in section 47119(a)(1)(B).”.

#### **SEC. 133. RECYCLING PLANS FOR AIRPORTS.**

Section 47106(a) is amended—

(1) in paragraph (4) by striking “and” at the end;

(2) in paragraph (5) by striking “proposed.” and inserting “proposed; and”; and

(3) by adding at the end the following:

“(6) if the project is for an airport that has an airport master plan, the master plan addresses issues relating to solid waste recycling at the airport, including—

“(A) the feasibility of solid waste recycling at the airport;

“(B) minimizing the generation of solid waste at the airport;

“(C) operation and maintenance requirements;

“(D) the review of waste management contracts; and

“(E) the potential for cost savings or the generation of revenue.”.

#### **SEC. 134. CONTENTS OF COMPETITION PLANS.**

Section 47106(f)(2) is amended—

(1) by striking “patterns of air service,”;

(2) by inserting “and” before “whether”; and

(3) by striking “, and airfare levels” and all that follows before the period.

#### **SEC. 135. GRANT ASSURANCES.**

(a) **GENERAL WRITTEN ASSURANCES.**—Section 47107(a)(16)(D)(ii) is amended by inserting before the semicolon at the end the following: “, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)”.

(b) **WRITTEN ASSURANCES ON ACQUIRING LAND.**—

(1) **USE OF PROCEEDS.**—Section 47107(c)(2) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking “purpose—” and inserting “purpose (including land serving as a noise buffer either by being undeveloped

or developed in a way that is compatible with using the land for noise buffering purposes)—”;

(ii) in clause (iii) by striking “paid to the Secretary” and all that follows before the semicolon and inserting “reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)”; and

(B) in subparagraph (B)(iii) by striking “reinvested, on application” and all that follows before the period at the end and inserting “reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)”.

(2) ELIGIBLE PROJECTS.—Section 47107(c) is amended by adding at the end the following:

“(4) In approving the reinvestment or transfer of proceeds under paragraph (2)(A)(iii) or (2)(B)(iii), the Secretary shall give preference, in descending order, to the following actions:

“(A) Reinvestment in an approved noise compatibility project.

“(B) Reinvestment in an approved project that is eligible for funding under section 47117(e).

“(C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

“(D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.

“(E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986.

“(5)(A) A lease at fair market value by an airport owner or operator of land acquired for a noise compatibility purpose using a grant provided under this subchapter shall not be considered a disposal for purposes of paragraph (2).

“(B) The airport owner or operator may use revenues from a lease described in subparagraph (A) for an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

“(C) The Secretary shall coordinate with each airport owner or operator to ensure that leases described in subparagraph (A) are consistent with noise buffering purposes. Lease.

“(D) The provisions of this paragraph apply to all land acquired before, on, or after the date of enactment of this paragraph.”. Applicability. Effective date.

#### **SEC. 136. AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.**

(a) IN GENERAL.—Section 47107 is amended by adding at the end the following:

“(t) AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.—

“(1) IN GENERAL.—Subject to paragraph (2), a sponsor of a general aviation airport shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance made under this section or under any other provision of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential

real property adjacent to or near the airport access to the airfield of the airport for the following:

“(A) Aircraft of the person.

“(B) Aircraft authorized by the person.

“(2) THROUGH-THE-FENCE AGREEMENTS.—

“(A) IN GENERAL.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms the airport sponsor determines are necessary to establish and manage the airport sponsor’s relationship with the property owner.

“(B) TERMS AND CONDITIONS.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall require the property owner, at minimum—

“(i) to pay airport access charges that, as determined by the airport sponsor, are comparable to those charged to tenants and operators on-airport making similar use of the airport;

“(ii) to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to or near the airport access to the airfield of the airport;

“(iii) to maintain the property for residential, non-commercial use for the duration of the agreement;

“(iv) to prohibit access to the airport from other properties through the property of the property owner; and

“(v) to prohibit any aircraft refueling from occurring on the property.”.

Effective date.  
49 USC 47107  
note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to an agreement between an airport sponsor and a property owner (or an association representing such property owner) entered into before, on, or after the date of enactment of this Act.

#### SEC. 137. GOVERNMENT SHARE OF PROJECT COSTS.

Section 47109 is amended—

(1) in subsection (a) by striking “provided in subsection (b) or subsection (c) of this section” and inserting “otherwise provided in this section”; and

(2) by adding at the end the following:

“(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub airport changes to a medium hub airport, the Government’s share of allowable project costs for the airport may not exceed 90 percent for the first 2 fiscal years after such change in hub status.

“(f) SPECIAL RULE FOR ECONOMICALLY DISTRESSED COMMUNITIES.—The Government’s share of allowable project costs shall be 95 percent for a project at an airport that—

“(1) is receiving essential air service for which compensation was provided to an air carrier under subchapter II of chapter 417; and

“(2) is located in an area that meets one or more of the criteria established in section 301(a) of the Public Works and

Economic Development Act of 1965 (42 U.S.C. 3161(a)), as determined by the Secretary of Commerce.”.

**SEC. 138. ALLOWABLE PROJECT COSTS.**

(a) ALLOWABLE PROJECT COSTS.—Section 47110(b)(2)(D) is amended to read as follows:

“(D) if the cost is for airport development and is incurred before execution of the grant agreement, but in the same fiscal year as execution of the grant agreement, and if—

“(i) the cost was incurred before execution of the grant agreement because the airport has a shortened construction season due to climactic conditions in the vicinity of the airport;

“(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement, including submission of a complete grant application to the appropriate regional or district office of the Federal Aviation Administration;

“(iii) the sponsor notifies the Secretary before authorizing work to commence on the project;

Notification.

“(iv) the sponsor has an alternative funding source available to fund the project; and

“(v) the sponsor’s decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds;”.

(b) INCLUSION OF MEASURES TO IMPROVE EFFICIENCY OF AIRPORT BUILDINGS IN AIRPORT IMPROVEMENT PROJECTS.—Section 47110(b) is amended—

(1) in paragraph (5) by striking “; and” and inserting a semicolon;

(2) in paragraph (6) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(7) if the cost is incurred on a measure to improve the efficiency of an airport building (such as a measure designed to meet one or more of the criteria for being considered a high-performance green building as set forth under section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13))) and—

“(A) the measure is for a project for airport development;

“(B) the measure is for an airport building that is otherwise eligible for construction assistance under this subchapter; and

“(C) if the measure results in an increase in initial project costs, the increase is justified by expected savings over the life cycle of the project.”.

(c) RELOCATION OF AIRPORT-OWNED FACILITIES.—Section 47110(d) is amended to read as follows:

“(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

“(1) the Government’s share of such costs will be paid with funds apportioned to the airport sponsor under section 47114(c)(1) or 47114(d);

“(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary’s design standards; and

“(3) the Secretary determines that the change is beyond the control of the airport sponsor.”.

(d) NONPRIMARY AIRPORTS.—Section 47110(h) is amended—

(1) by inserting “construction” before “costs of revenue producing”; and

(2) by striking “, including fuel farms and hangars,”.

(e) BIRD-DETECTING RADAR SYSTEMS.—Section 47110 is amended by adding at the end the following:

“(i) BIRD-DETECTING RADAR SYSTEMS.—The Administrator of the Federal Aviation Administration, upon the conclusion of all planned research by the Administration regarding avian radar systems, shall—

“(1) update Advisory Circular No. 150/5220–25 to specify which systems have been studied; and

“(2) within 180 days after such research is concluded, issue a final report on the use of avian radar systems in the national airspace system.”.

Deadline.  
Reports.

#### SEC. 139. VETERANS’ PREFERENCE.

Section 47112(c) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B) by striking “separated from” and inserting “discharged or released from active duty in”; and

(B) by adding at the end the following:

“(C) ‘Afghanistan-Iraq war veteran’ means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces in support of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn for more than 180 consecutive days, any part of which occurred after September 11, 2001, and before the date prescribed by presidential proclamation or by law as the last day of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn (whichever is later), and who was discharged or released from active duty in the armed forces under honorable conditions.

Definition.  
Time period.

“(D) ‘Persian Gulf veteran’ means an individual who served on active duty in the armed forces in the Southwest Asia theater of operations during the Persian Gulf War for more than 180 consecutive days, any part of which occurred after August 2, 1990, and before the date prescribed by presidential proclamation or by law, and who was discharged or released from active duty in the armed forces under honorable conditions.”; and

Definition.

(2) in paragraph (2) by striking “Vietnam-era veterans and disabled veterans” and inserting “Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans”.



**SEC. 140. MINORITY AND DISADVANTAGED BUSINESS PARTICIPATION.**

(a) **FINDINGS.**—Congress finds the following:

49 USC 47113  
note.

(1) While significant progress has occurred due to the establishment of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113), discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in airport-related markets across the Nation. These continuing barriers merit the continuation of the airport disadvantaged business enterprise program.

(2) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits. This testimony and documentation shows that race- and gender-neutral efforts alone are insufficient to address the problem.

(3) This testimony and documentation demonstrates that discrimination across the Nation poses a barrier to full and fair participation in airport-related businesses of women business owners and minority business owners in the racial groups detailed in parts 23 and 26 of title 49, Code of Federal Regulations, and has impacted firm development and many aspects of airport-related business in the public and private markets.

(4) This testimony and documentation provides a strong basis that there is a compelling need for the continuation of the airport disadvantaged business enterprise program and the airport concessions disadvantaged business enterprise program to address race and gender discrimination in airport-related business.

(b) **STANDARDIZING CERTIFICATION OF DISADVANTAGED BUSINESS ENTERPRISES.**—Section 47113 is amended by adding at the end the following:

“(e) **MANDATORY TRAINING PROGRAM.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish a mandatory training program for persons described in paragraph (3) to provide streamlined training on certifying whether a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section and section 47107(e).

Deadline.

“(2) **IMPLEMENTATION.**—The training program may be implemented by one or more private entities approved by the Secretary.

“(3) **PARTICIPANTS.**—A person referred to in paragraph (1) is an official or agent of an airport sponsor—

“(A) who is required to provide a written assurance under this section or section 47107(e) that the airport owner or operator will meet the percentage goal of subsection (b) of this section or section 47107(e)(1), as the case may be; or

“(B) who is responsible for determining whether or not a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section or section 47107(e).”.

(c) INSPECTOR GENERAL REPORT ON PARTICIPATION IN FAA PROGRAMS BY DISADVANTAGED SMALL BUSINESS CONCERNS.—

(1) IN GENERAL.—For each of fiscal years 2013 through 2015, the Inspector General of the Department of Transportation shall submit to Congress a report on the number of new small business concerns owned and controlled by socially and economically disadvantaged individuals, including those owned by veterans, that participated in the programs and activities funded using the amounts made available under this Act.

(2) NEW SMALL BUSINESS CONCERNS.—For purposes of subsection (a), a new small business concern is a small business concern that did not participate in the programs and activities described in subsection (a) in a previous fiscal year.

(3) CONTENTS.—The report shall include—

(A) a list of the top 25 and bottom 25 large and medium hub airports in terms of providing opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the programs and activities funded using the amounts made available under this Act;

(B) the results of an assessment, to be conducted by the Inspector General, on the reasons why the top airports have been successful in providing such opportunities; and

(C) recommendations to the Administrator of the Federal Aviation Administration and Congress on methods for other airports to achieve results similar to those of the top airports.

**SEC. 141. SPECIAL APPORTIONMENT RULES.**

(a) ELIGIBILITY TO RECEIVE PRIMARY AIRPORT MINIMUM APPORTIONMENT AMOUNT.—Section 47114(d) is amended by adding at the end the following:

“(7) ELIGIBILITY TO RECEIVE PRIMARY AIRPORT MINIMUM APPORTIONMENT AMOUNT.—Notwithstanding any other provision of this subsection, the Secretary may apportion to an airport sponsor in a fiscal year an amount equal to the minimum apportionment available under subsection (c)(1)(B) if the Secretary finds that the airport—

“(A) received scheduled or unscheduled air service from a large certificated air carrier (as defined in part 241 of title 14, Code of Federal Regulations, or such other regulations as may be issued by the Secretary under the authority of section 41709) in the calendar year used to calculate the apportionment; and

“(B) had more than 10,000 passenger boardings in the calendar year used to calculate the apportionment.”.

(b) SPECIAL RULE FOR FISCAL YEARS 2012 AND 2013.—Section 47114(c)(1) is amended—

(1) by striking subparagraphs (F) and (G); and

(2) by inserting after subparagraph (E) the following:

“(F) SPECIAL RULE FOR FISCAL YEARS 2012 AND 2013.—Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either calendar year 2009 or 2010, or in both years, the number of passenger boardings decreased to a level below 10,000

boardings per year at such airport, the Secretary may apportion in each of fiscal years 2012 and 2013 to the sponsor of such airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009.”.

**SEC. 142. UNITED STATES TERRITORIES MINIMUM GUARANTEE.**

Section 47114 is amended by adding at the end the following:

“(g) **SUPPLEMENTAL APPORTIONMENT FOR PUERTO RICO AND UNITED STATES TERRITORIES.**—The Secretary shall apportion amounts for airports in Puerto Rico and all other United States territories in accordance with this section. This subsection does not prohibit the Secretary from making project grants for airports in Puerto Rico or other United States territories from the discretionary fund under section 47115.”.

**SEC. 143. REDUCING APPORTIONMENTS.**

Section 47114(f)(1) is amended by striking subparagraphs (A) and (B) and inserting the following:

“(A) in the case of a charge of \$3.00 or less—

“(i) except as provided in clause (ii), 50 percent of the projected revenues from the charge in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; or

“(ii) with respect to an airport in Hawaii, 50 percent of the projected revenues from the charge in the fiscal year but not by more than 50 percent of the excess of—

“(I) the amount that otherwise would be apportioned under this section; over

“(II) the amount equal to the amount specified in subclause (I) multiplied by the percentage of the total passenger boardings at the applicable airport that are comprised of interisland passengers; and

“(B) in the case of a charge of more than \$3.00—

“(i) except as provided in clause (ii), 75 percent of the projected revenues from the charge in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section; or

“(ii) with respect to an airport in Hawaii, 75 percent of the projected revenues from the charge in the fiscal year but not by more than 75 percent of the excess of—

“(I) the amount that otherwise would be apportioned under this section; over

“(II) the amount equal to the amount specified in subclause (I) multiplied by the percentage of the total passenger boardings at the applicable airport that are comprised of interisland passengers.”.

**SEC. 144. MARSHALL ISLANDS, MICRONESIA, AND PALAU.**

Section 47115(j) is amended by striking “For fiscal years” and all that follows before “the sponsors” and inserting “For fiscal years 2012 through 2015,”.

**SEC. 145. USE OF APPORTIONED AMOUNTS.**

Section 47117(e)(1)(A) is amended—

(1) by striking “35 percent” in the first sentence and inserting “35 percent, but not more than \$300,000,000,”;

(2) by striking “and” after “47141,”;

(3) by striking “et seq.” and inserting “et seq.), and for water quality mitigation projects to comply with the Act of June 30, 1948 (33 U.S.C. 1251 et seq.), approved in an environmental record of decision for an airport development project under this title.”; and

(4) by striking “such 35 percent requirement is” in the second sentence and inserting “the requirements of the preceding sentence are”.

**SEC. 146. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.**

(a) CONSIDERATIONS.—Section 47118(c) is amended—

(1) in paragraph (1) by striking “or” after the semicolon;

(2) in paragraph (2) by striking “delays.” and inserting “delays; or”; and

(3) by adding at the end the following:

“(3) preserve or enhance minimum airfield infrastructure facilities at former military airports to support emergency diversionary operations for transoceanic flights in locations—

“(A) within United States jurisdiction or control; and

“(B) where there is a demonstrable lack of diversionary airports within the distance or flight-time required by regulations governing transoceanic flights.”.

(b) DESIGNATION OF GENERAL AVIATION AIRPORTS.—Section 47118(g) is amended—

(1) in the subsection heading by striking “AIRPORT” and inserting “AIRPORTS”; and

(2) by striking “one of the airports bearing a designation under subsection (a) may be a general aviation airport that was a former military installation” and inserting “3 of the airports bearing designations under subsection (a) may be general aviation airports that were former military installations”.

(c) SAFETY-CRITICAL AIRPORTS.—Section 47118 is amended by adding at the end the following:

“(h) SAFETY-CRITICAL AIRPORTS.—Notwithstanding any other provision of this chapter, a grant under section 47117(e)(1)(B) may be made for a federally owned airport designated under subsection (a) if the grant is for a project that is—

“(1) to preserve or enhance minimum airfield infrastructure facilities described in subsection (c)(3); and

“(2) necessary to meet the minimum safety and emergency operational requirements established under part 139 of title 14, Code of Federal Regulations.”.

**SEC. 147. CONTRACT TOWER PROGRAM.**

(a) COST-BENEFIT REQUIREMENT.—Section 47124(b) is amended—

(1) in paragraph (1)—

(A) by striking “(1) The Secretary” and inserting the following:

“(1) CONTRACT TOWER PROGRAM.—

“(A) CONTINUATION.—The Secretary”; and

(B) by adding at the end the following:

“(B) SPECIAL RULE.—If the Secretary determines that a tower already operating under the program continued under this paragraph has a benefit-to-cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

Determination.  
Time period.

“(C) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the program established under paragraph (3).”; and

(2) in paragraph (2) by striking “(2) The Secretary” and inserting the following:

“(2) GENERAL AUTHORITY.—The Secretary”.

(b) FUNDING; USE OF EXCESS FUNDS.—Section 47124(b)(3) is amended by striking subparagraph (E) and inserting the following:

“(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k)(1), not more than \$10,350,000 for each of fiscal years 2012 through 2015 may be used to carry out this paragraph.

“(F) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the program continued under paragraph (1).”.

(c) FEDERAL SHARE.—Section 47124(b)(4)(C) is amended by striking “\$1,500,000” and inserting “\$2,000,000”.

(d) SAFETY AUDITS.—Section 47124 is amended by adding at the end the following:

“(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for regular safety assessments of air traffic control towers that receive funding under this section.”.

Standards.

#### SEC. 148. RESOLUTION OF DISPUTES CONCERNING AIRPORT FEES.

(a) IN GENERAL.—Section 47129 is amended—

(1) by striking the section heading and inserting the following:

##### “§ 47129. Resolution of disputes concerning airport fees”;

(2) by inserting “AND FOREIGN AIR CARRIER” after “CARRIER” in the heading for subsection (d);

(3) by inserting “AND FOREIGN AIR CARRIER” after “CARRIER” in the heading for subsection (d)(2);

(4) by striking “air carrier” each place it appears and inserting “air carrier or foreign air carrier”;

(5) by striking “air carrier’s” each place it appears and inserting “air carrier’s or foreign air carrier’s”;

(6) by striking “air carriers” and inserting “air carriers or foreign air carriers”; and

(7) by striking “(as defined in section 40102 of this title)” in subsection (a) and inserting “(as those terms are defined in section 40102)”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by striking the item relating to section 47129 and inserting the following:

“47129. Resolution of disputes concerning airport fees.”.

**SEC. 149. SALE OF PRIVATE AIRPORTS TO PUBLIC SPONSORS.**

(a) IN GENERAL.—Section 47133(b) is amended—

(1) by striking “Subsection (a) shall not apply if” and inserting the following:

“(1) PRIOR LAWS AND AGREEMENTS.—Subsection (a) shall not apply if”; and

(2) by adding at the end the following:

“(2) SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.—In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

“(A) the sale is approved by the Secretary;

“(B) funding is provided under this subchapter for any portion of the public sponsor’s acquisition of airport land; and

“(C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

“(3) TREATMENT OF REPAYMENTS.—Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.”.

49 USC 47133  
note.

(b) APPLICABILITY TO GRANTS.—The amendments made by subsection (a) shall apply to grants issued on or after October 1, 1996.

**SEC. 150. REPEAL OF CERTAIN LIMITATIONS ON METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.**

Section 49108, and the item relating to section 49108 in the analysis for chapter 491, are repealed.

**SEC. 151. MIDWAY ISLAND AIRPORT.**

Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (117 Stat. 2518) is amended by striking “for fiscal years” and all that follows before “from amounts” and inserting “for fiscal years 2012 through 2015”.

**SEC. 152. MISCELLANEOUS AMENDMENTS.**

(a) TECHNICAL CHANGES TO NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.—Section 47103 is amended—

(1) in subsection (a)—

(A) by striking “each airport to—” and inserting “the airport system to—”;

(B) in paragraph (1) by striking “system in the particular area;” and inserting “system, including connection to the surface transportation network; and”;

(C) in paragraph (2) by striking “; and” and inserting a period; and

(D) by striking paragraph (3);

(2) in subsection (b)—

(A) in paragraph (1) by striking the semicolon and inserting “; and”;

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as so redesignated) by striking “, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations,”; and

(3) in subsection (d) by striking “status of the”.

(b) CONSOLIDATION OF TERMINAL DEVELOPMENT PROVISIONS.—Section 47119 is amended—

(1) by redesignating subsections (a), (b), (c), and (d) as subsections (b), (c), (d), and (e), respectively;

(2) by inserting before subsection (b) (as so redesignated) the following:

“(a) TERMINAL DEVELOPMENT PROJECTS.—

“(1) IN GENERAL.—The Secretary of Transportation may approve a project for terminal development (including multimodal terminal development) in a nonrevenue-producing public-use area of a commercial service airport—

“(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

Certification.

“(i) all the safety equipment required for certification of the airport under section 44706;

“(ii) all the security equipment required by regulation; and

“(iii) provided for access by passengers to the area of the airport for boarding or exiting aircraft that are not air carrier aircraft;

“(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

“(C) under terms necessary to protect the interests of the Government.

“(2) PROJECT IN REVENUE-PRODUCING AREAS AND NONREVENUE-PRODUCING PARKING LOTS.—In making a decision under paragraph (1), the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

“(A) except as provided in section 47108(e)(3), the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

“(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary’s approval.”;

(3) in subsection (b)(4)(B) (as redesignated by paragraph (1) of this subsection) by striking “Secretary of Transportation” and inserting “Secretary”;

(4) in subsections (b)(3) and (b)(4)(A) (as redesignated by paragraph (1) of this subsection) by striking “section 47110(d)” and inserting “subsection (a)”;

(5) in subsection (b)(5) (as redesignated by paragraph (1) of this subsection) by striking “subsection (b)(1) and (2)” and inserting “subsections (c)(1) and (c)(2)”;

(6) in subsections (c)(1), (c)(2)(A), (c)(3), and (c)(4) (as redesignated by paragraph (1) of this subsection) by striking “section 47110(d) of this title” and inserting “subsection (a)”;

(7) in subsections (c)(2)(B) and (c)(5) (as redesignated by paragraph (1) of this subsection) by striking “section 47110(d)” and inserting “subsection (a)”;

(8) by adding at the end the following:

“(f) LIMITATION ON DISCRETIONARY FUNDS.—The Secretary may distribute not more than \$20,000,000 from the discretionary fund established under section 47115 for terminal development projects at a nonhub airport or a small hub airport that is eligible to receive discretionary funds under section 47108(e)(3).”.

(c) ANNUAL REPORT.—Section 47131(a) is amended—

(1) by striking “April 1” and inserting “June 1”; and

(2) by striking paragraphs (1), (2), (3), and (4) and inserting the following:

“(1) a summary of airport development and planning completed;

“(2) a summary of individual grants issued;

“(3) an accounting of discretionary and apportioned funds allocated;

“(4) the allocation of appropriations; and”.

(d) CORRECTION TO EMISSION CREDITS PROVISION.—Section 47139 is amended—

(1) in subsection (a) by striking “47102(3)(F),”; and

(2) in subsection (b)—

(A) by striking “47102(3)(F),”; and

(B) by striking “47103(3)(F),”.

(e) CONFORMING AMENDMENTS.—

(1) Section 40117(a)(3)(B) is amended by striking “section 47110(d)” and inserting “section 47119(a)”.

(2) Section 47108(e)(3) is amended—

(A) by striking “section 47110(d)(2)” and inserting “section 47119(a)”;

(B) by striking “section 47110(d)” and inserting “section 47119(a)”.

(f) CORRECTION TO SURPLUS PROPERTY AUTHORITY.—Section 47151(e) is amended by striking “(other than real property)” and all that follows through “(10 U.S.C. 2687 note)”.

(g) DEFINITIONS.—

(1) CONGESTED AIRPORT.—Section 47175(2) is amended by striking “2001” and inserting “2004 or any successor report”.

(2) JOINT USE AIRPORT.—Section 47175 is amended by adding at the end the following:

“(7) JOINT USE AIRPORT.—The term ‘joint use airport’ means an airport owned by the Department of Defense, at which both military and civilian aircraft make shared use of the airfield.”.

#### **SEC. 153. EXTENSION OF GRANT AUTHORITY FOR COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.**

Section 47141(f) is amended to read as follows:

“(f) SUNSET.—This section shall not be in effect after September 30, 2015.”.



**SEC. 154. PRIORITY REVIEW OF CONSTRUCTION PROJECTS IN COLD WEATHER STATES.**49 USC 47112  
note.

The Administrator of the Federal Aviation Administration, to the extent practicable, shall schedule the Administrator's review of construction projects so that projects to be carried out in States in which the weather during a typical calendar year prevents major construction projects from being carried out before May 1 are reviewed as early as possible.

**SEC. 155. STUDY ON NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.**

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall begin a study to evaluate the formulation of the national plan of integrated airport systems (in this section referred to as the “plan”) under section 47103 of title 49, United States Code. Deadline.

(b) **CONTENTS OF STUDY.**—The study shall include a review of the following:

(1) The criteria used for including airports in the plan and the application of such criteria in the most recently published version of the plan.

(2) The changes in airport capital needs as shown in the 2005–2009 and 2007–2011 plans, compared with the amounts apportioned or otherwise made available to individual airports between 2005 and 2010.

(3) A comparison of the amounts received by airports under the airport improvement program in airport apportionments, State apportionments, and discretionary grants during such fiscal years with capital needs as reported in the plan.

(4) The effect of transfers of airport apportionments under title 49, United States Code.

(5) An analysis on the feasibility and advisability of apportioning amounts under section 47114(c)(1) of title 49, United States Code, to the sponsor of each primary airport for each fiscal year an amount that bears the same ratio to the amount subject to the apportionment for fiscal year 2009 as the number of passenger boardings at the airport during the prior calendar year bears to the aggregate of all passenger boardings at all primary airports during that calendar year.

(6) A documentation and review of the methods used by airports to reach the 10,000 passenger enplanement threshold, including whether such airports subsidize commercial flights to reach such threshold, at every airport in the United States that reported between 10,000 and 15,000 passenger enplanements during each of the 2 most recent calendar years for which such data is available.

(7) Any other matters pertaining to the plan that the Secretary determines appropriate.

(c) **REPORT TO CONGRESS.**—

(1) **SUBMISSION.**—Not later than 36 months after the date that the Secretary begins the study under this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(2) **CONTENTS.**—The report shall include—

(A) the findings of the Secretary on each of the issues described in subsection (b);

(B) recommendations for any changes to policies and procedures for formulating the plan; and

(C) recommendations for any changes to the methods of determining the amounts to be apportioned or otherwise made available to individual airports.

#### **SEC. 156. AIRPORT PRIVATIZATION PROGRAM.**

Section 47134(b) is amended in the matter preceding paragraph (1) by striking “5 airports” and inserting “10 airports”.

## **TITLE II—NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION**

49 USC 40101  
note.

#### **SEC. 201. DEFINITIONS.**

In this title, the following definitions apply:

(1) **NEXTGEN.**—The term “NextGen” means the Next Generation Air Transportation System.

(2) **ADS-B.**—The term “ADS-B” means automatic dependent surveillance-broadcast.

(3) **ADS-B OUT.**—The term “ADS-B Out” means automatic dependent surveillance-broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft.

(4) **ADS-B IN.**—The term “ADS-B In” means automatic dependent surveillance-broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft as well as the ability of the aircraft to receive information from other transmitting aircraft and the ground infrastructure.

(5) **RNAV.**—The term “RNAV” means area navigation.

(6) **RNP.**—The term “RNP” means required navigation performance.

49 USC 40101  
note.

#### **SEC. 202. NEXTGEN DEMONSTRATIONS AND CONCEPTS.**

In allocating amounts appropriated pursuant to section 48101(a) of title 49, United States Code, the Secretary of Transportation shall give priority to the following NextGen activities:

(1) Next Generation Transportation System—Demonstrations and Infrastructure Development.

(2) Next Generation Transportation System—Trajectory Based Operations.

(3) Next Generation Transportation System—Reduce Weather Impact.

(4) Next Generation Transportation System—Arrivals/Departures at High Density Airports.

(5) Next Generation Transportation System—Collaborative ATM.

(6) Next Generation Transportation System—Flexible Terminals and Airports.

(7) Next Generation Transportation System—Safety, Security, and Environment.

(8) Next Generation Transportation System—Systems Network Facilities.

(9) Center for Advanced Aviation System Development.

(10) Next Generation Transportation System—System Development.

(11) Data Communications in support of Next Generation Air Transportation System.

(12) ADS–B NAS-Wide Implementation.

(13) System-Wide Information Management.

(14) Next Generation Transportation System—Facility Consolidation and Realignment.

(15) En Route Modernization—D-Position Upgrade and System Enhancements.

(16) National Airspace System Voice System.

(17) Next Generation Network Enabled Weather.

(18) NextGen Performance Based Navigation Metroplex Area Navigation/Required Navigation Performance.

**SEC. 203. CLARIFICATION OF AUTHORITY TO ENTER INTO REIMBURSABLE AGREEMENTS.**

Section 106(m) is amended in the last sentence by inserting “with or” before “without reimbursement”.

**SEC. 204. CHIEF NEXTGEN OFFICER.**

Section 106 is amended by adding at the end the following:

“(s) CHIEF NEXTGEN OFFICER.—

“(1) IN GENERAL.—

“(A) APPOINTMENT.—There shall be a Chief NextGen Officer appointed by the Administrator, with the approval of the Secretary. The Chief NextGen Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

“(B) QUALIFICATIONS.—The Chief NextGen Officer shall have a demonstrated ability in management and knowledge of or experience in aviation and systems engineering.

“(C) TERM.—The Chief NextGen Officer shall be appointed for a term of 5 years.

“(D) REMOVAL.—The Chief NextGen Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the implementation of NextGen.

“(E) VACANCY.—Any individual appointed to fill a vacancy in the position of Chief NextGen Officer occurring before the expiration of the term for which the individual’s predecessor was appointed shall be appointed for the remainder of that term.

“(2) COMPENSATION.—

“(A) IN GENERAL.—The Chief NextGen Officer shall be paid at an annual rate of basic pay to be determined by the Administrator. The annual rate may not exceed the annual compensation paid under section 102 of title 3. The Chief NextGen Officer shall be subject to the postemployment provisions of section 207 of title 18 as if the position of Chief NextGen Officer were described in section 207(c)(2)(A)(i) of that title.

“(B) BONUS.—In addition to the annual rate of basic pay authorized by subparagraph (A), the Chief NextGen

Determination.

Officer may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief NextGen Officer's performance in relation to the performance goals set forth in the performance agreement described in paragraph (3).

“(3) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief NextGen Officer, in consultation with the Federal Aviation Management Advisory Council, shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief NextGen Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

“(4) ANNUAL PERFORMANCE REPORT.—The Chief NextGen Officer shall prepare and transmit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.

“(5) RESPONSIBILITIES.—The responsibilities of the Chief NextGen Officer include the following:

“(A) Implementing NextGen activities and budgets across all program offices of the Federal Aviation Administration.

“(B) Coordinating the implementation of NextGen activities with the Office of Management and Budget.

“(C) Reviewing and providing advice on the Administration's modernization programs, budget, and cost accounting system with respect to NextGen.

“(D) With respect to the budget of the Administration—

“(i) developing a budget request of the Administration related to the implementation of NextGen;

“(ii) submitting such budget request to the Administrator; and

“(iii) ensuring that the budget request supports the annual and long-range strategic plans of the Administration with respect to NextGen.

“(E) Consulting with the Administrator on the Capital Investment Plan of the Administration prior to its submission to Congress.

“(F) Developing an annual NextGen implementation plan.

“(G) Ensuring that NextGen implementation activities are planned in such a manner as to require that system architecture is designed to allow for the incorporation of novel and currently unknown technologies into NextGen in the future and that current decisions do not bias future decisions unfairly in favor of existing technology at the expense of innovation.

“(H) Coordinating with the NextGen Joint Planning and Development Office with respect to facilitating cooperation among all Federal agencies whose operations and interests are affected by the implementation of NextGen.

“(6) EXCEPTION.—If the Administrator appoints as the Chief NextGen Officer, pursuant to paragraph (1)(A), an Executive

Schedule employee covered by section 5315 of title 5, then paragraphs (1)(B), (1)(C), (2), and (3) of this subsection shall not apply to such employee.

“(7) NEXTGEN DEFINED.—For purposes of this subsection, the term ‘NextGen’ means the Next Generation Air Transportation System.”.

**SEC. 205. DEFINITION OF AIR NAVIGATION FACILITY.**

Section 40102(a)(4) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) by striking subparagraphs (B) and (C); and

(3) by inserting after subparagraph (A) the following:

“(B) runway lighting and airport surface visual and other navigation aids;

“(C) apparatus, equipment, software, or service for distributing aeronautical and meteorological information to air traffic control facilities or aircraft;

“(D) communication, navigation, or surveillance equipment for air-to-ground or air-to-air applications;”;

(4) in subparagraph (E) (as redesignated by paragraph (1) of this section)—

(A) by striking “another structure” and inserting “any structure, equipment,”; and

(B) by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following:

“(F) buildings, equipment, and systems dedicated to the national airspace system.”.

**SEC. 206. CLARIFICATION TO ACQUISITION REFORM AUTHORITY.**

Section 40110(c) is amended—

(1) by inserting “and” after the semicolon in paragraph (3);

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

**SEC. 207. ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.**

Section 40113(e) is amended—

(1) in paragraph (1)—

(A) by inserting “(whether public or private)” after “authorities”; and

(B) by striking “safety.” and inserting “safety or efficiency. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with section 106(l)(6).”;

(2) in paragraph (2) by adding at the end the following: “The Administrator is authorized, notwithstanding any other provision of law or policy, to accept payments for services provided under this subsection in arrears.”; and

(3) by striking paragraph (3) and inserting the following:

“(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall—

“(A) be credited to the appropriation current when the amount is received;

“(B) be merged with and available for the purposes of such appropriation; and

“(C) remain available until expended.”.

**SEC. 208. NEXT GENERATION AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.**

49 USC 40101  
note.

(a) REDESIGNATION OF JPDO DIRECTOR TO ASSOCIATE ADMINISTRATOR.—

(1) ASSOCIATE ADMINISTRATOR FOR NEXT GENERATION AIR TRANSPORTATION SYSTEM PLANNING, DEVELOPMENT, AND INTER-AGENCY COORDINATION.—Section 709(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note; 117 Stat. 2582) is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following:

Appointment.

“(2) The head of the Office shall be the Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination, who shall be appointed by the Administrator of the Federal Aviation Administration, with the approval of the Secretary. The Administrator shall appoint the Associate Administrator after consulting with the Chairman of the Next Generation Senior Policy Committee and providing advanced notice to the other members of that Committee.”.

Consultation.  
Notice.

(2) RESPONSIBILITIES.—Section 709(a)(3) of such Act (as redesignated by paragraph (1) of this subsection) is amended—

(A) in subparagraph (G) by striking “; and” and inserting a semicolon;

(B) in subparagraph (H) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(I) establishing specific quantitative goals for the safety, capacity, efficiency, performance, and environmental impacts of each phase of Next Generation Air Transportation System planning and development activities and measuring actual operational experience against those goals, taking into account noise pollution reduction concerns of affected communities to the extent practicable in establishing the environmental goals;

“(J) working to ensure global interoperability of the Next Generation Air Transportation System;

“(K) working to ensure the use of weather information and space weather information in the Next Generation Air Transportation System as soon as possible;

“(L) overseeing, with the Administrator and in consultation with the Chief NextGen Officer, the selection of products or outcomes of research and development activities that should be moved to a demonstration phase; and

“(M) maintaining a baseline modeling and simulation environment for testing and evaluating alternative concepts to satisfy Next Generation Air Transportation System enterprise architecture requirements.”.

(3) COOPERATION WITH OTHER FEDERAL AGENCIES.—Section 709(a)(4) of such Act (as redesignated by paragraph (1) of this subsection) is amended—

(A) by striking “(4)” and inserting “(4)(A)”; and

(B) by adding at the end the following:

“(B) The Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate a senior official in the agency to be responsible for—

Designation.

“(i) carrying out the activities of the agency relating to the Next Generation Air Transportation System in coordination with the Office, including the execution of all aspects of the work of the agency in developing and implementing the integrated work plan described in subsection (b)(5);

“(ii) serving as a liaison for the agency in activities of the agency relating to the Next Generation Air Transportation System and coordinating with other Federal agencies involved in activities relating to the System; and

“(iii) ensuring that the agency meets its obligations as set forth in any memorandum of understanding executed by or on behalf of the agency relating to the Next Generation Air Transportation System.

“(C) The head of a Federal agency referred to in subparagraph (B) shall—

“(i) ensure that the responsibilities of the agency relating to the Next Generation Air Transportation System are clearly communicated to the senior official of the agency designated under subparagraph (B);

“(ii) ensure that the performance of the senior official in carrying out the responsibilities of the agency relating to the Next Generation Air Transportation System is reflected in the official’s annual performance evaluations and compensation;

“(iii) establish or designate an office within the agency to carry out its responsibilities under the memorandum of understanding under the supervision of the designated official; and

Establishment.

“(iv) ensure that the designated official has sufficient budgetary authority and staff resources to carry out the agency’s Next Generation Air Transportation System responsibilities as set forth in the integrated plan under subsection (b).

“(D) Not later than 6 months after the date of enactment of this subparagraph, the head of each Federal agency that has responsibility for carrying out any activity under the integrated plan under subsection (b) shall execute a memorandum of understanding with the Office obligating that agency to carry out the activity.”.

Deadline.

Memorandum.

(4) COORDINATION WITH OMB.—Section 709(a) of such Act (117 Stat. 2582) is further amended by adding at the end the following:

“(6)(A) The Office shall work with the Director of the Office of Management and Budget to develop a process whereby the Director will identify projects related to the Next Generation Air Transportation System across the agencies referred to in paragraph (4)(A) and consider the Next Generation Air Transportation System as a unified, cross-agency program.

“(B) The Director of the Office of Management and Budget, to the extent practicable, shall—

“(i) ensure that—

“(I) each Federal agency covered by the plan has sufficient funds requested in the President’s budget, as submitted under section 1105(a) of title 31, United States Code, for each fiscal year covered by the plan to carry out its responsibilities under the plan; and

“(II) the development and implementation of the Next Generation Air Transportation System remains on schedule;

“(ii) include, in the President’s budget, a statement of the portion of the estimated budget of each Federal agency covered by the plan that relates to the activities of the agency under the Next Generation Air Transportation System; and

“(iii) identify and justify as part of the President’s budget submission any inconsistencies between the plan and amounts requested in the budget.

“(7) The Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination shall be a voting member of the Joint Resources Council of the Federal Aviation Administration.”.

(b) INTEGRATED PLAN.—Section 709(b) of such Act (117 Stat. 2583) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “meets air” and inserting “meets anticipated future air”; and

(B) by striking “beyond those currently included in the Federal Aviation Administration’s operational evolution plan”;

(2) at the end of paragraph (3) by striking “and”;

(3) at the end of paragraph (4) by striking the period and inserting “; and”; and

(4) by adding at the end the following:

“(5) a multiagency integrated work plan for the Next Generation Air Transportation System that includes—

“(A) an outline of the activities required to achieve the end-state architecture, as expressed in the concept of operations and enterprise architecture documents, that identifies each Federal agency or other entity responsible for each activity in the outline;

“(B) details on a year-by-year basis of specific accomplishments, activities, research requirements, rulemakings, policy decisions, and other milestones of progress for each Federal agency or entity conducting activities relating to the Next Generation Air Transportation System;

“(C) for each element of the Next Generation Air Transportation System, an outline, on a year-by-year basis, of what is to be accomplished in that year toward meeting the Next Generation Air Transportation System’s end-state architecture, as expressed in the concept of operations and enterprise architecture documents, as well as identifying each Federal agency or other entity that will be responsible for each component of any research, development, or implementation program;

“(D) an estimate of all necessary expenditures on a year-by-year basis, including a statement of each Federal agency or entity’s responsibility for costs and available resources, for each stage of development from the basic



research stage through the demonstration and implementation phase;

“(E) a clear explanation of how each step in the development of the Next Generation Air Transportation System will lead to the following step and of the implications of not successfully completing a step in the time period described in the integrated work plan;

“(F) a transition plan for the implementation of the Next Generation Air Transportation System that includes date-specific milestones for the implementation of new capabilities into the national airspace system;

“(G) date-specific timetables for meeting the environmental goals identified in subsection (a)(3)(I); and

“(H) a description of potentially significant operational or workforce changes resulting from deployment of the Next Generation Air Transportation System.”.

(c) **NEXTGEN IMPLEMENTATION PLAN.**—Section 709(d) of such Act (117 Stat. 2584) is amended to read as follows:

“(d) **NEXTGEN IMPLEMENTATION PLAN.**—The Administrator shall develop and publish annually the document known as the NextGen Implementation Plan, or any successor document, that provides a detailed description of how the agency is implementing the Next Generation Air Transportation System.”.

49 USC 40101  
note.  
Publication.  
Deadline.

(d) **CONTINGENCY PLANNING.**—The Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination shall, as part of the design of the System, develop contingency plans for dealing with the degradation of the System in the event of a natural disaster, major equipment failure, or act of terrorism.

49 USC 40101  
note.

#### **SEC. 209. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.**

(a) **MEETINGS.**—Section 710(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note; 117 Stat. 2584) is amended by inserting before the period at the end the following “and shall meet at least twice each year”.

(b) **ANNUAL REPORT.**—Section 710 of such Act (117 Stat. 2584) is amended by adding at the end the following:

49 USC 40101  
note.

“(e) **ANNUAL REPORT.**—

“(1) **SUBMISSION TO CONGRESS.**—Not later than 1 year after the date of enactment of this subsection, and annually thereafter on the date of submission of the President’s budget request to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to Congress a report summarizing the progress made in carrying out the integrated work plan required by section 709(b)(5) and any changes in that plan.

“(2) **CONTENTS.**—The report shall include—

“(A) a copy of the updated integrated work plan;

“(B) a description of the progress made in carrying out the integrated work plan and any changes in that plan, including any changes based on funding shortfalls and limitations set by the Office of Management and Budget;

“(C) a detailed description of—

“(i) the success or failure of each item of the integrated work plan for the previous year and relevant

information as to why any milestone was not met; and

“(ii) the impact of not meeting the milestone and what actions will be taken in the future to account for the failure to complete the milestone;

“(D) an explanation of any change to future years in the integrated work plan and the reasons for such change; and

“(E) an identification of the levels of funding for each agency participating in the integrated work plan devoted to programs and activities under the plan for the previous fiscal year and in the President’s budget request.”.

#### **SEC. 210. IMPROVED MANAGEMENT OF PROPERTY INVENTORY.**

Section 40110(a) is amended by striking paragraphs (2) and (3) and inserting the following:

“(2) may construct and improve laboratories and other test facilities; and

“(3) may dispose of any interest in property for adequate compensation, and the amount so received shall—

“(A) be credited to the appropriation current when the amount is received;

“(B) be merged with and available for the purposes of such appropriation; and

“(C) remain available until expended.”.

49 USC 40101  
note.

#### **SEC. 211. AUTOMATIC DEPENDENT SURVEILLANCE-BROADCAST SERVICES.**

(a) REVIEW BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a review concerning the Federal Aviation Administration’s award and oversight of any contracts entered into by the Administration to provide ADS–B services for the national airspace system.

(2) CONTENTS.—The review shall include, at a minimum—

(A) an examination of how the Administration manages program risks;

(B) an assessment of expected benefits attributable to the deployment of ADS–B services, including the Administration’s plans for implementation of advanced operational procedures and air-to-air applications, as well as the extent to which ground radar will be retained;

(C) an assessment of the Administration’s analysis of specific operational benefits, and benefit/costs analyses of planned operational benefits conducted by the Administration, for ADS–B In and ADS–B Out avionics equipment for airspace users;

(D) a determination of whether the Administration has established sufficient mechanisms to ensure that all design, acquisition, operation, and maintenance requirements have been met by the contractor;

(E) an assessment of whether the Administration and any contractors are meeting cost, schedule, and performance milestones, as measured against the original baseline of the Administration’s program for providing ADS–B services;

(F) an assessment of how security issues are being addressed in the overall design and implementation of the ADS–B system;

(G) identification of any potential operational or workforce changes resulting from deployment of ADS–B; and

(H) any other matters or aspects relating to contract implementation and oversight that the Inspector General determines merit attention.

(3) REPORTS TO CONGRESS.—The Inspector General shall submit, periodically (and on at least an annual basis), to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this subsection.

(b) RULEMAKING.—

(1) ADS–B IN.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking proceeding to issue guidelines and regulations relating to ADS–B In technology that—

Deadline.

(A) identify the ADS–B In technology that will be required under NextGen;

(B) subject to paragraph (2), require all aircraft operating in capacity constrained airspace, at capacity constrained airports, or in any other airspace deemed appropriate by the Administrator to be equipped with ADS–B In technology by 2020; and

(C) identify—

(i) the type of avionics required of aircraft for all classes of airspace;

(ii) the expected costs associated with the avionics; and

(iii) the expected uses and benefits of the avionics.

(2) READINESS VERIFICATION.—Before the Administrator completes an ADS–B In equipage rulemaking proceeding or issues an interim or final rule pursuant to paragraph (1), the Chief NextGen Officer shall verify that—

(A) the necessary ground infrastructure is installed and functioning properly;

(B) certification standards have been approved; and

(C) appropriate operational platforms interface safely and efficiently.

(c) USE OF ADS–B TECHNOLOGY.—

(1) PLANS.—Not later than 18 months after the date of enactment of this Act, the Administrator shall develop, in consultation with appropriate employee and industry groups, a plan for the use of ADS–B technology for surveillance and active air traffic control.

Deadline.

(2) CONTENTS.—The plan shall—

(A) include provisions to test the use of ADS–B technology for surveillance and active air traffic control in specific regions of the United States with the most congested airspace;

(B) identify the equipment required at air traffic control facilities and the training required for air traffic controllers;

(C) identify procedures, to be developed in consultation with appropriate employee and industry groups, to conduct air traffic management in mixed equipage environments; and

(D) establish a policy in test regions referred to in subparagraph (A), in consultation with appropriate employee and industry groups, to provide incentives for equipage with ADS–B technology, including giving priority to aircraft equipped with such technology before the 2020 equipage deadline.

49 USC 40101  
note.

**SEC. 212. EXPERT REVIEW OF ENTERPRISE ARCHITECTURE FOR NEXTGEN.**

(a) **REVIEW.**—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council to review the enterprise architecture for the NextGen.

(b) **CONTENTS.**—At a minimum, the review to be conducted under subsection (a) shall—

(1) highlight the technical activities, including human-system design, organizational design, and other safety and human factor aspects of the system, that will be necessary to successfully transition current and planned modernization programs to the future system envisioned by the Joint Planning and Development Office of the Administration;

(2) assess technical, cost, and schedule risk for the software development that will be necessary to achieve the expected benefits from a highly automated air traffic management system and the implications for ongoing modernization projects; and

(3) determine how risks with automation efforts for the NextGen can be mitigated based on the experiences of other public or private entities in developing complex, software-intensive systems.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the review conducted pursuant to subsection (a).

49 USC 40101  
note.

**SEC. 213. ACCELERATION OF NEXTGEN TECHNOLOGIES.**

(a) **OPERATIONAL EVOLUTION PARTNERSHIP (OEP) AIRPORT PROCEDURES.**—

Publication.

(1) **OEP AIRPORTS REPORT.**—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, aircraft and avionics manufacturers, and third parties that have received letters of qualification from the Administration to design and validate required navigation performance flight paths for public use (in this section referred to as “qualified third parties”) that includes the following:

(A) **RNP/RNAV OPERATIONS FOR OEP AIRPORTS.**—The required navigation performance and area navigation operations, including the procedures to be developed, certified, and published and the air traffic control operational

changes, to maximize the fuel efficiency and airspace capacity of NextGen commercial operations at each of the 35 operational evolution partnership airports identified by the Administration and any medium or small hub airport located within the same metroplex area considered appropriate by the Administrator. The Administrator shall, to the maximum extent practicable, avoid overlays of existing flight procedures, but if unavoidable, the Administrator shall clearly identify each required navigation performance and area navigation procedure that is an overlay of an existing instrument flight procedure and the reason why such an overlay was used.

(B) COORDINATION AND IMPLEMENTATION ACTIVITIES FOR OEP AIRPORTS.—A description of the activities and operational changes and approvals required to coordinate and utilize the procedures at OEP airports.

(C) IMPLEMENTATION PLAN FOR OEP AIRPORTS.—A plan for implementing the procedures for OEP airports under subparagraph (A) that establishes—

(i) clearly defined budget, schedule, project organization, and leadership requirements;

(ii) specific implementation and transition steps;

(iii) baseline and performance metrics for—

(I) measuring the Administration’s progress in implementing the plan, including the percentage utilization of required navigation performance in the national airspace system; and

(II) achieving measurable fuel burn and carbon dioxide emissions reductions compared to current performance;

(iv) expedited environmental review procedures and processes for timely environmental approval of area navigation and required navigation performance that offer significant efficiency improvements as determined by baseline and performance metrics under clause (iii);

(v) coordination and communication mechanisms with qualified third parties, if applicable;

(vi) plans to address human factors, training, and other issues for air traffic controllers surrounding the adoption of RNP procedures in the en route and terminal environments, including in a mixed operational environment; and

(vii) a lifecycle management strategy for RNP procedures to be developed by qualified third parties, if applicable.

(D) ADDITIONAL PROCEDURES FOR OEP AIRPORTS.—A process for the identification, certification, and publication of additional required navigation performance and area navigation procedures that may provide operational benefits at OEP airports, and any medium or small hub airport located within the same metroplex area as the OEP airport, in the future.

(2) IMPLEMENTATION SCHEDULE FOR OEP AIRPORTS.—The Administrator shall certify, publish, and implement—

Certification.  
Publication.  
Deadlines.

(A) not later than 18 months after the date of enactment of this Act, 30 percent of the required procedures at OEP airports;

(B) not later than 36 months after the date of enactment of this Act, 60 percent of the required procedures at OEP airports; and

(C) before June 30, 2015, 100 percent of the required procedures at OEP airports.

(b) NON-OEP AIRPORTS.—

Publication.

(1) NON-OEP AIRPORTS REPORT.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, aircraft and avionics manufacturers, and third parties that have received letters of qualification from the Administration to design and validate required navigation performance flight paths for public use (in this section referred to as “qualified third parties”) that includes the following:

Lists.  
Certification.  
Publication.

(A) RNP OPERATIONS FOR NON-OEP AIRPORTS.—A list of required navigation performance procedures (as defined in FAA order 8260.52(d)) to be developed, certified, and published, and the air traffic control operational changes, to maximize the fuel efficiency and airspace capacity of NextGen commercial operations at 35 non-OEP small, medium, and large hub airports other than those referred to in subsection (a)(1). The Administrator shall choose such non-OEP airports considered appropriate by the Administrator to produce maximum operational benefits, including improved fuel efficiency and emissions reductions that do not have public RNP procedures that produce such benefits on the date of enactment of this Act. The Administrator shall, to the maximum extent practicable, avoid overlays of existing flight procedures, but if unavoidable, the Administrator shall clearly identify each required navigation performance procedure that is an overlay of an existing instrument flight procedure and the reason why such an overlay was used.

(B) COORDINATION AND IMPLEMENTATION ACTIVITIES FOR NON-OEP AIRPORTS.—A description of the activities and operational changes and approvals required to coordinate and to utilize the procedures required by subparagraph (A) at each of the airports described in such subparagraph.

(C) IMPLEMENTATION PLAN FOR NON-OEP AIRPORTS.—A plan for implementation of the procedures required by subparagraph (A) that establishes—

(i) clearly defined budget, schedule, project organization, and leadership requirements;

(ii) specific implementation and transition steps;

(iii) coordination and communications mechanisms with qualified third parties;

(iv) plans to address human factors, training, and other issues for air traffic controllers surrounding the adoption of RNP procedures in the en route and terminal environments, including in a mixed operational environment;

(v) baseline and performance metrics for—

(I) measuring the Administration’s progress in implementing the plan, including the percentage utilization of required navigation performance in the national airspace system; and

(II) achieving measurable fuel burn and carbon dioxide emissions reduction compared to current performance;

(vi) expedited environmental review procedures and processes for timely environmental approval of area navigation and required navigation performance that offer significant efficiency improvements as determined by baseline and performance metrics established under clause (v);

(vii) a description of the software and database information, such as a current version of the Noise Integrated Routing System or the Integrated Noise Model that the Administration will need to make available to qualified third parties to enable those third parties to design procedures that will meet the broad range of requirements of the Administration; and

(viii) lifecycle management strategy for RNP procedures to be developed by qualified third parties, if applicable.

(D) ADDITIONAL PROCEDURES FOR NON-OEP AIRPORTS.—

A process for the identification, certification, and publication of additional required navigation performance procedures that may provide operational benefits at non-OEP airports in the future.

(2) IMPLEMENTATION SCHEDULE FOR NON-OEP AIRPORTS.—

The Administrator shall certify, publish, and implement—

(A) not later than 18 months after the date of enactment of this Act, 25 percent of the required procedures for non-OEP airports;

(B) not later than 36 months after the date of enactment of this Act, 50 percent of the required procedures for non-OEP airports; and

(C) before June 30, 2016, 100 percent of the required procedures for non-OEP airports.

(c) COORDINATED AND EXPEDITED REVIEW.—

(1) IN GENERAL.—Navigation performance and area navigation procedures developed, certified, published, or implemented under this section shall be presumed to be covered by a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations) under chapter 3 of FAA Order 1050.1E unless the Administrator determines that extraordinary circumstances exist with respect to the procedure.

(2) NEXTGEN PROCEDURES.—Any navigation performance or other performance based navigation procedure developed, certified, published, or implemented that, in the determination of the Administrator, would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise, on a per flight basis, as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace, shall be presumed to have no significant affect on the quality of the human environment and the Administrator

Certification.  
Publication.  
Deadlines.

Determination.

shall issue and file a categorical exclusion for the new procedure.

Deadline.

(d) **DEPLOYMENT PLAN FOR NATIONWIDE DATA COMMUNICATIONS SYSTEM.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for implementation of a nationwide data communications system. The plan shall include—

- (1) clearly defined budget, schedule, project organization, and leadership requirements;
- (2) specific implementation and transition steps; and
- (3) baseline and performance metrics for measuring the Administration’s progress in implementing the plan.

(e) **IMPROVED PERFORMANCE STANDARDS.**—

(1) **ASSESSMENT OF WORK BEING PERFORMED UNDER NEXTGEN IMPLEMENTATION PLAN.**—The Administrator shall clearly outline in the NextGen Implementation Plan document of the Administration the work being performed under the plan to determine—

(A) whether utilization of ADS–B, RNP, and other technologies as part of NextGen implementation will display the position of aircraft more accurately and frequently to enable a more efficient use of existing airspace and result in reduced consumption of aviation fuel and aircraft engine emissions; and

(B) the feasibility of reducing aircraft separation standards in a safe manner as a result of the implementation of such technologies.

(2) **AIRCRAFT SEPARATION STANDARDS.**—If the Administrator determines that the standards referred to in paragraph (1)(B) can be reduced safely, the Administrator shall include in the NextGen Implementation Plan a timetable for implementation of such reduced standards.

(f) **THIRD-PARTY USAGE.**—The Administration shall establish a program under which the Administrator is authorized to use qualified third parties in the development, testing, and maintenance of flight procedures.

49 USC 40101  
note.  
Deadline.

#### **SEC. 214. PERFORMANCE METRICS.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish and begin tracking national airspace system performance metrics, including, at a minimum, metrics with respect to—

- (1) actual arrival and departure rates per hour measured against the currently published aircraft arrival rate and aircraft departure rate for the 35 operational evolution partnership airports;
- (2) average gate-to-gate times;
- (3) fuel burned between key city pairs;
- (4) operations using the advanced navigation procedures, including performance based navigation procedures;
- (5) the average distance flown between key city pairs;
- (6) the time between pushing back from the gate and taking off;
- (7) continuous climb or descent;



- (8) average gate arrival delay for all arrivals;
- (9) flown versus filed flight times for key city pairs;
- (10) implementation of NextGen Implementation Plan, or any successor document, capabilities designed to reduce emissions and fuel consumption;
- (11) the Administration's unit cost of providing air traffic control services; and
- (12) runway safety, including runway incursions, operational errors, and loss of standard separation events.

(b) **BASELINES.**—The Administrator, in consultation with aviation industry stakeholders, shall identify baselines for each of the metrics established under subsection (a) and appropriate methods to measure deviations from the baselines.

(c) **PUBLICATION.**—The Administrator shall make data obtained under subsection (a) available to the public in a searchable, sortable, and downloadable format through the Web site of the Administration and other appropriate media.

Public  
information.  
Web posting.

(d) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains—

- (1) a description of the metrics that will be used to measure the Administration's progress in implementing NextGen capabilities and operational results;
- (2) information on any additional metrics developed; and
- (3) a process for holding the Administration accountable for meeting or exceeding the metrics baselines identified in subsection (b).

#### **SEC. 215. CERTIFICATION STANDARDS AND RESOURCES.**

49 USC 40101  
note.  
Deadline.  
Plan.

(a) **PROCESS FOR CERTIFICATION.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a plan to accelerate and streamline the process for certification of NextGen technologies, including—

- (1) establishment of updated project plans and timelines;
- (2) identification of the specific activities needed to certify NextGen technologies, including the establishment of NextGen technical requirements for the manufacture of equipment, installation of equipment, airline operational procedures, pilot training standards, air traffic control procedures, and air traffic controller training;
- (3) identification of staffing requirements for the Air Certification Service and the Flight Standards Service, taking into consideration the leveraging of assistance from third parties and designees;
- (4) establishment of a program under which the Administration will use third parties in the certification process; and
- (5) establishment of performance metrics to measure the Administration's progress.

(b) **CERTIFICATION INTEGRITY.**—The Administrator shall ensure that equipment, systems, or services used in the national airspace system meet appropriate certification requirements regardless of whether the equipment, system, or service is publically or privately owned.

49 USC 40101  
note.

**SEC. 216. SURFACE SYSTEMS ACCELERATION.**

(a) **IN GENERAL.**—The Chief Operating Officer of the Air Traffic Organization shall—

Evaluation.

(1) evaluate the Airport Surface Detection Equipment-Model X program for its potential contribution to implementation of the NextGen initiative;

(2) evaluate airport surveillance technologies and associated collaborative surface management software for potential contributions to implementation of NextGen surface management;

(3) accelerate implementation of the program referred to in paragraph (1); and

(4) carry out such additional duties as the Administrator of the Federal Aviation Administration may require.

(b) **EXPEDITED CERTIFICATION AND UTILIZATION.**—The Administrator shall—

Plan.  
Deadline.

(1) consider options for expediting the certification of Ground-Based Augmentation System technology; and

(2) develop a plan to utilize such a system at the 35 operational evolution partnership airports by December 31, 2012.

49 USC 40101  
note.

**SEC. 217. INCLUSION OF STAKEHOLDERS IN AIR TRAFFIC CONTROL MODERNIZATION PROJECTS.**

(a) **PROCESS FOR EMPLOYEE INCLUSION.**—Notwithstanding any other law or agreement, the Administrator of the Federal Aviation Administration shall establish a process or processes for including qualified employees selected by each exclusive collective bargaining representative of employees of the Administration impacted by the air traffic control modernization process to serve in a collaborative and expert capacity in the planning and development of air traffic control modernization projects, including NextGen.

(b) **ADHERENCE TO DEADLINES.**—Participants in these processes shall adhere, to the greatest extent possible, to all deadlines and milestones established pursuant to this title.

(c) **NO CHANGE IN EMPLOYEE STATUS.**—Participation in these processes by an employee shall not—

(1) serve as a waiver of any bargaining obligations or rights;

(2) entitle the employee to any additional compensation or benefits with the exception of a per diem, if appropriate; or

(3) entitle the employee to prevent or unduly delay the exercise of management prerogatives.

(d) **WORKING GROUPS.**—Except in extraordinary circumstances, the Administrator shall not pay overtime related to work group participation.

(e) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation of this section.

49 USC 40101  
note.

**SEC. 218. AIRSPACE REDESIGN.**

(a) **FINDINGS.**—Congress finds the following:

(1) The airspace redesign efforts of the Federal Aviation Administration will play a critical near-term role in enhancing

capacity, reducing delays, transitioning to more flexible routing, and ultimately saving money in fuel costs for airlines and airspace users.

(2) The critical importance of airspace redesign efforts is underscored by the fact that they are highlighted in strategic plans of the Administration, including Flight Plan 2009–2013 and the NextGen Implementation Plan.

(3) Funding cuts have led to delays and deferrals of critical capacity enhancing airspace redesign efforts.

(4) New runways planned for the period of fiscal years 2011 and 2012 will not provide estimated capacity benefits without additional funds.

**(b) NOISE IMPACTS OF NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AREA AIRSPACE REDESIGN.—**

(1) **MONITORING.**—The Administrator of the Federal Aviation Administration, in conjunction with the Port Authority of New York and New Jersey and the Philadelphia International Airport, shall monitor the noise impacts of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign.

(2) **REPORT.**—Not later than 1 year following the first day of completion of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, the Administrator shall submit to Congress a report on the findings of the Administrator with respect to monitoring conducted under paragraph (1).

**SEC. 219. STUDY ON FEASIBILITY OF DEVELOPMENT OF A PUBLIC INTERNET WEB-BASED RESOURCE ON LOCATIONS OF POTENTIAL AVIATION OBSTRUCTIONS.**

49 USC 40101  
note.

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall carry out a study on the feasibility of developing a publicly searchable, Internet Web-based resource that provides information regarding the height and latitudinal and longitudinal locations of guy-wire and free-standing tower obstructions.

(b) **CONSIDERATIONS.**—In conducting the study, the Administrator shall consult with affected industries and appropriate Federal agencies.

Consultation.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the appropriate committees of Congress on the results of the study.

**SEC. 220. NEXTGEN RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.**

49 USC 40101  
note.

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration may enter into an agreement, on a competitive basis, to assist in the establishment of a center of excellence for the research and development of NextGen technologies.

(b) **FUNCTIONS.**—The Administrator shall ensure that the center established under subsection (a)—

(1) leverages resources and partnerships, including appropriate programs of the Administration, to enhance the research and development of NextGen technologies by academia and industry; and

(2) provides educational, technical, and analytical assistance to the Administration and other Federal departments and agencies with responsibilities to research and develop NextGen technologies.

49 USC 40101  
note.

**SEC. 221. PUBLIC-PRIVATE PARTNERSHIPS.**

(a) **IN GENERAL.**—The Secretary may establish an avionics equipage incentive program for the purpose of equipping general aviation and commercial aircraft with communications, surveillance, navigation, and other avionics equipment as determined by the Secretary to be in the interest of achieving NextGen capabilities for such aircraft.

(b) **NEXTGEN PUBLIC-PRIVATE PARTNERSHIPS.**—The incentive program established under subsection (a) shall, at a minimum—

(1) be based on public-private partnership principles; and

(2) leverage and maximize the use of private sector capital.

(c) **FINANCIAL INSTRUMENTS.**—Subject to the availability of appropriated funds, the Secretary may use financial instruments to facilitate public-private financing for the equipage of general aviation and commercial aircraft registered under section 44103 of title 49, United States Code. To the extent appropriations are not made available, the Secretary may establish the program, provided the costs are covered by the fees and premiums authorized by subsection (d)(2). For purposes of this section, the term “financial instruments” means loan guarantees and other credit assistance designed to leverage and maximize private sector capital.

Definition.

(d) **PROTECTION OF THE TAXPAYER.**—

(1) **LIMITATION ON PRINCIPAL.**—The amount of any guarantee under this program shall be limited to 90 percent of the principal amount of the underlying loan.

Determination.

(2) **COLLATERAL, FEES, AND PREMIUMS.**—The Secretary shall require applicants for the incentive program to post collateral and pay such fees and premiums if feasible, as determined by the Secretary, to offset costs to the Government of potential defaults, and agree to performance measures that the Secretary considers necessary and in the best interest of implementing the NextGen program.

(3) **USE OF FUNDS.**—Applications for this program shall be limited to equipment that is installed on general aviation or commercial aircraft and is necessary for communications, surveillance, navigation, or other purposes determined by the Secretary to be in the interests of achieving NextGen capabilities for commercial and general aviation.

(e) **TERMINATION OF AUTHORITY.**—The authority of the Secretary to issue such financial instruments under this section shall terminate 5 years after the date of the establishment of the incentive program.

49 USC 40101  
note.  
Reports.

**SEC. 222. OPERATIONAL INCENTIVES.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall issue a report that—

(1) identifies incentive options to encourage the equipage of aircraft with NextGen technologies, including a policy that gives priority to aircraft equipped with ADS-B technology;

(2) identifies the costs and benefits of each option; and

(3) includes input from industry stakeholders, including passenger and cargo air carriers, aerospace manufacturers, and general aviation aircraft operators.

(b) **DEADLINE.**—The Administrator shall issue the report before the earlier of—

(1) the date that is 6 months after the date of enactment of this Act; or

(2) the date on which aircraft are required to be equipped with ADS-B technology pursuant to the rulemaking under section 211(b).

**SEC. 223. EDUCATIONAL REQUIREMENTS.**

49 USC 106 note.

The Administrator of the Federal Aviation Administration shall make payments to the Department of Defense for the education of dependent children of those Administration employees in Puerto Rico and Guam as they are subject to transfer by policy and practice and meet the eligibility requirements of section 2164(c) of title 10, United States Code.

Payments.

**SEC. 224. AIR TRAFFIC CONTROLLER STAFFING INITIATIVES AND ANALYSIS.**

49 USC 44506 note.

As soon as practicable, and not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

Deadline.

(1) ensure, to the extent practicable, a sufficient number of contract instructors, classroom space (including off-site locations as needed), and simulators to allow for an increase in the number of air traffic controllers at air traffic control facilities;

(2) distribute, to the extent practicable, the placement of certified professional air traffic controllers-in-training and developmental air traffic controllers at facilities evenly across the calendar year in order to avoid training bottlenecks;

(3) initiate an analysis, to be conducted in consultation with the exclusive bargaining representative of air traffic controllers certified under section 7111 of title 5, United States Code, of scheduling processes and practices, including overtime scheduling practices at those facilities;

(4) provide, to the extent practicable and where appropriate, priority to certified professional air traffic controllers-in-training when filling staffing vacancies at facilities;

(5) assess training programs at air traffic control facilities with below-average success rates to determine if training is being carried out in accordance with Administration standards, and conduct exit interview analyses with all candidates to determine potential weaknesses in training protocols, or in the execution of such training protocols; and

Assessment.

(6) prioritize, to the extent practicable, such efforts to address the recommendations for the facilities identified in the Department of Transportation's Office of the Inspector General Report Number: AV-2009-047.

**SEC. 225. REPORTS ON STATUS OF GREENER SKIES PROJECT.**

49 USC 40101 note.

(a) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to Congress a report on the strategy of the Administrator for implementing, on an accelerated basis, the NextGen operational capabilities produced by the Greener Skies project, as recommended in the final report of the RTCA NextGen Mid-Term Implementation Task Force that was issued on September 9, 2009.

(b) SUBSEQUENT REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the Administrator submits to Congress the report required by subsection (a) and annually thereafter until the pilot program

terminates, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress of the Administrator in carrying out the strategy described in the report submitted under subsection (a).

(2) CONTENTS.—Each report submitted under paragraph (1) shall include the following:

(A) A timeline for full implementation of the strategy described in the report submitted under subsection (a).

(B) A description of the progress made in carrying out such strategy.

(C) A description of the challenges, if any, encountered by the Administrator in carrying out such strategy.

## TITLE III—SAFETY

### Subtitle A—General Provisions

#### SEC. 301. JUDICIAL REVIEW OF DENIAL OF AIRMAN CERTIFICATES.

(a) JUDICIAL REVIEW OF NTSB DECISIONS.—Section 44703(d) is amended by adding at the end the following:

“(3) A person who is substantially affected by an order of the Board under this subsection, or the Administrator if the Administrator decides that an order of the Board will have a significant adverse impact on carrying out this subtitle, may seek judicial review of the order under section 46110. The Administrator shall be made a party to the judicial review proceedings. The findings of fact of the Board in any such case are conclusive if supported by substantial evidence.”.

(b) CONFORMING AMENDMENT.—Section 1153(c) is amended by striking “section 44709 or” and inserting “section 44703(d), 44709, or”.

#### SEC. 302. RELEASE OF DATA RELATING TO ABANDONED TYPE CERTIFICATES AND SUPPLEMENTAL TYPE CERTIFICATES.

Section 44704(a) is amended by adding at the end the following:

“(5) RELEASE OF DATA.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may make available upon request, to a person seeking to maintain the airworthiness or develop product improvements of an aircraft, engine, propeller, or appliance, engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate for such aircraft, engine, propeller, or appliance, without the consent of the owner of record, if the Administrator determines that—

“(i) the certificate containing the requested data has been inactive for 3 or more years, except that the Administrator may reduce this time if required to address an unsafe condition associated with the product;

“(ii) after using due diligence, the Administrator is unable to find the owner of record, or the owner of record’s heir, of the type certificate or supplemental type certificate; and

Determination.

“(iii) making such data available will enhance aviation safety.

“(B) ENGINEERING DATA DEFINED.—In this section, the term ‘engineering data’ as used with respect to an aircraft, engine, propeller, or appliance means type design drawing and specifications for the entire aircraft, engine, propeller, or appliance or change to the aircraft, engine, propeller, or appliance, including the original design data, and any associated supplier data for individual parts or components approved as part of the particular certificate for the aircraft, engine, propeller, or appliance.

“(C) REQUIREMENT TO MAINTAIN DATA.—The Administrator shall maintain engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate that has been inactive for 3 or more years.”.

Time period.

### SEC. 303. DESIGN AND PRODUCTION ORGANIZATION CERTIFICATES.

(a) IN GENERAL.—Section 44704(e) is amended to read as follows:

“(e) DESIGN AND PRODUCTION ORGANIZATION CERTIFICATES.—

“(1) ISSUANCE.—Beginning January 1, 2013, the Administrator may issue a certificate to a design organization, production organization, or design and production organization to authorize the organization to certify compliance of aircraft, aircraft engines, propellers, and appliances with the requirements and minimum standards prescribed under section 44701(a). An organization holding a certificate issued under this subsection shall be known as a certified design and production organization (in this subsection referred to as a ‘CDPO’).

Effective date.

“(2) APPLICATIONS.—On receiving an application for a CDPO certificate, the Administrator shall examine and rate the organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the organization has adequate engineering, design, and production capabilities, standards, and safeguards to make certifications of compliance as described in paragraph (1).

Regulations.

“(3) ISSUANCE OF CERTIFICATES BASED ON CDPO FINDINGS.—The Administrator may rely on certifications of compliance by a CDPO when making determinations under this section.

“(4) PUBLIC SAFETY.—The Administrator shall include in a CDPO certificate terms required in the interest of safety.

“(5) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.”.

(b) APPLICABILITY.—Before January 1, 2013, the Administrator of the Federal Aviation Administration may continue to issue certificates under section 44704(e) of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

Deadline.  
49 USC 44704  
note.

(c) CLERICAL AMENDMENTS.—Chapter 447 is amended—

(1) in the heading for section 44704 by striking “**and design organization certificates**” and inserting “**, and design and production organization certificates**”; and

(2) in the analysis for such chapter by striking the item relating to section 44704 and inserting the following:

“44704. Type certificates, production certificates, airworthiness certificates, and design and production organization certificates.”.

**SEC. 304. CABIN CREW COMMUNICATION.**

(a) IN GENERAL.—Section 44728 is amended—

(1) by redesignating subsection (f) as subsection (g); and  
(2) by inserting after subsection (e) the following:

“(f) MINIMUM LANGUAGE SKILLS.—

“(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier, unless that person has demonstrated to an individual qualified to determine proficiency the ability to read, speak, and write English well enough to—

“(A) read material written in English and comprehend the information;

“(B) speak and understand English sufficiently to provide direction to, and understand and answer questions from, English-speaking individuals;

“(C) write incident reports and statements and log entries and statements; and

“(D) carry out written and oral instructions regarding the proper performance of their duties.

“(2) FOREIGN FLIGHTS.—The requirements of paragraph (1) do not apply to a flight attendant serving solely between points outside the United States.”.

49 USC 44728  
note.

(b) FACILITATION.—The Administrator of the Federal Aviation Administration shall work with air carriers to facilitate compliance with the requirements of section 44728(f) of title 49, United States Code (as amended by this section).

**SEC. 305. LINE CHECK EVALUATIONS.**

Section 44729(h) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

**SEC. 306. SAFETY OF AIR AMBULANCE OPERATIONS.**

(a) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

49 USC 44730.

**“§ 44730. Helicopter air ambulance operations**

“(a) COMPLIANCE REGULATIONS.—

Deadline.

“(1) IN GENERAL.—Except as provided in paragraph (2), not later than 180 days after the date of enactment of this section, a part 135 certificate holder providing air ambulance services shall comply, whenever medical personnel are onboard the aircraft, with regulations pertaining to weather minimums and flight and duty time under part 135.

“(2) EXCEPTION.—If a certificate holder described in paragraph (1) is operating, or carrying out training, under instrument flight rules, the weather reporting requirement at the destination shall not apply if authorized by the Administrator of the Federal Aviation Administration.

Deadline.

“(b) FINAL RULE.—Not later than June 1, 2012, the Administrator shall issue a final rule, with respect to the notice of proposed rulemaking published in the Federal Register on October 12, 2010 (75 Fed. Reg. 62640), to improve the safety of flight crewmembers,



medical personnel, and passengers onboard helicopters providing air ambulance services under part 135.

“(c) MATTERS TO BE ADDRESSED.—In conducting the rulemaking proceeding under subsection (b), the Administrator shall address the following:

“(1) Flight request and dispatch procedures, including performance-based flight dispatch procedures.

“(2) Pilot training standards, including establishment of training standards in—

“(A) preventing controlled flight into terrain; and

“(B) recovery from inadvertent flight into instrument meteorological conditions.

“(3) Safety-enhancing technology and equipment, including—

“(A) helicopter terrain awareness and warning systems;

“(B) radar altimeters; and

“(C) devices that perform the function of flight data recorders and cockpit voice recorders, to the extent feasible.

“(4) Such other matters as the Administrator considers appropriate.

“(d) MINIMUM REQUIREMENTS.—In issuing a final rule under subsection (b), the Administrator, at a minimum, shall provide for the following:

“(1) FLIGHT RISK EVALUATION PROGRAM.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services—

“(A) establishes a flight risk evaluation program, based on FAA Notice 8000.301 issued by the Administration on August 1, 2005, including any updates thereto;

“(B) as part of the flight risk evaluation program, develops a checklist for use by pilots in determining whether a flight request should be accepted; and

“(C) requires the pilots of the certificate holder to use the checklist.

Checklist.

“(2) OPERATIONAL CONTROL CENTER.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services using 10 or more helicopters has an operational control center that meets such requirements as the Administrator may prescribe.

“(e) SUBSEQUENT RULEMAKING.—

“(1) IN GENERAL.—Upon completion of the rulemaking required under subsection (b), the Administrator shall conduct a follow-on rulemaking to address the following:

“(A) Pilot training standards, including—

“(i) mandatory training requirements, including a minimum time for completing the training requirements;

“(ii) training subject areas, such as communications procedures and appropriate technology use; and

“(iii) establishment of training standards in—

“(I) crew resource management;

“(II) flight risk evaluation;

“(III) operational control of the pilot in command; and

“(IV) use of flight simulation training devices and line-oriented flight training.

“(B) Use of safety equipment that should be worn or used by flight crewmembers and medical personnel on a flight, including the possible use of shoulder harnesses, helmets, seatbelts, and fire resistant clothing to enhance crash survivability.

“(2) DEADLINES.—Not later than 180 days after the date of issuance of a final rule under subsection (b), the Administrator shall initiate the rulemaking under this subsection.

“(3) LIMITATION ON CONSTRUCTION.—Nothing in this subsection shall be construed to require the Administrator to propose or finalize any rule that would derogate or supersede the rule required to be finalized under subsection (b).

“(f) DEFINITIONS.—In this section, the following definitions apply:

“(1) PART 135.—The term ‘part 135’ means part 135 of title 14, Code of Federal Regulations.

“(2) PART 135 CERTIFICATE HOLDER.—The term ‘part 135 certificate holder’ means a person holding an operating certificate issued under part 119 of title 14, Code of Federal Regulations, that is authorized to conduct civil helicopter air ambulance operations under part 135.

49 USC 44731.

**“§ 44731. Collection of data on helicopter air ambulance operations**

Deadlines.  
Reports.

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require a part 135 certificate holder providing helicopter air ambulance services to submit to the Administrator, not later than 1 year after the date of enactment of this section, and annually thereafter, a report containing, at a minimum, the following data:

“(1) The number of helicopters that the certificate holder uses to provide helicopter air ambulance services and the base locations of the helicopters.

“(2) The number of flights and hours flown, by registration number, during which helicopters operated by the certificate holder were providing helicopter air ambulance services.

“(3) The number of flight requests for a helicopter providing air ambulance services that were accepted or declined by the certificate holder and the type of each such flight request (such as scene response, interfacility transport, organ transport, or ferry or repositioning flight).

“(4) The number of accidents, if any, involving helicopters operated by the certificate holder while providing air ambulance services and a description of the accidents.

“(5) The number of flights and hours flown under instrument flight rules by helicopters operated by the certificate holder while providing air ambulance services.

“(6) The time of day of each flight flown by helicopters operated by the certificate holder while providing air ambulance services.

“(7) The number of incidents, if any, in which a helicopter was not directly dispatched and arrived to transport patients but was not utilized for patient transport.

“(b) REPORTING PERIOD.—Data contained in a report submitted by a part 135 certificate holder under subsection (a) shall relate to such reporting period as the Administrator determines appropriate.

“(c) DATABASE.—Not later than 180 days after the date of enactment of this section, the Administrator shall develop a method to collect and store the data collected under subsection (a), including a method to protect the confidentiality of any trade secret or proprietary information provided in response to this section. Deadline.

“(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of the data collected under subsection (a).

“(e) DEFINITIONS.—In this section, the terms ‘part 135’ and ‘part 135 certificate holder’ have the meanings given such terms in section 44730.”.

(b) AUTHORIZED EXPENDITURES.—Section 106(k)(2)(C) (as redesignated by this Act) is amended by inserting before the period the following: “and the development and maintenance of helicopter approach procedures”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

“44730. Helicopter air ambulance operations.

“44731. Collection of data on helicopter air ambulance operations.”.

**SEC. 307. PROHIBITION ON PERSONAL USE OF ELECTRONIC DEVICES ON FLIGHT DECK.**

(a) IN GENERAL.—Chapter 447 (as amended by this Act) is further amended by adding at the end the following:

**“§ 44732. Prohibition on personal use of electronic devices on flight deck** 49 USC 44731.

“(a) IN GENERAL.—It is unlawful for a flight crewmember of an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, to use a personal wireless communications device or laptop computer while at the flight crewmember’s duty station on the flight deck of such an aircraft while the aircraft is being operated.

“(b) EXCEPTIONS.—Subsection (a) shall not apply to the use of a personal wireless communications device or laptop computer for a purpose directly related to operation of the aircraft, or for emergency, safety-related, or employment-related communications, in accordance with procedures established by the air carrier and the Administrator of the Federal Aviation Administration.

“(c) ENFORCEMENT.—In addition to the penalties provided under section 46301 applicable to any violation of this section, the Administrator of the Federal Aviation Administration may enforce compliance with this section under section 44709 by amending, modifying, suspending, or revoking a certificate under this chapter.

“(d) PERSONAL WIRELESS COMMUNICATIONS DEVICE DEFINED.—In this section, the term ‘personal wireless communications device’ means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted.”.

(b) PENALTY.—Section 44711(a) is amended—

- (1) by striking “or” after the semicolon in paragraph (8);
- (2) by striking “title.” in paragraph (9) and inserting “title; or”; and

(3) by adding at the end the following:

“(10) violate section 44732 or any regulation issued thereunder.”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 447 (as amended by this Act) is further amended by adding at the end the following:

“44732. Prohibition on personal use of electronic devices on flight deck.”.

Deadlines.  
Procedures.  
49 USC 44732  
note.

(d) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking procedure for regulations to carry out section 44732 of title 49, United States Code (as added by this section), and shall issue a final rule thereunder not later than 2 years after the date of enactment of this Act.

(e) STUDY.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review relevant air carrier data and carry out a study—

(A) to identify common sources of distraction for the flight crewmembers on the flight deck of a commercial aircraft; and

(B) to determine the safety impacts of such distractions.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains—

(A) the findings of the study conducted under paragraph (1); and

(B) recommendations regarding how to reduce distractions for flight crewmembers on the flight deck of a commercial aircraft.

#### SEC. 308. INSPECTION OF REPAIR STATIONS LOCATED OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 447 (as amended by this Act) is further amended by adding at the end the following:

49 USC 44732.

#### “§ 44733. Inspection of repair stations located outside the United States

Deadline.  
Safety  
assessment  
system.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish and implement a safety assessment system for all part 145 repair stations based on the type, scope, and complexity of work being performed. The system shall—

“(1) ensure that repair stations located outside the United States are subject to appropriate inspections based on identified risks and consistent with existing United States requirements;

“(2) consider inspection results and findings submitted by foreign civil aviation authorities operating under a maintenance safety or maintenance implementation agreement with the United States; and

“(3) require all maintenance safety or maintenance implementation agreements to provide an opportunity for the Administration to conduct independent inspections of covered

part 145 repair stations when safety concerns warrant such inspections.

“(b) NOTICE TO CONGRESS OF NEGOTIATIONS.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than 30 days after initiating formal negotiations with foreign aviation authorities or other appropriate foreign government agencies on a new maintenance safety or maintenance implementation agreement. Deadline.

“(c) ANNUAL REPORT.—The Administrator shall publish an annual report on the Administration’s oversight of part 145 repair stations and implementation of the safety assessment system required under subsection (a). The report shall— Publication.

“(1) describe in detail any improvements in the Administration’s ability to identify and track where part 121 air carrier repair work is performed;

“(2) include a staffing model to determine the best placement of inspectors and the number of inspectors needed;

“(3) describe the training provided to inspectors; and

“(4) include an assessment of the quality of monitoring and surveillance by the Administration of work performed by its inspectors and the inspectors of foreign authorities operating under a maintenance safety or maintenance implementation agreement.

“(d) ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary of State and the Secretary of Transportation, acting jointly, shall request the governments of foreign countries that are members of the International Civil Aviation Organization to establish international standards for alcohol and controlled substances testing of persons that perform safety-sensitive maintenance functions on commercial air carrier aircraft. Standards.

“(2) APPLICATION TO PART 121 AIRCRAFT WORK.—Not later than 1 year after the date of enactment of this section, the Administrator shall promulgate a proposed rule requiring that all part 145 repair station employees responsible for safety-sensitive maintenance functions on part 121 air carrier aircraft are subject to an alcohol and controlled substances testing program determined acceptable by the Administrator and consistent with the applicable laws of the country in which the repair station is located. Deadline.  
Regulations.

“(e) ANNUAL INSPECTIONS.—The Administrator shall ensure that part 145 repair stations located outside the United States are inspected annually by Federal Aviation Administration safety inspectors, without regard to where the station is located, in a manner consistent with United States obligations under international agreements. The Administrator may carry out inspections in addition to the annual inspection required under this subsection based on identified risks.

“(f) DEFINITIONS.—In this section, the following definitions apply: Applicability.

“(1) PART 121 AIR CARRIER.—The term ‘part 121 air carrier’ means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

“(2) PART 145 REPAIR STATION.—The term ‘part 145 repair station’ means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 (as amended by this Act) is further amended by adding at the end the following:

“44733. Inspection of repair stations located outside the United States.”.

**SEC. 309. ENHANCED TRAINING FOR FLIGHT ATTENDANTS.**

(a) IN GENERAL.—Chapter 447 (as amended by this Act) is further amended by adding at the end the following:

49 USC 44734.

**“§ 44734. Training of flight attendants**

“(a) TRAINING REQUIRED.—In addition to other training required under this chapter, each air carrier shall provide to flight attendants employed or contracted by such air carrier initial and annual training regarding—

“(1) serving alcohol to passengers;

“(2) recognizing intoxicated passengers; and

“(3) dealing with disruptive passengers.

“(b) SITUATIONAL TRAINING.—In carrying out the training required under subsection (a), each air carrier shall provide to flight attendants situational training on the proper method for dealing with intoxicated passengers who act in a belligerent manner.

Applicability.

“(c) DEFINITIONS.—In this section, the following definitions apply:

“(1) AIR CARRIER.—The term ‘air carrier’ means a person, including a commercial enterprise, that has been issued an air carrier operating certificate under section 44705.

“(2) FLIGHT ATTENDANT.—The term ‘flight attendant’ has the meaning given that term in section 44728(g).”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 447 (as amended by this Act) is further amended by adding at the end the following:

“44734. Training of flight attendants.”.

**SEC. 310. LIMITATION ON DISCLOSURE OF SAFETY INFORMATION.**

(a) IN GENERAL.—Chapter 447 (as amended by this Act) is further amended by adding at the end the following:

49 USC 44735.

**“§ 44735. Limitation on disclosure of safety information**

“(a) IN GENERAL.—Except as provided by subsection (c), a report, data, or other information described in subsection (b) shall not be disclosed to the public by the Administrator of the Federal Aviation Administration pursuant to section 552(b)(3)(B) of title 5 if the report, data, or other information is submitted to the Federal Aviation Administration voluntarily and is not required to be submitted to the Administrator under any other provision of law.

“(b) APPLICABILITY.—The limitation established by subsection (a) shall apply to the following:

“(1) Reports, data, or other information developed under the Aviation Safety Action Program.

“(2) Reports, data, or other information produced or collected under the Flight Operational Quality Assurance Program.

“(3) Reports, data, or other information developed under the Line Operations Safety Audit Program.

“(4) Reports, data, or other information produced or collected for purposes of developing and implementing a safety management system acceptable to the Administrator.

“(5) Reports, analyses, and directed studies, based in whole or in part on reports, data, or other information described in paragraphs (1) through (4), including those prepared under the Aviation Safety Information Analysis and Sharing Program (or any successor program).

“(c) EXCEPTION FOR DE-IDENTIFIED INFORMATION.—

“(1) IN GENERAL.—The limitation established by subsection (a) shall not apply to a report, data, or other information if the information contained in the report, data, or other information has been de-identified.

“(2) DE-IDENTIFIED DEFINED.—In this subsection, the term ‘de-identified’ means the process by which all information that is likely to establish the identity of the specific persons or entities submitting reports, data, or other information is removed from the reports, data, or other information.”

(b) CLERICAL AMENDMENT.—The analysis for such chapter (as amended by this Act) is further amended by adding at the end the following:

“44735. Limitation on disclosure of safety information.”

(c) TECHNICAL CORRECTION.—Section 44703(i)(9)(B)(i) is amended by striking “section 552 of title 5” and inserting “section 552(b)(3)(B) of title 5”.

#### **SEC. 311. PROHIBITION AGAINST AIMING A LASER POINTER AT AN AIRCRAFT.**

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by inserting after section 39 the following:

##### **“§ 39A. Aiming a laser pointer at an aircraft**

18 USC 39A.

“(a) OFFENSE.—Whoever knowingly aims the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the United States, or at the flight path of such an aircraft, shall be fined under this title or imprisoned not more than 5 years, or both.

Penalty.

“(b) LASER POINTER DEFINED.—As used in this section, the term ‘laser pointer’ means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object.

“(c) EXCEPTIONS.—This section does not prohibit aiming a beam of a laser pointer at an aircraft, or the flight path of such an aircraft, by—

“(1) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations;

“(2) members or elements of the Department of Defense or Department of Homeland Security acting in an official

capacity for the purpose of research, development, operations, testing, or training; or

“(3) by an individual using a laser emergency signaling device to send an emergency distress signal.

Notice.  
Public comment.

Notification.  
Deadline.

“(d) **AUTHORITY TO ESTABLISH ADDITIONAL EXCEPTIONS BY REGULATION.**—The Attorney General, in consultation with the Secretary of Transportation, may provide by regulation, after public notice and comment, such additional exceptions to this section as may be necessary and appropriate. The Attorney General shall provide written notification of any proposed regulations under this section to the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, not less than 90 days before such regulations become final.”.

(b) **CLERICAL AMENDMENT.**—The analysis for such chapter is amended—

(1) by moving the item relating to section 39 after the item relating to section 38; and

(2) by inserting after the item relating to section 39 the following:

“39A. Aiming a laser pointer at an aircraft”.

49 USC 44704  
note.

**SEC. 312. AIRCRAFT CERTIFICATION PROCESS REVIEW AND REFORM.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration, in consultation with representatives of the aviation industry, shall conduct an assessment of the certification and approval process under section 44704 of title 49, United States Code.

(b) **CONTENTS.**—In conducting the assessment, the Administrator shall consider—

(1) the expected number of applications for product certifications and approvals the Administrator will receive under section 44704 of such title in the 1-year, 5-year, and 10-year periods following the date of enactment of this Act;

(2) process reforms and improvements necessary to allow the Administrator to review and approve the applications in a fair and timely fashion;

(3) the status of recommendations made in previous reports on the Administration’s certification process;

(4) methods for enhancing the effective use of delegation systems, including organizational designation authorization;

(5) methods for training the Administration’s field office employees in the safety management system and auditing; and

(6) the status of updating airworthiness requirements, including implementing recommendations in the Administration’s report entitled “Part 23—Small Airplane Certification Process Study” (OK–09–3468, dated July 2009).

(c) **RECOMMENDATIONS.**—In conducting the assessment, the Administrator shall make recommendations to improve efficiency and reduce costs through streamlining and reengineering the certification process under section 44704 of such title to ensure that the Administrator can conduct certifications and approvals under such section in a manner that supports and enables the development of new products and technologies and the global competitiveness of the United States aviation industry.



(d) **REPORT TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the assessment, together with an explanation of how the Administrator will implement recommendations made under subsection (c) and measure the effectiveness of the recommendations.

(e) **IMPLEMENTATION OF RECOMMENDATIONS.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall begin to implement the recommendations made under subsection (c).

Deadline.

**SEC. 313. CONSISTENCY OF REGULATORY INTERPRETATION.**

49 USC 44701  
note.  
Deadline.

(a) **ESTABLISHMENT OF ADVISORY PANEL.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish an advisory panel comprised of both Government and industry representatives to—

(1) review the October 2010 report by the Government Accountability Office on certification and approval processes (GAO–11–14); and

(2) develop recommendations to address the findings in the report and other concerns raised by interested parties, including representatives of the aviation industry.

(b) **MATTERS TO BE CONSIDERED.**—The advisory panel shall—  
(1) determine the root causes of inconsistent interpretation of regulations by the Administration’s Flight Standards Service and Aircraft Certification Service;

Determination.  
Recommendations.

(2) develop recommendations to improve the consistency of interpreting regulations by the Administration’s Flight Standards Service and Aircraft Certification Service; and

(3) develop recommendations to improve communications between the Administration’s Flight Standards Service and Aircraft Certification Service and applicants and certificate and approval holders for the identification and resolution of potentially adverse issues in an expeditious and fair manner.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of the advisory panel, together with an explanation of how the Administrator will implement the recommendations of the advisory panel and measure the effectiveness of the recommendations.

**SEC. 314. RUNWAY SAFETY.**

49 USC 47101  
note.

(a) **STRATEGIC RUNWAY SAFETY PLAN.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop and submit to Congress a report containing a strategic runway safety plan.

Deadline.  
Reports.

(2) **CONTENTS OF PLAN.**—The strategic runway safety plan—

(A) shall include, at a minimum—

(i) goals to improve runway safety;

(ii) near- and long-term actions designed to reduce the severity, number, and rate of runway incursions, losses of standard separation, and operational errors;

(iii) time frames and resources needed for the actions described in clause (ii);

(iv) a continuous evaluative process to track performance toward the goals referred to in clause (i); and

(v) a review with respect to runway safety of every commercial service airport (as defined in section 47102 of title 49, United States Code) in the United States and proposed action to improve airport lighting, provide better signs, and improve runway and taxiway markings at those airports; and

(B) shall address the increased runway safety risk associated with the expected increased volume of air traffic.

Deadline.  
Procedures.

(b) **PROCESS.**—Not later than 6 months after the date of enactment of this Act, the Administrator shall develop a process for tracking and investigating operational errors, losses of standard separation, and runway incursions that includes procedures for—

(1) identifying who is responsible for tracking operational errors, losses of standard separation, and runway incursions, including a process for lower level employees to report to higher supervisory levels and for frontline managers to receive the information in a timely manner;

(2) conducting periodic random audits of the oversight process; and

(3) ensuring proper accountability.

Deadline.  
Reports.

(c) **PLAN FOR INSTALLATION AND DEPLOYMENT OF SYSTEMS TO PROVIDE ALERTS OF POTENTIAL RUNWAY INCURSIONS.**—Not later than June 30, 2012, the Administrator shall submit to Congress a report containing a plan for the installation and deployment of systems to alert air traffic controllers or flight crewmembers, or both, of potential runway incursions. The plan shall be integrated into the annual NextGen Implementation Plan of the Administration or any successor document.

49 USC 44701  
note.  
Deadline.

**SEC. 315. FLIGHT STANDARDS EVALUATION PROGRAM.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall modify the Flight Standards Evaluation Program—

(1) to include periodic and random reviews as part of the Administration's oversight of air carriers; and

(2) to prohibit an individual from participating in a review or audit of an office with responsibility for an air carrier under the program if the individual, at any time in the 5-year period preceding the date of the review or audit, had responsibility for inspecting, or overseeing the inspection of, the operations of that carrier.

(b) **ANNUAL REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Flight Standards Evaluation Program, including the

Administrator’s findings and recommendations with respect to the program.

(c) **FLIGHT STANDARDS EVALUATION PROGRAM DEFINED.**—In this section, the term “Flight Standards Evaluation Program” means the program established by the Federal Aviation Administration in FS 1100.1B CHG3, including any subsequent revisions thereto.

**SEC. 316. COCKPIT SMOKE.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the effectiveness of oversight activities of the Federal Aviation Administration relating to the use of new technologies to prevent or mitigate the effects of dense, continuous smoke in the cockpit of a commercial aircraft.

(b) **REPORT TO CONGRESS.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

**SEC. 317. OFF-AIRPORT, LOW-ALTITUDE AIRCRAFT WEATHER OBSERVATION TECHNOLOGY.**

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a review of off-airport, low-altitude aircraft weather observation technologies.

(b) **SPECIFIC REVIEW.**—The review shall include, at a minimum, an examination of off-airport, low-altitude weather reporting needs, an assessment of technical alternatives (including automated weather observation stations), an investment analysis, and recommendations for improving weather reporting.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the review.

**SEC. 318. FEASIBILITY OF REQUIRING HELICOPTER PILOTS TO USE NIGHT VISION GOGGLES.**

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall carry out a study on the feasibility of requiring pilots of helicopters providing air ambulance services under part 135 of title 14, Code of Federal Regulations, to use night vision goggles during nighttime operations.

(b) **CONSIDERATIONS.**—In conducting the study, the Administrator shall consult with owners and operators of helicopters providing air ambulance services under such part 135 and aviation safety professionals to determine the benefits, financial considerations, and risks associated with requiring the use of night vision goggles.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

**SEC. 319. MAINTENANCE PROVIDERS.**

(a) **REGULATIONS.**—Not later than 3 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations requiring that covered work on an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, be performed by persons in accordance with subsection (b).

Consultation.

49 USC 44713  
note.  
Deadline.

(b) **PERSONS AUTHORIZED TO PERFORM CERTAIN WORK.**—A person may perform covered work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, only if the person is employed by—

(1) a part 121 air carrier;

(2) a part 145 repair station or a person authorized under section 43.17 of title 14, Code of Federal Regulations (or any successor regulation); or

(3) subject to subsection (c), a person that—

(A) provides contract maintenance workers, services, or maintenance functions to a part 121 air carrier or part 145 repair station; and

(B) meets the requirements of the part 121 air carrier or the part 145 repair station, as appropriate.

(c) **TERMS AND CONDITIONS.**—Covered work performed by a person who is employed by a person described in subsection (b)(3) shall be subject to the following terms and conditions:

(1) The applicable part 121 air carrier shall be directly in charge of the covered work being performed.

(2) The covered work shall be carried out in accordance with the part 121 air carrier’s maintenance manual.

(3) The person shall carry out the covered work under the supervision and control of the part 121 air carrier directly in charge of the covered work being performed on its aircraft.

(d) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **COVERED WORK.**—The term “covered work” means any of the following:

(A) Essential maintenance that could result in a failure, malfunction, or defect endangering the safe operation of an aircraft if not performed properly or if improper parts or materials are used.

(B) Regularly scheduled maintenance.

(C) A required inspection item (as defined by the Administrator).

(2) **PART 121 AIR CARRIER.**—The term “part 121 air carrier” means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

(3) **PART 145 REPAIR STATION.**—The term “part 145 repair station” means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.

(4) **PERSON.**—The term “person” means an individual, firm, partnership, corporation, company, or association that performs maintenance, preventative maintenance, or alterations.

#### **SEC. 320. STUDY OF AIR QUALITY IN AIRCRAFT CABINS.**

Deadline.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a study of air quality in aircraft cabins to—

(1) assess bleed air quality on the full range of commercial aircraft operating in the United States;

(2) identify oil-based contaminants, hydraulic fluid toxins, and other air toxins that appear in cabin air and measure the quantity and prevalence, or absence, of those toxins through a comprehensive sampling program;

(3) determine the specific amount and duration of toxic fumes present in aircraft cabins that constitutes a health risk to passengers;

(4) develop a systematic reporting standard for smoke and fume events in aircraft cabins; and

(5) identify the potential health risks to individuals exposed to toxic fumes during flight.

(b) **AUTHORITY TO MONITOR AIR IN AIRCRAFT CABINS.**—For purposes of conducting the study required by subsection (a), the Administrator of the Federal Aviation Administration shall require domestic air carriers to allow air quality monitoring on their aircraft in a manner that imposes no significant costs on the air carrier and does not interfere with the normal operation of the aircraft.

**SEC. 321. IMPROVED PILOT LICENSES.**

49 USC 44703  
note.

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall issue improved pilot licenses consistent with requirements under this section.

(b) **TIMING.**—Not later than 270 days after the date of enactment of this Act, the Administrator shall—

Deadlines.

(1) provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

Reports.

(A) a timeline for the phased issuance of improved pilot licenses under this section that ensures all pilots are issued such licenses not later than 2 years after the initial issuance of such licenses under paragraph (2); and

(B) recommendations for the Federal installation of infrastructure necessary to take advantage of information contained on improved pilot licenses issued under this section, which identify the necessary infrastructure, indicate the Federal entity that should be responsible for installing, funding, and operating the infrastructure at airport sterile areas, and provide an estimate of the costs of the infrastructure; and

(2) begin to issue improved pilot licenses consistent with the requirements of title 49, United States Code, and title 14, Code of Federal Regulations.

(c) **REQUIREMENTS.**—Improved pilot licenses issued under this section shall—

(1) be resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued for identification purposes; and

(3) be smart cards that—

(A) accommodate iris and fingerprint biometric identifiers; and

(B) are compliant with Federal Information Processing Standards-201 (FIPS-201) or Personal Identity Verification-Interoperability Standards (PIV-I) for processing through security checkpoints into airport sterile areas.

(d) **TAMPERING.**—To the extent practicable, the Administrator shall develop methods to determine or reveal whether any component or security feature of an improved pilot license issued under this section has been tampered with, altered, or counterfeited.

(e) **USE OF DESIGNEES.**—The Administrator may use designees to carry out subsection (a) to the extent practicable in order to minimize the burdens on pilots.

(f) **REPORT TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the issuance of improved pilot licenses under this section.

(2) **EXPIRATION.**—The Administrator shall not be required to submit annual reports under this subsection after the date on which the Administrator has issued improved pilot licenses under this section to all pilots.

## Subtitle B—Unmanned Aircraft Systems

49 USC 40101  
note.  
Applicability.

### SEC. 331. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) **ARCTIC.**—The term “Arctic” means the United States zone of the Chukchi Sea, Beaufort Sea, and Bering Sea north of the Aleutian chain.

(2) **CERTIFICATE OF WAIVER; CERTIFICATE OF AUTHORIZATION.**—The terms “certificate of waiver” and “certificate of authorization” mean a Federal Aviation Administration grant of approval for a specific flight operation.

(3) **PERMANENT AREAS.**—The term “permanent areas” means areas on land or water that provide for launch, recovery, and operation of small unmanned aircraft.

(4) **PUBLIC UNMANNED AIRCRAFT SYSTEM.**—The term “public unmanned aircraft system” means an unmanned aircraft system that meets the qualifications and conditions required for operation of a public aircraft (as defined in section 40102 of title 49, United States Code).

(5) **SENSE AND AVOID CAPABILITY.**—The term “sense and avoid capability” means the capability of an unmanned aircraft to remain a safe distance from and to avoid collisions with other airborne aircraft.

(6) **SMALL UNMANNED AIRCRAFT.**—The term “small unmanned aircraft” means an unmanned aircraft weighing less than 55 pounds.

(7) **TEST RANGE.**—The term “test range” means a defined geographic area where research and development are conducted.

(8) **UNMANNED AIRCRAFT.**—The term “unmanned aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(9) **UNMANNED AIRCRAFT SYSTEM.**—The term “unmanned aircraft system” means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to operate safely and efficiently in the national airspace system.

**SEC. 332. INTEGRATION OF CIVIL UNMANNED AIRCRAFT SYSTEMS  
INTO NATIONAL AIRSPACE SYSTEM.**49 USC 40101  
note.**(a) REQUIRED PLANNING FOR INTEGRATION.—**

(1) **COMPREHENSIVE PLAN.**—Not later than 270 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with representatives of the aviation industry, Federal agencies that employ unmanned aircraft systems technology in the national airspace system, and the unmanned aircraft systems industry, shall develop a comprehensive plan to safely accelerate the integration of civil unmanned aircraft systems into the national airspace system.

Deadline.

(2) **CONTENTS OF PLAN.**—The plan required under paragraph (1) shall contain, at a minimum, recommendations or projections on—

(A) the rulemaking to be conducted under subsection (b), with specific recommendations on how the rulemaking will—

(i) define the acceptable standards for operation and certification of civil unmanned aircraft systems;

(ii) ensure that any civil unmanned aircraft system includes a sense and avoid capability; and

(iii) establish standards and requirements for the operator and pilot of a civil unmanned aircraft system, including standards and requirements for registration and licensing;

(B) the best methods to enhance the technologies and subsystems necessary to achieve the safe and routine operation of civil unmanned aircraft systems in the national airspace system;

(C) a phased-in approach to the integration of civil unmanned aircraft systems into the national airspace system;

(D) a timeline for the phased-in approach described under subparagraph (C);

(E) creation of a safe

(F) airspace designation for cooperative manned and unmanned flight operations in the national airspace system;

(G) establishment of a process to develop certification, flight standards, and air traffic requirements for civil unmanned aircraft systems at test ranges where such systems are subject to testing;

(H) the best methods to ensure the safe operation of civil unmanned aircraft systems and public unmanned aircraft systems simultaneously in the national airspace system; and

(I) incorporation of the plan into the annual NextGen Implementation Plan document (or any successor document) of the Federal Aviation Administration.

(3) **DEADLINE.**—The plan required under paragraph (1) shall provide for the safe integration of civil unmanned aircraft systems into the national airspace system as soon as practicable, but not later than September 30, 2015.

(4) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a copy of the plan required under paragraph (1).

Deadlines.  
Publication.  
Web posting.

(5) ROADMAP.—Not later than 1 year after the date of enactment of this Act, the Secretary shall approve and make available in print and on the Administration’s Internet Web site a 5-year roadmap for the introduction of civil unmanned aircraft systems into the national airspace system, as coordinated by the Unmanned Aircraft Program Office of the Administration. The Secretary shall update the roadmap annually.

Deadline.  
Federal Register,  
publication.

(b) RULEMAKING.—Not later than 18 months after the date on which the plan required under subsection (a)(1) is submitted to Congress under subsection (a)(4), the Secretary shall publish in the Federal Register—

(1) a final rule on small unmanned aircraft systems that will allow for civil operation of such systems in the national airspace system, to the extent the systems do not meet the requirements for expedited operational authorization under section 333 of this Act;

(2) a notice of proposed rulemaking to implement the recommendations of the plan required under subsection (a)(1), with the final rule to be published not later than 16 months after the date of publication of the notice; and

(3) an update to the Administration’s most recent policy statement on unmanned aircraft systems, contained in Docket No. FAA–2006–25714.

(c) PILOT PROJECTS.—

Deadline.

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a program to integrate unmanned aircraft systems into the national airspace system at 6 test ranges. The program shall terminate 5 years after the date of enactment of this Act.

Termination  
date.

(2) PROGRAM REQUIREMENTS.—In establishing the program under paragraph (1), the Administrator shall—

(A) safely designate airspace for integrated manned and unmanned flight operations in the national airspace system;

Standards.

(B) develop certification standards and air traffic requirements for unmanned flight operations at test ranges;

(C) coordinate with and leverage the resources of the National Aeronautics and Space Administration and the Department of Defense;

(D) address both civil and public unmanned aircraft systems;

(E) ensure that the program is coordinated with the Next Generation Air Transportation System; and

(F) provide for verification of the safety of unmanned aircraft systems and related navigation procedures before integration into the national airspace system.

(3) TEST RANGE LOCATIONS.—In determining the location of the 6 test ranges of the program under paragraph (1), the Administrator shall—

(A) take into consideration geographic and climatic diversity;

(B) take into consideration the location of ground infrastructure and research needs; and

Consultation.

(C) consult with the National Aeronautics and Space Administration and the Department of Defense.



(4) TEST RANGE OPERATION.—A project at a test range shall be operational not later than 180 days after the date on which the project is established. Deadline.

(5) REPORT TO CONGRESS.—

(A) IN GENERAL.—Not later than 90 days after the date of the termination of the program under paragraph (1), the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives a report setting forth the Administrator’s findings and conclusions concerning the projects.

(B) ADDITIONAL CONTENTS.—The report under subparagraph (A) shall include a description and assessment of the progress being made in establishing special use airspace to fill the immediate need of the Department of Defense—

(i) to develop detection techniques for small unmanned aircraft systems; and

(ii) to validate the sense and avoid capability and operation of unmanned aircraft systems.

(d) EXPANDING USE OF UNMANNED AIRCRAFT SYSTEMS IN ARCTIC.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a plan and initiate a process to work with relevant Federal agencies and national and international communities to designate permanent areas in the Arctic where small unmanned aircraft may operate 24 hours per day for research and commercial purposes. The plan for operations in these permanent areas shall include the development of processes to facilitate the safe operation of unmanned aircraft beyond line of sight. Such areas shall enable over-water flights from the surface to at least 2,000 feet in altitude, with ingress and egress routes from selected coastal launch sites. Deadline.  
Plans.

(2) AGREEMENTS.—To implement the plan under paragraph (1), the Secretary may enter into an agreement with relevant national and international communities.

(3) AIRCRAFT APPROVAL.—Not later than 1 year after the entry into force of an agreement necessary to effectuate the purposes of this subsection, the Secretary shall work with relevant national and international communities to establish and implement a process, or may apply an applicable process already established, for approving the use of unmanned aircraft in the designated permanent areas in the Arctic without regard to whether an unmanned aircraft is used as a public aircraft, a civil aircraft, or a model aircraft. Deadline.

**SEC. 333. SPECIAL RULES FOR CERTAIN UNMANNED AIRCRAFT SYSTEMS.** 49 USC 40101 note.

(a) IN GENERAL.—Notwithstanding any other requirement of this subtitle, and not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall determine if certain unmanned aircraft systems may operate safely in the national airspace system before completion of the plan and rule-making required by section 332 of this Act or the guidance required by section 334 of this Act. Deadline.  
Determination.

Determination.

(b) **ASSESSMENT OF UNMANNED AIRCRAFT SYSTEMS.**—In making the determination under subsection (a), the Secretary shall determine, at a minimum—

(1) which types of unmanned aircraft systems, if any, as a result of their size, weight, speed, operational capability, proximity to airports and populated areas, and operation within visual line of sight do not create a hazard to users of the national airspace system or the public or pose a threat to national security; and

(2) whether a certificate of waiver, certificate of authorization, or airworthiness certification under section 44704 of title 49, United States Code, is required for the operation of unmanned aircraft systems identified under paragraph (1).

(c) **REQUIREMENTS FOR SAFE OPERATION.**—If the Secretary determines under this section that certain unmanned aircraft systems may operate safely in the national airspace system, the Secretary shall establish requirements for the safe operation of such aircraft systems in the national airspace system.

49 USC 40101  
note.  
Deadline.

**SEC. 334. PUBLIC UNMANNED AIRCRAFT SYSTEMS.**

(a) **GUIDANCE.**—Not later than 270 days after the date of enactment of this Act, the Secretary of Transportation shall issue guidance regarding the operation of public unmanned aircraft systems to—

(1) expedite the issuance of a certificate of authorization process;

(2) provide for a collaborative process with public agencies to allow for an incremental expansion of access to the national airspace system as technology matures and the necessary safety analysis and data become available, and until standards are completed and technology issues are resolved;

(3) facilitate the capability of public agencies to develop and use test ranges, subject to operating restrictions required by the Federal Aviation Administration, to test and operate unmanned aircraft systems; and

(4) provide guidance on a public entity's responsibility when operating an unmanned aircraft without a civil airworthiness certificate issued by the Administration.

Deadline.

(b) **STANDARDS FOR OPERATION AND CERTIFICATION.**—Not later than December 31, 2015, the Administrator shall develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system.

Deadline.

(c) **AGREEMENTS WITH GOVERNMENT AGENCIES.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into agreements with appropriate government agencies to simplify the process for issuing certificates of waiver or authorization with respect to applications seeking authorization to operate public unmanned aircraft systems in the national airspace system.

(2) **CONTENTS.**—The agreements shall—

(A) with respect to an application described in paragraph (1)—

(i) provide for an expedited review of the application;

- (ii) require a decision by the Administrator on approval or disapproval within 60 business days of the date of submission of the application; and
- (iii) allow for an expedited appeal if the application is disapproved;
- (B) allow for a one-time approval of similar operations carried out during a fixed period of time; and
- (C) allow a government public safety agency to operate unmanned aircraft weighing 4.4 pounds or less, if operated—
  - (i) within the line of sight of the operator;
  - (ii) less than 400 feet above the ground;
  - (iii) during daylight conditions;
  - (iv) within Class G airspace; and
  - (v) outside of 5 statute miles from any airport, heliport, seaplane base, spaceport, or other location with aviation activities.

Deadline.

**SEC. 335. SAFETY STUDIES.**

The Administrator of the Federal Aviation Administration shall carry out all safety studies necessary to support the integration of unmanned aircraft systems into the national airspace system.

49 USC 40101  
note.**SEC. 336. SPECIAL RULE FOR MODEL AIRCRAFT.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law relating to the incorporation of unmanned aircraft systems into Federal Aviation Administration plans and policies, including this subtitle, the Administrator of the Federal Aviation Administration may not promulgate any rule or regulation regarding a model aircraft, or an aircraft being developed as a model aircraft, if—

49 USC 40101  
note.

- (1) the aircraft is flown strictly for hobby or recreational use;
  - (2) the aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization;
  - (3) the aircraft is limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a community-based organization;
  - (4) the aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft; and
  - (5) when flown within 5 miles of an airport, the operator of the aircraft provides the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport) with prior notice of the operation (model aircraft operators flying from a permanent location within 5 miles of an airport should establish a mutually-agreed upon operating procedure with the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport)).
- (b) **STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to limit the authority of the Administrator to pursue enforcement action against persons operating model aircraft who endanger the safety of the national airspace system.
- (c) **MODEL AIRCRAFT DEFINED.**—In this section, the term “model aircraft” means an unmanned aircraft that is—
- (1) capable of sustained flight in the atmosphere;

- (2) flown within visual line of sight of the person operating the aircraft; and
- (3) flown for hobby or recreational purposes.

## Subtitle C—Safety and Protections

### SEC. 341. AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.

Section 106 (as amended by this Act) is further amended by adding at the end the following:

“(t) AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.—

“(1) ESTABLISHMENT.—There is established in the Federal Aviation Administration (in this subsection referred to as the ‘Agency’) an Aviation Safety Whistleblower Investigation Office (in this subsection referred to as the ‘Office’).

“(2) DIRECTOR.—

“(A) APPOINTMENT.—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

“(B) QUALIFICATIONS.—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

“(C) TERM.—The Director shall be appointed for a term of 5 years.

“(D) VACANCIES.—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual’s predecessor was appointed shall be appointed for the remainder of that term.

“(3) COMPLAINTS AND INVESTIGATIONS.—

“(A) AUTHORITY OF DIRECTOR.—The Director shall—

“(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations (if the certificate holder does not have a similar in-house whistleblower or safety and regulatory noncompliance reporting process) and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety;

“(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety has occurred; and

“(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Administrator of the Agency, in writing, regarding further investigation or corrective actions.

“(B) DISCLOSURE OF IDENTITIES.—The Director shall not disclose the identity of an individual who submits a complaint or information under subparagraph (A)(i) unless—

“(i) the individual consents to the disclosure in writing; or

Recommendations.

“(ii) the Director determines, in the course of an investigation, that the disclosure is required by regulation, statute, or court order, or is otherwise unavoidable, in which case the Director shall provide the individual reasonable advanced notice of the disclosure. Notice.

“(C) INDEPENDENCE OF DIRECTOR.—The Secretary, the Administrator, or any officer or employee of the Agency may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted under subparagraph (A)(i) or from reporting to Congress on any such assessment.

“(D) ACCESS TO INFORMATION.—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material of the Agency necessary to determine whether a substantial likelihood exists that a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety may have occurred.

“(4) RESPONSES TO RECOMMENDATIONS.—Not later than 60 days after the date on which the Administrator receives a report with respect to an investigation, the Administrator shall respond to a recommendation made by the Director under paragraph (3)(A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation. Deadline. Records.

“(5) INCIDENT REPORTS.—If the Director determines there is a substantial likelihood that a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety has occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

“(6) REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

“(7) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of each year, the Director shall submit to Congress a report containing—

“(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

“(B) summaries of those submissions;

“(C) summaries of further investigations and corrective actions recommended in response to the submissions; and

“(D) summaries of the responses of the Administrator to such recommendations.”.

#### SEC. 342. POSTEMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.

(a) IN GENERAL.—Section 44711 is amended by adding at the end the following:

“(d) POSTEMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.—

“(1) PROHIBITION.—A person holding an operating certificate issued under title 14, Code of Federal Regulations, may not knowingly employ, or make a contractual arrangement that permits, an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2-year period—

“(A) served as, or was responsible for oversight of, a flight standards inspector of the Administration; and

“(B) had responsibility to inspect, or oversee inspection of, the operations of the certificate holder.

“(2) WRITTEN AND ORAL COMMUNICATIONS.—For purposes of paragraph (1), an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the Administration if the individual makes any written or oral communication on behalf of the certificate holder to the Administration (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a flight standards inspector of the Administration.”.

49 USC 44711  
note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to an individual employed by a certificate holder as of the date of enactment of this Act.

49 USC 44701  
note.

#### **SEC. 343. REVIEW OF AIR TRANSPORTATION OVERSIGHT SYSTEM DATABASE.**

(a) REVIEWS.—The Administrator of the Federal Aviation Administration shall establish a process by which the air transportation oversight system database of the Administration is reviewed by regional teams of employees of the Administration, including at least one employee on each team representing aviation safety inspectors, on a monthly basis to ensure that—

(1) any trends in regulatory compliance are identified; and

(2) appropriate corrective actions are taken in accordance with Administration regulations, advisory directives, policies, and procedures.

(b) MONTHLY TEAM REPORTS.—

(1) IN GENERAL.—A regional team of employees conducting a monthly review of the air transportation oversight system database under subsection (a) shall submit to the Administrator, the Associate Administrator for Aviation Safety, and the Director of Flight Standards Service a report each month on the results of the review.

(2) CONTENTS.—A report submitted under paragraph (1) shall identify—

(A) any trends in regulatory compliance discovered by the team of employees in conducting the monthly review; and

(B) any corrective actions taken or proposed to be taken in response to the trends.

(c) BIENNIAL REPORTS TO CONGRESS.—The Administrator, on a biannual basis, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the reviews of the air transportation

oversight system database conducted under this section, including copies of reports received under subsection (b).

**SEC. 344. IMPROVED VOLUNTARY DISCLOSURE REPORTING SYSTEM.**

49 USC 40123  
note.

(a) **VOLUNTARY DISCLOSURE REPORTING PROGRAM DEFINED.**—In this section, the term “Voluntary Disclosure Reporting Program” means the program established by the Federal Aviation Administration through Advisory Circular 00–58A, dated September 8, 2006, including any subsequent revisions thereto.

(b) **VERIFICATION.**—The Administrator of the Federal Aviation Administration shall modify the Voluntary Disclosure Reporting Program to require inspectors to—

(1) verify that air carriers are implementing comprehensive solutions to correct the underlying causes of the violations voluntarily disclosed by such air carriers; and

(2) confirm, before approving a final report of a violation, that a violation with the same root causes, has not been previously discovered by an inspector or self-disclosed by the air carrier.

(c) **SUPERVISORY REVIEW OF VOLUNTARY SELF-DISCLOSURES.**—The Administrator shall establish a process by which voluntary self-disclosures received from air carriers are reviewed and approved by a supervisor after the initial review by an inspector.

(d) **INSPECTOR GENERAL STUDY.**—

(1) **IN GENERAL.**—The Inspector General of the Department of Transportation shall conduct a study of the Voluntary Disclosure Reporting Program.

(2) **REVIEW.**—In conducting the study, the Inspector General shall examine, at a minimum, if the Administration—

(A) conducts comprehensive reviews of voluntary disclosure reports before closing a voluntary disclosure report under the provisions of the program;

(B) evaluates the effectiveness of corrective actions taken by air carriers; and

(C) effectively prevents abuse of the voluntary disclosure reporting program through its secondary review of self-disclosures before they are accepted and closed by the Administration.

(3) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.

**SEC. 345. DUTY PERIODS AND FLIGHT TIME LIMITATIONS APPLICABLE TO FLIGHT CREWMEMBERS.**

49 USC 44701  
note.

(a) **RULEMAKING ON APPLICABILITY OF PART 121 DUTY PERIODS AND FLIGHT TIME LIMITATIONS TO PART 91 OPERATIONS.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking proceeding, if such a proceeding has not already been initiated, to require a flight crewmember who is employed by an air carrier conducting operations under part 121 of title 14, Code of Federal Regulations, and who accepts an additional assignment for flying under part 91 of such title from the air carrier or from any other air carrier conducting operations under part 121 or 135 of such title, to apply the period of the additional assignment

Deadline.

(regardless of whether the assignment is performed by the flight crewmember before or after an assignment to fly under part 121 of such title) toward any limitation applicable to the flight crewmember relating to duty periods or flight times under part 121 of such title.

Deadline.

(b) **RULEMAKING ON APPLICABILITY OF PART 135 DUTY PERIODS AND FLIGHT TIME LIMITATIONS TO PART 91 OPERATIONS.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall initiate a rulemaking proceeding to require a flight crewmember who is employed by an air carrier conducting operations under part 135 of title 14, Code of Federal Regulations, and who accepts an additional assignment for flying under part 91 of such title from the air carrier or any other air carrier conducting operations under part 121 or 135 of such title, to apply the period of the additional assignment (regardless of whether the assignment is performed by the flight crewmember before or after an assignment to fly under part 135 of such title) toward any limitation applicable to the flight crewmember relating to duty periods or flight times under part 135 of such title.

(c) **SEPARATE RULEMAKING PROCEEDINGS REQUIRED.**—The rulemaking proceeding required under subsection (b) shall be separate from the rulemaking proceeding required under subsection (a).

**SEC. 346. CERTAIN EXISTING FLIGHT TIME LIMITATIONS AND REST REQUIREMENTS.**

The Administrator of the Federal Aviation Administration may not finalize the interpretation proposed in Docket No. FAA–2010–1259, relating to rest requirements, and published in the Federal Register on December 23, 2010.

49 USC 44712  
note.

**SEC. 347. EMERGENCY LOCATOR TRANSMITTERS ON GENERAL AVIATION AIRCRAFT.**

(a) **INSPECTION.**—As part of the annual inspection of general aviation aircraft, the Administrator of the Federal Aviation Administration shall require a detailed inspection of each emergency locator transmitter (in this section referred to as an “ELT”) installed in general aviation aircraft operating in the United States to ensure that the ELT is mounted and retained in accordance with the manufacturer’s specifications.

(b) **MOUNTING AND RETENTION.**—

Deadline.  
Determination.

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall determine if the ELT mounting requirements and retention tests specified by Technical Standard Orders C91a and C126 are adequate to assess retention capabilities in ELT designs.

(2) **REVISION.**—Based on the determination under paragraph (1), the Administrator shall make any necessary revisions to the requirements and retention tests referred to in paragraph (1) to ensure that ELTs are properly retained in the event of an aircraft accident.

(c) **REPORT.**—Upon the completion of any revisions under subsection (b)(2), the Administrator shall submit a report on the implementation of this section to—

(1) the Committee on Commerce, Science, and Transportation of the Senate; and

(2) the Committee on Transportation and Infrastructure of the House of Representatives.



## TITLE IV—AIR SERVICE IMPROVEMENTS

### Subtitle A—Passenger Air Service Improvements

#### SEC. 401. SMOKING PROHIBITION.

(a) IN GENERAL.—Section 41706 is amended—

(1) in the section heading by striking “**scheduled**” and inserting “**passenger**”; and

(2) by striking subsections (a) and (b) and inserting the following:

“(a) SMOKING PROHIBITION IN INTERSTATE AND INTRASTATE AIR TRANSPORTATION.—An individual may not smoke—

“(1) in an aircraft in scheduled passenger interstate or intrastate air transportation; or

“(2) in an aircraft in nonscheduled passenger interstate or intrastate air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator of the Federal Aviation Administration).

“(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking—

“(1) in an aircraft in scheduled passenger foreign air transportation; and

“(2) in an aircraft in nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator or a foreign government).”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 417 is amended by striking the item relating to section 41706 and inserting the following:

“41706. Prohibitions against smoking on passenger flights.”.

#### SEC. 402. MONTHLY AIR CARRIER REPORTS.

(a) IN GENERAL.—Section 41708 is amended by adding at the end the following:

“(c) DIVERTED AND CANCELLED FLIGHTS.—

“(1) MONTHLY REPORTS.—The Secretary shall require an air carrier referred to in paragraph (2) to file with the Secretary a monthly report on each flight of the air carrier that is diverted from its scheduled destination to another airport and each flight of the air carrier that departs the gate at the airport at which the flight originates but is cancelled before wheels-off time.

“(2) APPLICABILITY.—An air carrier that is required to file a monthly airline service quality performance report pursuant to part 234 of title 14, Code of Federal Regulations, shall be subject to the requirement of paragraph (1).

“(3) CONTENTS.—A monthly report filed by an air carrier under paragraph (1) shall include, at a minimum, the following information:

“(A) For a diverted flight—

“(i) the flight number of the diverted flight;

“(ii) the scheduled destination of the flight;  
 “(iii) the date and time of the flight;  
 “(iv) the airport to which the flight was diverted;  
 “(v) wheels-on time at the diverted airport;  
 “(vi) the time, if any, passengers deplaned the aircraft at the diverted airport; and  
 “(vii) if the flight arrives at the scheduled destination airport—

“(I) the gate-departure time at the diverted airport;

“(II) the wheels-off time at the diverted airport;

“(III) the wheels-on time at the scheduled arrival airport; and

“(IV) the gate-arrival time at the scheduled arrival airport.

“(B) For flights cancelled after gate departure—

“(i) the flight number of the cancelled flight;

“(ii) the scheduled origin and destination airports of the cancelled flight;

“(iii) the date and time of the cancelled flight;

“(iv) the gate-departure time of the cancelled flight;

and

“(v) the time the aircraft returned to the gate.

Reports.  
 Web posting.

“(4) PUBLICATION.—The Secretary shall compile the information provided in the monthly reports filed pursuant to paragraph (1) in a single monthly report and publish such report on the Internet Web site of the Department of Transportation.”.

49 USC 41708  
 note.

(b) EFFECTIVE DATE.—Beginning not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall require monthly reports pursuant to the amendment made by subsection (a).

#### SEC. 403. MUSICAL INSTRUMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following:

49 USC 41724.

#### “§ 41724. Musical instruments

“(a) IN GENERAL.—

“(1) SMALL INSTRUMENTS AS CARRY-ON BAGGAGE.—An air carrier providing air transportation shall permit a passenger to carry a violin, guitar, or other musical instrument in the aircraft cabin, without charging the passenger a fee in addition to any standard fee that carrier may require for comparable carry-on baggage, if—

“(A) the instrument can be stowed safely in a suitable baggage compartment in the aircraft cabin or under a passenger seat, in accordance with the requirements for carriage of carry-on baggage or cargo established by the Administrator; and

“(B) there is space for such stowage at the time the passenger boards the aircraft.

“(2) LARGER INSTRUMENTS AS CARRY-ON BAGGAGE.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument that is too large to meet the requirements of paragraph (1) in the aircraft cabin, without

charging the passenger a fee in addition to the cost of the additional ticket described in subparagraph (E), if—

“(A) the instrument is contained in a case or covered so as to avoid injury to other passengers;

“(B) the weight of the instrument, including the case or covering, does not exceed 165 pounds or the applicable weight restrictions for the aircraft;

“(C) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo established by the Administrator;

“(D) neither the instrument nor the case contains any object not otherwise permitted to be carried in an aircraft cabin because of a law or regulation of the United States; and

“(E) the passenger wishing to carry the instrument in the aircraft cabin has purchased an additional seat to accommodate the instrument.

“(3) LARGE INSTRUMENTS AS CHECKED BAGGAGE.—An air carrier shall transport as baggage a musical instrument that is the property of a passenger traveling in air transportation that may not be carried in the aircraft cabin if—

“(A) the sum of the length, width, and height measured in inches of the outside linear dimensions of the instrument (including the case) does not exceed 150 inches or the applicable size restrictions for the aircraft;

“(B) the weight of the instrument does not exceed 165 pounds or the applicable weight restrictions for the aircraft; and

“(C) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo established by the Administrator.

“(b) REGULATIONS.—Not later than 2 years after the date of enactment of this section, the Secretary shall issue final regulations to carry out subsection (a). Deadline.

“(c) EFFECTIVE DATE.—The requirements of this section shall become effective on the date of issuance of the final regulations under subsection (b).”.

(b) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

“41724. Musical instruments.”.

#### **SEC. 404. EXTENSION OF COMPETITIVE ACCESS REPORTS.**

Section 47107(s)(3) is amended to read as follows:

“(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning October 1, 2015.”.

#### **SEC. 405. AIRFARES FOR MEMBERS OF THE ARMED FORCES.**

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,450,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be

separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all United States commercial air carriers should seek to lend their support with flexible, generous policies applicable to members of the Armed Forces who are traveling on leave or liberty at their own expense; and

(2) each United States air carrier, for all members of the Armed Forces who have been granted leave or liberty and who are traveling by air at their own expense, should—

(A) seek to provide reduced air fares that are comparable to the lowest airfare for ticketed flights and that eliminate to the maximum extent possible advance purchase requirements;

(B) seek to eliminate change fees or charges and any penalties;

(C) seek to eliminate or reduce baggage and excess weight fees;

(D) offer flexible terms that allow members to purchase, modify, or cancel tickets without time restrictions, and to waive fees (including baggage fees), ancillary costs, or penalties; and

(E) seek to take proactive measures to ensure that all airline employees, particularly those who issue tickets and respond to members of the Armed Forces and their family members, are trained in the policies of the airline aimed at benefitting members of the Armed Forces who are on leave or liberty.

**SEC. 406. REVIEW OF AIR CARRIER FLIGHT DELAYS, CANCELLATIONS, AND ASSOCIATED CAUSES.**

(a) REVIEW.—The Inspector General of the Department of Transportation shall conduct a review regarding air carrier flight delays, cancellations, and associated causes to update the 2000 report numbered CR–2000–112 and titled “Audit of Air Carrier Flight Delays and Cancellations”.

(b) ASSESSMENTS.—In conducting the review under subsection (a), the Inspector General shall assess—

(1) the need for an update on delay and cancellation statistics, including with respect to the number of chronically delayed flights and taxi-in and taxi-out times;

(2) air carriers' scheduling practices;

(3) the need for a reexamination of capacity benchmarks at the Nation's busiest airports;

(4) the impact of flight delays and cancellations on air travelers, including recommendations for programs that could be implemented to address the impact of flight delays on air travelers;

(5) the effect that limited air carrier service options on routes have on the frequency of delays and cancellations on such routes;

(6) the effect of the rules and regulations of the Department of Transportation on the decisions of air carriers to delay or cancel flights; and

(7) the impact of flight delays and cancellations on the airline industry.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this section, including the assessments described in subsection (b).

**SEC. 407. COMPENSATION FOR DELAYED BAGGAGE.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study to—

(1) examine delays in the delivery of checked baggage to passengers of air carriers; and

(2) assess the options for and examine the impact of establishing minimum standards to compensate a passenger in the case of an unreasonable delay in the delivery of checked baggage.

(b) CONSIDERATION.—In conducting the study, the Comptroller General shall take into account the additional fees for checked baggage that are imposed by many air carriers and how the additional fees should improve an air carrier's baggage performance.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study.

**SEC. 408. DOT AIRLINE CONSUMER COMPLAINT INVESTIGATIONS.**

49 USC 42302  
note.

The Secretary of Transportation may investigate consumer complaints regarding—

(1) flight cancellations;

(2) compliance with Federal regulations concerning overbooking seats on flights;

(3) lost, damaged, or delayed baggage, and difficulties with related airline claims procedures;

(4) problems in obtaining refunds for unused or lost tickets or fare adjustments;

(5) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, and fare increases;

(6) the rights of passengers who hold frequent flyer miles or equivalent redeemable awards earned through customer-loyalty programs; and

(7) deceptive or misleading advertising.

**SEC. 409. STUDY OF OPERATORS REGULATED UNDER PART 135.**

(a) STUDY REQUIRED.—The Administrator of the Federal Aviation Administration, in consultation with interested parties, shall conduct a study of operators regulated under part 135 of title 14, Code of Federal Regulations.

(b) CONTENTS.—In conducting the study under subsection (a), the Administrator shall analyze the part 135 fleet in the United States, which shall include analysis of—

- (1) the size and type of aircraft in the fleet;
- (2) the equipment utilized by the fleet;
- (3) the hours flown each year by the fleet;
- (4) the utilization rates with respect to the fleet;
- (5) the safety record of various categories of use and aircraft types with respect to the fleet, through a review of the database of the National Transportation Safety Board;
- (6) the sales revenues of the fleet; and
- (7) the number of passengers and airports served by the fleet.

(c) **REPORT TO CONGRESS.**—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under subsection (a).

**SEC. 410. USE OF CELL PHONES ON PASSENGER AIRCRAFT.**

Deadline.

(a) **CELL PHONE STUDY.**—Not later than 120 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall conduct a study on the impact of the use of cell phones for voice communications in an aircraft during a flight in scheduled passenger air transportation where currently permitted by foreign governments in foreign air transportation.

(b) **CONTENTS.**—The study shall include—

- (1) a review of foreign government and air carrier policies on the use of cell phones during flight;
- (2) a review of the extent to which passengers use cell phones for voice communications during flight; and
- (3) a summary of any impacts of cell phone use during flight on safety, the quality of the flight experience of passengers, and flight attendants.

Deadline.  
Federal Register,  
publication.

(c) **COMMENT PERIOD.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register the results of the study and allow 60 days for public comment.

(d) **CELL PHONE REPORT.**—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

49 USC 42301  
prec. note.

**SEC. 411. ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.**

(a) **IN GENERAL.**—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection to advise the Secretary in carrying out activities relating to airline customer service improvements.

(b) **MEMBERSHIP.**—The Secretary shall appoint the members of the advisory committee, which shall be comprised of one representative each of—

- (1) air carriers;
- (2) airport operators;
- (3) State or local governments with expertise in consumer protection matters; and
- (4) nonprofit public interest groups with expertise in consumer protection matters.

(c) **VACANCIES.**—A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

(d) **TRAVEL EXPENSES.**—Members of the advisory committee shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) **CHAIRPERSON.**—The Secretary shall designate, from among the individuals appointed under subsection (b), an individual to serve as chairperson of the advisory committee.

(f) **DUTIES.**—The duties of the advisory committee shall include—

(1) evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed; and

(2) providing recommendations for establishing additional aviation consumer protection programs, if needed.

(g) **REPORT TO CONGRESS.**—Not later than February 1 of each of the first 2 calendar years beginning after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing—

(1) the recommendations made by the advisory committee during the preceding calendar year; and

(2) an explanation of how the Secretary has implemented each recommendation and, for each recommendation not implemented, the Secretary's reason for not implementing the recommendation.

(h) **TERMINATION.**—The advisory committee established under this section shall terminate on September 30, 2015.

**SEC. 412. DISCLOSURE OF SEAT DIMENSIONS TO FACILITATE THE USE OF CHILD SAFETY SEATS ON AIRCRAFT.**

49 USC 42301  
prec. note.

Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking to require each air carrier operating under part 121 of title 14, Code of Federal Regulations, to post on the Internet Web site of the air carrier the maximum dimensions of a child safety seat that can be used on each aircraft operated by the air carrier to enable passengers to determine which child safety seats can be used on those aircraft.

Deadline.  
Regulations.  
Web posting.

**SEC. 413. SCHEDULE REDUCTION.**

49 USC 41722  
note.  
Determination.

(a) **IN GENERAL.**—If the Administrator of the Federal Aviation Administration determines that—

(1) the aircraft operations of air carriers during any hour at an airport exceed the hourly maximum departure and arrival rate established by the Administrator for such operations; and

(2) the operations in excess of the maximum departure and arrival rate for such hour at such airport are likely to have a significant adverse effect on the safe and efficient use of navigable airspace,

the Administrator shall convene a meeting of such carriers to reduce pursuant to section 41722 of title 49, United States Code, on a voluntary basis, the number of such operations so as not to exceed the maximum departure and arrival rate.

(b) **NO AGREEMENT.**—If the air carriers participating in a meeting with respect to an airport under subsection (a) are not able to agree to a reduction in the number of flights to and from

the airport so as not to exceed the maximum departure and arrival rate, the Administrator shall take such action as is necessary to ensure such reduction is implemented.

(c) **SUBSEQUENT SCHEDULE INCREASES.**—Subsequent to any reduction in operations under subsection (a) or (b) at an airport, if the Administrator determines that the hourly number of aircraft operations at that airport is less than the amount that can be handled safely and efficiently, the Administrator shall ensure that priority is given to United States air carriers in permitting additional aircraft operations with respect to that hour.

**SEC. 414. RONALD REAGAN WASHINGTON NATIONAL AIRPORT SLOT EXEMPTIONS.**

(a) **INCREASE IN NUMBER OF SLOT EXEMPTIONS.**—Section 41718 is amended by adding at the end the following:

“(g) **ADDITIONAL SLOT EXEMPTIONS.**—

Deadline.

“(1) **INCREASE IN SLOT EXEMPTIONS.**—Not later than 90 days after the date of enactment of the FAA Modernization and Reform Act of 2012, the Secretary shall grant, by order 16 exemptions from—

“(A) the application of sections 49104(a)(5), 49109, and 41714 to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and airports located beyond the perimeter described in section 49109; and

“(B) the requirements of subparts K and S of part 93, Code of Federal Regulations.

“(2) **NEW ENTRANTS AND LIMITED INCUMBENTS.**—Of the slot exemptions made available under paragraph (1), the Secretary shall make 8 available to limited incumbent air carriers or new entrant air carriers (as such terms are defined in section 41714(h)). Such exemptions shall be allocated pursuant to the application process established by the Secretary under subsection (d). The Secretary shall consider the extent to which the exemptions will—

“(A) provide air transportation with domestic network benefits in areas beyond the perimeter described in section 49109;

“(B) increase competition in multiple markets;

“(C) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109;

“(D) not result in meaningfully increased travel delays;

“(E) enhance options for nonstop travel to and from the beyond-perimeter airports that will be served as a result of those exemptions;

“(F) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions; or

“(G) produce public benefits, including the likelihood that the service to airports located beyond the perimeter described in section 49109 will result in lower fares, higher capacity, and a variety of service options.

“(3) **IMPROVED NETWORK SLOTS.**—Of the slot exemptions made available under paragraph (1), the Secretary shall make 8 available to incumbent air carriers qualifying for status as a non-limited incumbent carrier at Ronald Reagan Washington



National Airport as of the date of enactment of the FAA Modernization and Reform Act of 2012. Each such non-limited incumbent air carrier—

“(A) may operate up to a maximum of 2 of the newly authorized slot exemptions;

“(B) prior to exercising an exemption made available under paragraph (1), shall discontinue the use of a slot for service between Ronald Reagan Washington National Airport and a large hub airport within the perimeter as described in section 49109, and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109;

“(C) shall be entitled to return of the slot by the Secretary if use of the exemption made available to the carrier under paragraph (1) is discontinued;

“(D) shall have sole discretion concerning the use of an exemption made available under paragraph (1), including the initial or any subsequent beyond perimeter destinations to be served; and

“(E) shall file a notice of intent with the Secretary and subsequent notices of intent, when appropriate, to inform the Secretary of any change in circumstances concerning the use of any exemption made available under paragraph (1). Notice.

“(4) NOTICES OF INTENT.—Notices of intent under paragraph (3)(E) shall specify the beyond perimeter destination to be served and the slots the carrier shall discontinue using to serve a large hub airport located within the perimeter.

“(5) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under this subsection shall be subject to the following conditions:

“(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

“(B) An air carrier granted an exemption under this subsection is prohibited from transferring the rights to its beyond-perimeter exemptions pursuant to section 41714(j).

“(h) SCHEDULING PRIORITY.—In administering this section, the Secretary shall—

“(1) afford a scheduling priority to operations conducted by new entrant air carriers and limited incumbent air carriers over operations conducted by other air carriers granted additional slot exemptions under subsection (g) for service to airports located beyond the perimeter described in section 49109;

“(2) afford a scheduling priority to slot exemptions currently held by new entrant air carriers and limited incumbent air carriers for service to airports located beyond the perimeter described in section 49109, to the extent necessary to protect viability of such service; and

“(3) consider applications from foreign air carriers that are certificated by the government of Canada if such consideration is required by the bilateral aviation agreement between the United States and Canada and so long as the conditions and limitations under this section apply to such foreign air carriers.”.

(b) **HOURLY LIMITATION.**—Section 41718(c)(2) is amended to read as follows:

“(2) **GENERAL EXEMPTIONS.**—

“(A) **HOURLY LIMITATION.**—The exemptions granted—  
 “(i) under subsections (a) and (b) and departures authorized under subsection (g)(2) may not be for operations between the hours of 10:00 p.m. and 7:00 a.m.; and

“(ii) under subsections (a), (b), and (g) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 5 operations.

“(B) **USE OF EXISTING SLOTS.**—A non-limited incumbent air carrier utilizing an exemption authorized under subsection (g)(3) for an arrival permitted between the hours of 10:01 p.m. and 11:00 p.m. under this section shall discontinue use of an existing slot during the same time period the arrival exemption is operated.”.

(c) **LIMITED INCUMBENT DEFINITION.**—Section 41714(h)(5) is amended—

(1) in subparagraph (A) by striking “20” and inserting “40”;

(2) by amending subparagraph (B) to read as follows:

“(B) for purposes of such sections, the term ‘slot’ shall not include—

“(i) ‘slot exemptions’;

“(ii) slots operated by an air carrier under a fee-for-service arrangement for another air carrier, if the air carrier operating such slots does not sell flights in its own name, and is under common ownership with an air carrier that seeks to qualify as a limited incumbent and that sells flights in its own name; or

“(iii) slots held under a sale and license-back financing arrangement with another air carrier, where the slots are under the marketing control of the other air carrier; and”.

(d) **TRANSFER OF EXEMPTIONS.**—Section 41714(j) is amended by striking the period at the end and inserting “, except through an air carrier merger or acquisition.”.

(e) **DEFINITION OF AIRPORT PURPOSES.**—Section 49104(a)(2)(A) is amended—

(1) in clause (ii) by striking “or” at the end;

(2) in clause (iii) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(iv) a business or activity not inconsistent with the needs of aviation that has been approved by the Secretary.”.

#### **SEC. 415. PASSENGER AIR SERVICE IMPROVEMENTS.**

(a) **IN GENERAL.**—Subtitle VII is amended by inserting after chapter 421 the following:

**“CHAPTER 423—PASSENGER AIR SERVICE  
IMPROVEMENTS**

“Sec.

“42301. Emergency contingency plans.

“42302. Consumer complaints.

“42303. Use of insecticides in passenger aircraft.

**“§ 42301. Emergency contingency plans**

49 USC 42301.

“(a) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 90 days after the date of enactment of this section, each of the following air carriers and airport operators shall submit to the Secretary of Transportation for review and approval an emergency contingency plan in accordance with the requirements of this section:

Deadline.

“(1) An air carrier providing covered air transportation at a commercial airport.

“(2) An operator of a commercial airport.

“(3) An operator of an airport used by an air carrier described in paragraph (1) for diversions.

“(b) AIR CARRIER PLANS.—

“(1) PLANS FOR INDIVIDUAL AIRPORTS.—An air carrier shall submit an emergency contingency plan under subsection (a) for—

“(A) each airport at which the carrier provides covered air transportation; and

“(B) each airport at which the carrier has flights for which the carrier has primary responsibility for inventory control.

“(2) CONTENTS.—An emergency contingency plan submitted by an air carrier for an airport under subsection (a) shall contain a description of how the carrier will—

“(A) provide adequate food, potable water, restroom facilities, comfortable cabin temperatures, and access to medical treatment for passengers onboard an aircraft at the airport when the departure of a flight is delayed or the disembarkation of passengers is delayed;

“(B) share facilities and make gates available at the airport in an emergency; and

“(C) allow passengers to deplane following an excessive tarmac delay in accordance with paragraph (3).

“(3) DEPLANING FOLLOWING AN EXCESSIVE TARMAC DELAY.—For purposes of paragraph (2)(C), an emergency contingency plan submitted by an air carrier under subsection (a) shall incorporate the following requirements:

“(A) A passenger shall have the option to deplane an aircraft and return to the airport terminal when there is an excessive tarmac delay.

“(B) The option described in subparagraph (A) shall be offered to a passenger even if a flight in covered air transportation is diverted to a commercial airport other than the originally scheduled airport.

“(C) Notwithstanding the requirements described in subparagraphs (A) and (B), a passenger shall not have an option to deplane an aircraft and return to the airport terminal in the case of an excessive tarmac delay if—

“(i) an air traffic controller with authority over the aircraft advises the pilot in command that permitting a passenger to deplane would significantly disrupt airport operations; or

“(ii) the pilot in command determines that permitting a passenger to deplane would jeopardize passenger safety or security.

“(c) AIRPORT PLANS.—An emergency contingency plan submitted by an airport operator under subsection (a) shall contain a description of how the operator, to the maximum extent practicable, will—

“(1) provide for the deplanement of passengers following excessive tarmac delays;

“(2) provide for the sharing of facilities and make gates available at the airport in an emergency; and

“(3) provide a sterile area following excessive tarmac delays for passengers who have not yet cleared United States Customs and Border Protection.

Deadlines.

“(d) UPDATES.—

“(1) AIR CARRIERS.—An air carrier shall update each emergency contingency plan submitted by the carrier under subsection (a) every 3 years and submit the update to the Secretary for review and approval.

“(2) AIRPORTS.—An airport operator shall update each emergency contingency plan submitted by the operator under subsection (a) every 5 years and submit the update to the Secretary for review and approval.

“(e) APPROVAL.—

Deadline.  
Review.

“(1) IN GENERAL.—Not later than 60 days after the date of the receipt of an emergency contingency plan submitted under subsection (a) or an update submitted under subsection (d), the Secretary shall review and approve or, if necessary, require modifications to the plan or update to ensure that the plan or update will effectively address emergencies and provide for the health and safety of passengers.

“(2) FAILURE TO APPROVE OR REQUIRE MODIFICATIONS.—If the Secretary fails to approve or require modifications to a plan or update under paragraph (1) within the timeframe specified in that paragraph, the plan or update shall be deemed to be approved.

“(3) ADHERENCE REQUIRED.—An air carrier or airport operator shall adhere to an emergency contingency plan of the carrier or operator approved under this section.

“(f) MINIMUM STANDARDS.—The Secretary shall establish, as necessary or desirable, minimum standards for elements in an emergency contingency plan required to be submitted under this section.

Web posting.

“(g) PUBLIC ACCESS.—An air carrier or airport operator required to submit an emergency contingency plan under this section shall ensure public access to the plan after its approval under this section on the Internet Web site of the carrier or operator or by such other means as determined by the Secretary.

“(h) REPORTS.—Not later than 30 days after any flight experiences an excessive tarmac delay, the air carrier responsible for such flight shall submit a written description of the incident and its resolution to the Aviation Consumer Protection Division of the Department of Transportation.

“(i) **DEFINITIONS.**—In this section, the following definitions apply: Applicability.

“(1) **COMMERCIAL AIRPORT.**—The term ‘commercial airport’ means a large hub, medium hub, small hub, or nonhub airport.

“(2) **COVERED AIR TRANSPORTATION.**—The term ‘covered air transportation’ means scheduled or public charter passenger air transportation provided by an air carrier that operates an aircraft that as originally designed has a passenger capacity of 30 or more seats.

“(3) **TARMAC DELAY.**—The term ‘tarmac delay’ means the period during which passengers are on board an aircraft on the tarmac—

“(A) awaiting takeoff after the aircraft doors have been closed or after passengers have been boarded if the passengers have not been advised they are free to deplane; or

“(B) awaiting deplaning after the aircraft has landed.

“(4) **EXCESSIVE TARMAC DELAY.**—The term ‘excessive tarmac delay’ means a tarmac delay that lasts for a length of time, as determined by the Secretary.

#### “§ 42302. Consumer complaints

49 USC 42302.

“(a) **IN GENERAL.**—The Secretary of Transportation shall establish a consumer complaints toll-free hotline telephone number for the use of passengers in air transportation and shall take actions to notify the public of—

Notifications.

“(1) that telephone number; and

“(2) the Internet Web site of the Aviation Consumer Protection Division of the Department of Transportation.

“(b) **NOTICE TO PASSENGERS ON THE INTERNET.**—An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats shall include on the Internet Web site of the carrier—

“(1) the hotline telephone number established under subsection (a);

“(2) the e-mail address, telephone number, and mailing address of the air carrier for the submission of complaints by passengers about air travel service problems; and

“(3) the Internet Web site and mailing address of the Aviation Consumer Protection Division of the Department of Transportation for the submission of complaints by passengers about air travel service problems.

“(c) **NOTICE TO PASSENGERS ON BOARDING DOCUMENTATION.**—An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats shall include the hotline telephone number established under subsection (a) on—

“(1) prominently displayed signs of the carrier at the airport ticket counters in the United States where the air carrier operates; and

“(2) any electronic confirmation of the purchase of a passenger ticket for air transportation issued by the air carrier.

#### “§ 42303. Use of insecticides in passenger aircraft

49 USC 42303.

“(a) **INFORMATION TO BE PROVIDED ON THE INTERNET.**—The Secretary of Transportation shall establish, and make available

Public information.

to the general public, an Internet Web site that contains a listing of countries that may require an air carrier or foreign air carrier to treat an aircraft passenger cabin with insecticides prior to a flight in foreign air transportation to that country or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers.

“(b) REQUIRED DISCLOSURES.—An air carrier, foreign air carrier, or ticket agent selling, in the United States, a ticket for a flight in foreign air transportation to a country listed on the Internet Web site established under subsection (a) shall refer the purchaser of the ticket to the Internet Web site established under subsection (a) for additional information.”.

(b) PENALTIES.—Section 46301 is amended in subsections (a)(1)(A) and (c)(1)(A) by inserting “chapter 423,” after “chapter 421,”.

Effective date.  
49 USC 42301  
note.

(c) APPLICABILITY OF REQUIREMENTS.—Except as otherwise provided, the requirements of chapter 423 of title 49, United States Code, as added by this section, shall begin to apply 60 days after the date of enactment of this Act.

(d) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to chapter 421 the following:

“423. Passenger Air Service Improvements .....42301”.

## Subtitle B—Essential Air Service

### SEC. 421. LIMITATION ON ESSENTIAL AIR SERVICE TO LOCATIONS THAT AVERAGE FEWER THAN 10 ENPLANEMENTS PER DAY.

Section 41731 is amended—

(1) in subsection (a)(1) by amending subparagraph (B) to read as follows:

“(B) had an average of 10 enplanements per service day or more, as determined by the Secretary, during the most recent fiscal year beginning after September 30, 2012;”;

(2) by amending subsection (c) to read as follows:

“(c) EXCEPTION FOR LOCATIONS IN ALASKA AND HAWAII.—Subparagraphs (B), (C), and (D) of subsection (a)(1) shall not apply with respect to locations in the State of Alaska or the State of Hawaii.”;

(3) by amending subsection (d) to read as follows:

“(d) EXCEPTIONS FOR LOCATIONS MORE THAN 175 DRIVING MILES FROM THE NEAREST LARGE OR MEDIUM HUB AIRPORT.—Subsection (a)(1)(B) shall not apply with respect to locations that are more than 175 driving miles from the nearest large or medium hub airport.”; and

(4) by adding at the end the following:

“(e) WAIVERS.—For fiscal year 2013 and each fiscal year thereafter, the Secretary may waive, on an annual basis, subsection (a)(1)(B) with respect to a location if the location demonstrates to the Secretary’s satisfaction that the reason the location averages fewer than 10 enplanements per day is due to a temporary decline in enplanements.

“(f) DEFINITION.—For purposes of subsection (a)(1)(B), the term ‘enplanements’ means the number of passengers enplaning, at an

eligible place, on flights operated by the subsidized essential air service carrier.”.

**SEC. 422. ESSENTIAL AIR SERVICE ELIGIBILITY.**

Section 41731(a)(1) is further amended—

(1) in subparagraph (C) by striking the period at the end and inserting “; and”; and

(2) by adding at the end the following:

“(D) is a community that, at any time during the period between September 30, 2010, and September 30, 2011, inclusive—

“(i) received essential air service for which compensation was provided to an air carrier under this subchapter; or

“(ii) received a 90-day notice of intent to terminate essential air service and the Secretary required the air carrier to continue to provide such service to the community.”.

Time period.

**SEC. 423. ESSENTIAL AIR SERVICE MARKETING.**

Section 41733(c)(1) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking “and” at the end of subparagraph (D); and

(3) by inserting after subparagraph (D) the following:

“(E) whether the air carrier has included a plan in its proposal to market its services to the community; and”.

**SEC. 424. NOTICE TO COMMUNITIES PRIOR TO TERMINATION OF ELIGIBILITY FOR SUBSIDIZED ESSENTIAL AIR SERVICE.**

Section 41733 is amended by adding at the end the following:

“(f) NOTICE TO COMMUNITIES PRIOR TO TERMINATION OF ELIGIBILITY.—

“(1) IN GENERAL.—The Secretary shall notify each community receiving basic essential air service for which compensation is being paid under this subchapter on or before the 45th day before issuing any final decision to end the payment of such compensation due to a determination by the Secretary that providing such service requires a rate of subsidy per passenger in excess of the subsidy cap.

Deadline.

“(2) PROCEDURES TO AVOID TERMINATION.—The Secretary shall establish, by order, procedures by which each community notified of an impending loss of subsidy under paragraph (1) may work directly with an air carrier to ensure that the air carrier is able to submit a proposal to the Secretary to provide essential air service to such community for an amount of compensation that would not exceed the subsidy cap.

Order.

“(3) ASSISTANCE PROVIDED.—The Secretary shall provide, by order, information to each community notified under paragraph (1) regarding—

Order.

“(A) the procedures established pursuant to paragraph (2); and

“(B) the maximum amount of compensation that could be provided under this subchapter to an air carrier serving such community that would comply with basic essential air service and the subsidy cap.”.

**SEC. 425. RESTORATION OF ELIGIBILITY TO A PLACE DETERMINED TO BE INELIGIBLE FOR SUBSIDIZED ESSENTIAL AIR SERVICE.**

Section 41733 is further amended by adding at the end the following:

“(g) PROPOSALS OF STATE AND LOCAL GOVERNMENTS TO RESTORE ELIGIBILITY.—

“(1) IN GENERAL.—If the Secretary, after the date of enactment of this subsection, ends payment of compensation to an air carrier for providing basic essential air service to an eligible place because the Secretary has determined that providing such service requires a rate of subsidy per passenger in excess of the subsidy cap or that the place is no longer an eligible place pursuant to section 41731(a)(1)(B), a State or local government may submit to the Secretary a proposal for restoring compensation for such service. Such proposal shall be a joint proposal of the State or local government and an air carrier.

Order.

“(2) DETERMINATION BY SECRETARY.—The Secretary shall issue an order restoring the eligibility of the otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c) if—

“(A) a State or local government submits to the Secretary a proposal under paragraph (1); and

“(B) the Secretary determines that—

“(i) the rate of subsidy per passenger under the proposal does not exceed the subsidy cap;

“(ii) the proposal is likely to result in an average number of enplanements per day that will satisfy the requirement in section 41731(a)(1)(B); and

“(iii) the proposal is consistent with the legal and regulatory requirements of the essential air service program.

“(h) SUBSIDY CAP DEFINED.—In this section, the term ‘subsidy cap’ means the subsidy-per-passenger cap established by section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–69; 113 Stat. 1022).”.

**SEC. 426. ADJUSTMENTS TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS.**

49 USC 41737  
note.

(a) EMERGENCY ACROSS-THE-BOARD ADJUSTMENT.—Subject to the availability of funds, the Secretary may increase the rates of compensation payable to air carriers under subchapter II of chapter 417 of title 49, United States Code, to compensate such carriers for increased aviation fuel costs without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734 of such title.

(b) EXPEDITED PROCESS FOR ADJUSTMENTS TO INDIVIDUAL CONTRACTS.—

(1) IN GENERAL.—Section 41734(d) is amended by striking “continue to pay” and all that follows through “compensation sufficient—” and inserting “provide the carrier with compensation sufficient—”.

Applicability.  
49 USC 41734  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to compensation to air carriers for air service provided after the 30th day following the date of enactment of this Act.



(c) **SUBSIDY CAP.**—Subject to the availability of funds, the Secretary may waive, on a case-by-case basis, the subsidy-per-passenger cap established by section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–69; 113 Stat. 1022). A waiver issued under this subsection shall remain in effect for a limited period of time, as determined by the Secretary.

49 USC 41731  
note.

**SEC. 427. ESSENTIAL AIR SERVICE CONTRACT GUIDELINES.**

(a) **COMPENSATION GUIDELINES.**—Section 41737(a)(1) is amended—

- (1) by striking “and” at the end of subparagraph (B);
- (2) in subparagraph (C) by striking the period at the end and inserting a semicolon; and
- (3) by adding at the end the following:

“(D) include provisions under which the Secretary may encourage an air carrier to improve air service for which compensation is being paid under this subchapter by incorporating financial incentives in an essential air service contract based on specified performance goals, including goals related to improving on-time performance, reducing the number of flight cancellations, establishing reasonable fares (including joint fares beyond the hub airport), establishing convenient connections to flights providing service beyond hub airports, and increasing marketing efforts; and

“(E) include provisions under which the Secretary may execute a long-term essential air service contract to encourage an air carrier to provide air service to an eligible place if it would be in the public interest to do so.”.

(b) **DEADLINE FOR ISSUANCE OF REVISED GUIDANCE.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue revised guidelines governing the rate of compensation payable under subchapter II of chapter 417 that incorporate the amendments made by this section.

49 USC 41737  
note.

(c) **UPDATE.**—Not later than 2 years after the date of issuance of revised guidelines pursuant to subsection (b), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an update of the extent to which the revised guidelines have been implemented and the impact, if any, such implementation has had on air carrier performance and community satisfaction with air service for which compensation is being paid under subchapter II of chapter 417.

Deadline.

**SEC. 428. ESSENTIAL AIR SERVICE REFORM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 41742(a) is amended—

- (1) in paragraph (1)—
  - (A) by inserting “for each fiscal year” before “is authorized”; and
  - (B) by striking “under this subchapter for each fiscal year” and inserting “under this subchapter”; and
- (2) in paragraph (2) by striking “and \$54,699,454 for the period beginning on October 1, 2011, and ending on February 17, 2012,” and inserting “, \$143,000,000 for fiscal year 2012, \$118,000,000 for fiscal year 2013, \$107,000,000 for fiscal year 2014, and \$93,000,000 for fiscal year 2015”.

(b) DISTRIBUTION OF ADDITIONAL FUNDS.—Section 41742(b) is amended to read as follows:

“(b) DISTRIBUTION OF ADDITIONAL FUNDS.—Notwithstanding any other provision of law, in any fiscal year in which funds credited to the account established under section 45303, including the funds derived from fees imposed under the authority contained in section 45301(a), exceed the \$50,000,000 made available under subsection (a)(1), such funds shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.”.

(c) AVAILABILITY OF FUNDS.—Section 41742 is amended by adding at the end the following:

“(c) AVAILABILITY OF FUNDS.—The funds made available under this section shall remain available until expended.”.

**SEC. 429. SMALL COMMUNITY AIR SERVICE.**

(a) PRIORITIES.—Section 41743(c)(5) is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) in subparagraph (E) by striking “fashion.” and inserting “fashion; and”; and

(3) by adding at the end the following:

“(F) multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport.”.

(b) EXTENSION OF AUTHORIZATION.—Section 41743(e)(2) is amended to read as follows:

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$6,000,000 for each of fiscal years 2012 through 2015 to carry out this section. Such sums shall remain available until expended.”.

**SEC. 430. REPEAL OF ESSENTIAL AIR SERVICE LOCAL PARTICIPATION PROGRAM.**

Section 41747, and the item relating to section 41747 in the analysis for chapter 417, are repealed.

**SEC. 431. EXTENSION OF FINAL ORDER ESTABLISHING MILEAGE ADJUSTMENT ELIGIBILITY.**

Section 409(d) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 41731 note) is amended by striking “February 17, 2012.” and inserting “September 30, 2015.”.

## **TITLE V—ENVIRONMENTAL STREAMLINING**

**SEC. 501. OVERFLIGHTS OF NATIONAL PARKS.**

(a) GENERAL REQUIREMENTS.—Section 40128(a)(1)(C) is amended by inserting “or voluntary agreement under subsection (b)(7)” before “for the park”.

(b) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—Section 40128(a) is amended by adding at the end the following:

“(5) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour

operations over the park each year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

“(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

“(C) LIST OF PARKS.—

“(i) IN GENERAL.—The Director and Administrator shall jointly publish a list each year of national parks that are covered by the exemption provided under this paragraph.

Publication.

“(ii) NOTIFICATION OF WITHDRAWAL OF EXEMPTION.—The Director shall inform the Administrator, in writing, of each determination to withdraw an exemption under subparagraph (B).

“(D) ANNUAL REPORT.—A commercial air tour operator conducting commercial air tour operations over a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director a report each year that includes the number of commercial air tour operations the operator conducted during the preceding 1-year period over such park.”

(c) AIR TOUR MANAGEMENT PLANS.—Section 40128(b) is amended—

(1) in paragraph (1) by adding at the end the following:

“(C) EXCEPTION.—An application to begin commercial air tour operations at Crater Lake National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would adversely affect park resources or visitor experiences.”; and

(2) by adding at the end the following:

“(7) VOLUNTARY AGREEMENTS.—

“(A) IN GENERAL.—As an alternative to an air tour management plan, the Director and the Administrator may enter into a voluntary agreement with a commercial air tour operator (including a new entrant commercial air tour operator and an operator that has interim operating authority) that has applied to conduct commercial air tour operations over a national park to manage commercial air tour operations over such national park.

“(B) PARK PROTECTION.—A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system and may—

“(i) include provisions such as those described in subparagraphs (B) through (E) of paragraph (3);

“(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

“(iii) provide for fees for such operations.

“(C) PUBLIC REVIEW.—The Director and the Administrator shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and

Consultation.

shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

“(D) TERMINATION.—

“(i) IN GENERAL.—A voluntary agreement under this paragraph may be terminated at any time at the discretion of—

“(I) the Director, if the Director determines that the agreement is not adequately protecting park resources or visitor experiences; or

“(II) the Administrator, if the Administrator determines that the agreement is adversely affecting aviation safety or the national aviation system.

“(ii) EFFECT OF TERMINATION.—If a voluntary agreement with respect to a national park is terminated under this subparagraph, the operators shall conform to the requirements for interim operating authority under subsection (c) until an air tour management plan for the park is in effect.”.

(d) INTERIM OPERATING AUTHORITY.—Section 40128(c) is amended—

(1) by striking paragraph (2)(I) and inserting the following:

“(I) may allow for modifications of the interim operating authority without further environmental review beyond that described in this subsection, if—

“(i) adequate information regarding the existing and proposed operations of the operator under the interim operating authority is provided to the Administrator and the Director;

“(ii) the Administrator determines that there would be no adverse impact on aviation safety or the air traffic control system; and

“(iii) the Director agrees with the modification, based on the professional expertise of the Director regarding the protection of the resources, values, and visitor use and enjoyment of the park.”; and

(2) in paragraph (3)(A) by striking “if the Administrator determines” and all that follows through the period at the end and inserting “without further environmental process beyond that described in this paragraph, if—

“(i) adequate information on the proposed operations of the operator is provided to the Administrator and the Director by the operator making the request;

“(ii) the Administrator agrees that there would be no adverse impact on aviation safety or the air traffic control system; and

“(iii) the Director agrees, based on the Director’s professional expertise regarding the protection of park resources and values and visitor use and enjoyment.”.

(e) OPERATOR REPORTS.—Section 40128 is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following:

“(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—

“(1) REPORT.—Each commercial air tour operator conducting a commercial air tour operation over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan or voluntary agreement under subsection (b) shall submit to the Administrator and the Director a report regarding the number of commercial air tour operations over each national park that are conducted by the operator and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.

“(2) REPORT SUBMISSION.—Not later than 90 days after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator and the Director shall jointly issue an initial request for reports under this subsection. The reports shall be submitted to the Administrator and the Director with a frequency and in a format prescribed by the Administrator and the Director.”.

#### SEC. 502. STATE BLOCK GRANT PROGRAM.

(a) GENERAL REQUIREMENTS.—Section 47128(a) is amended—

(1) in the first sentence by striking “prescribe regulations” and inserting “issue guidance”; and

(2) in the second sentence by striking “regulations” and inserting “guidance”.

(b) APPLICATIONS AND SELECTION.—Section 47128(b)(4) is amended by inserting before the semicolon the following: “, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive orders, agency regulations and guidance, and other Federal environmental requirements”.

(c) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—Section 47128 is amended by adding at the end the following:

“(d) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—A Federal agency, other than the Federal Aviation Administration, that is responsible for issuing an approval, license, or permit to ensure compliance with a Federal environmental requirement applicable to a project or activity to be carried out by a State using amounts from a block grant made under this section shall—

“(1) coordinate and consult with the State;

“(2) use the environmental analysis prepared by the State for the project or activity if such analysis is adequate; and

“(3) as necessary, consult with the State to describe the supplemental analysis the State must provide to meet applicable Federal requirements.”.

Consultation.

#### SEC. 503. AIRPORT FUNDING OF SPECIAL STUDIES OR REVIEWS.

Section 47173(a) is amended by striking “services of consultants in order to” and all that follows through the period at the end and inserting “services of consultants—

“(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

“(2) to conduct special environmental studies related to an airport project funded with Federal funds;

“(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations;

“(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration; and

“(5) to facilitate the timely processing, review, and completion of environmental activities associated with new or amended flight procedures, including performance-based navigation procedures, such as required navigation performance procedures and area navigation procedures.”.

**SEC. 504. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT PROCEDURES.**

Section 47504 is amended by adding at the end the following:

“(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

“(1) IN GENERAL.—In accordance with subsection (c)(1), the Secretary may make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

“(2) ADDITIONAL STAFF.—The Administrator may accept funds from an airport operator, including funds provided to the operator under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

“(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section—

“(A) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

“(B) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

“(C) shall remain available until expended.”.

**SEC. 505. DETERMINATION OF FAIR MARKET VALUE OF RESIDENTIAL PROPERTIES.**

Section 47504 (as amended by this Act) is further amended by adding at the end the following:

“(f) DETERMINATION OF FAIR MARKET VALUE OF RESIDENTIAL PROPERTIES.—In approving a project to acquire residential real property using financial assistance made available under this section or chapter 471, the Secretary shall ensure that the appraisal of the property to be acquired disregards any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.”.

**SEC. 506. PROHIBITION ON OPERATING CERTAIN AIRCRAFT WEIGHING  
75,000 POUNDS OR LESS NOT COMPLYING WITH STAGE 3  
NOISE LEVELS.**

(a) IN GENERAL.—Subchapter II of chapter 475 is amended by adding at the end the following:

**“§ 47534. Prohibition on operating certain aircraft weighing  
75,000 pounds or less not complying with stage  
3 noise levels**

“(a) PROHIBITION.—Except as otherwise provided by this section, after December 31, 2015, a person may not operate a civil subsonic jet airplane with a maximum weight of 75,000 pounds or less, and for which an airworthiness certificate (other than an experimental certificate) has been issued, to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

Effective date.  
49 USC 47534.

“(b) AIRCRAFT OPERATIONS OUTSIDE 48 CONTIGUOUS STATES.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

“(c) TEMPORARY OPERATIONS.—The Secretary may allow temporary operation of an aircraft otherwise prohibited from operation under subsection (a) to or from an airport in the contiguous United States by granting a special flight authorization for one or more of the following circumstances:

“(1) To sell, lease, or use the aircraft outside the 48 contiguous States.

“(2) To scrap the aircraft.

“(3) To obtain modifications to the aircraft to meet stage 3 noise levels.

“(4) To perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States.

“(5) To deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor.

“(6) To prepare, park, or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5).

“(7) To provide transport of persons and goods in the relief of an emergency situation.

“(8) To divert the aircraft to an alternative airport in the 48 contiguous States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (7).

“(d) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary for the implementation of this section.

“(e) STATUTORY CONSTRUCTION.—

“(1) AIP GRANT ASSURANCES.—Noncompliance with subsection (a) shall not be construed as a violation of section 47107 or any regulations prescribed thereunder.

“(2) PENDING APPLICATIONS.—Nothing in this section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of

Federal Regulations, that were pending on the date of enactment of this section.”.

(b) CONFORMING AMENDMENTS.—

(1) PENALTIES.—Section 47531 is amended—

(A) in the section heading by striking “**for violating sections 47528–47530**”; and

(B) by striking “47529, or 47530” and inserting “47529, 47530, or 47534”.

(2) JUDICIAL REVIEW.—Section 47532 is amended by inserting “or 47534” after “47528–47531”.

(3) ANALYSIS.—The analysis for subchapter II of chapter 475 is amended—

(A) by striking the item relating to section 47531 and inserting the following:

“47531. Penalties.”; and

(B) by adding at the end the following:

“47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels.”.

49 USC 44505  
note.

**SEC. 507. AIRCRAFT DEPARTURE QUEUE MANAGEMENT PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 5 public-use airports under which the Federal Aviation Administration shall use funds made available under section 48101(a) to test air traffic flow management tools, methodologies, and procedures that will allow air traffic controllers of the Administration to better manage the flow of aircraft on the ground and reduce the length of ground holds and idling time for aircraft.

(b) SELECTION CRITERIA.—In selecting from among airports at which to conduct the pilot program, the Secretary shall give priority consideration to airports at which improvements in ground control efficiencies are likely to achieve the greatest fuel savings or air quality or other environmental benefits, as measured by the amount of reduced fuel, reduced emissions, or other environmental benefits per dollar of funds expended under the pilot program.

(c) MAXIMUM AMOUNT.—Not more than a total of \$2,500,000 may be expended under the pilot program at any single public-use airport.

49 USC 44502  
note.

**SEC. 508. HIGH PERFORMANCE, SUSTAINABLE, AND COST-EFFECTIVE AIR TRAFFIC CONTROL FACILITIES.**

The Administrator of the Federal Aviation Administration may implement, to the extent practicable, sustainable practices for the incorporation of energy-efficient design, equipment, systems, and other measures in the construction and major renovation of air traffic control facilities of the Administration in order to reduce energy consumption at, improve the environmental performance of, and reduce the cost of maintenance for such facilities.

**SEC. 509. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the European Union directive extending the European Union’s emissions trading proposal to international civil aviation without working through the International Civil Aviation Organization (in this section referred to as the “ICAO”) in



a consensus-based fashion is inconsistent with the Convention on International Civil Aviation, completed in Chicago on December 7, 1944 (TIAS 1591; commonly known as the “Chicago Convention”), and other relevant air services agreements and antithetical to building international cooperation to address effectively the problem of greenhouse gas emissions by aircraft engaged in international civil aviation;

(2) the European Union and its member states should instead work with other contracting states of ICAO to develop a consensual approach to addressing aircraft greenhouse gas emissions through ICAO; and

(3) officials of the United States Government, and particularly the Secretary of Transportation and the Administrator of the Federal Aviation Administration, should use all political, diplomatic, and legal tools at the disposal of the United States to ensure that the European Union’s emissions trading scheme is not applied to aircraft registered by the United States or the operators of those aircraft, including the mandates that United States carriers provide emissions data to and purchase emissions allowances from or surrender emissions allowances to the European Union Member States.

#### **SEC. 510. AVIATION NOISE COMPLAINTS.**

Not later than 90 days after the date of enactment of this Act, each owner or operator of a large hub airport (as defined in section 40102(a) of title 49, United States Code) shall publish on an Internet Web site of the airport a telephone number to receive aviation noise complaints related to the airport.

49 USC 47501  
note.  
Deadline.  
Web posting.

#### **SEC. 511. PILOT PROGRAM FOR ZERO-EMISSION AIRPORT VEHICLES.**

(a) IN GENERAL.—Chapter 471 is amended by inserting after section 47136 the following:

##### **“§ 47136a. Zero-emission airport vehicles and infrastructure**

49 USC 47136a.

“(a) IN GENERAL.—The Secretary of Transportation may establish a pilot program under which the sponsor of a public-use airport may use funds made available under section 47117 or section 48103 for use at such airport to carry out activities associated with the acquisition and operation of zero-emission vehicles (as defined in section 88.102–94 of title 40, Code of Federal Regulations), including the construction or modification of infrastructure to facilitate the delivery of fuel and services necessary for the use of such vehicles.

“(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

“(1) IN GENERAL.—A public-use airport may be eligible for participation in the program only if the airport is located in a nonattainment area (as defined in section 171 of the Clean Air Act (42 U.S.C. 7501)).

“(2) SHORTAGE OF APPLICANTS.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, the Secretary may permit public-use airports that are not located in such areas to participate in the program.

“(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the program.

“(d) FEDERAL SHARE.—Notwithstanding any other provision of this subchapter, the Federal share of the costs of a project carried out under the program shall be 50 percent.

“(e) TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—The sponsor of a public-use airport carrying out activities funded under the program may not use more than 10 percent of the amounts made available under the program in any fiscal year for technical assistance in carrying out such activities.

“(2) USE OF UNIVERSITY TRANSPORTATION CENTER.—Participants in the program may use a university transportation center receiving grants under section 5506 in the region of the airport to receive the technical assistance described in paragraph (1).

“(f) MATERIALS IDENTIFYING BEST PRACTICES.—The Secretary may develop and make available materials identifying best practices for carrying out activities funded under the program based on projects carried out under section 47136 and other sources.”.

(b) REPORT ON EFFECTIVENESS OF PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) an evaluation of the effectiveness of the program established by section 47136a of title 49, United States Code (as added by this section);

(2) the performance measures used to measure such effectiveness, such as the goals for the projects implemented and the amount of emissions reduction achieved through these projects;

(3) an assessment of the sufficiency of the data collected during the program to make a decision on whether or not to implement the program;

(4) an identification of all public-use airports that expressed an interest in participating in the program; and

(5) a description of the mechanisms used by the Secretary to ensure that the information and expertise gained by participants in the program is transferred among the participants and to other interested parties, including other public-use airports.

(c) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 47136 the following:

“47136a. Zero-emission airport vehicles and infrastructure.”.

(d) TECHNICAL AMENDMENT.—Section 47136(f)(2) is amended—

(1) in the paragraph heading by striking “ELIGIBLE CONSORTIUM” and inserting “UNIVERSITY TRANSPORTATION CENTER”; and

(2) by striking “an eligible consortium” and inserting “a university transportation center”.

**SEC. 512. INCREASING THE ENERGY EFFICIENCY OF AIRPORT POWER SOURCES.**

(a) IN GENERAL.—Chapter 471 is amended by inserting after section 47140 the following:

**“§ 47140a. Increasing the energy efficiency of airport power sources** 49 USC 47140a.

“(a) IN GENERAL.—The Secretary of Transportation shall establish a program under which the Secretary shall encourage the sponsor of each public-use airport to assess the airport’s energy requirements, including heating and cooling, base load, back-up power, and power for on-road airport vehicles and ground support equipment, in order to identify opportunities to increase energy efficiency at the airport.

“(b) GRANTS.—

“(1) IN GENERAL.—The Secretary may make grants from amounts made available under section 48103 to assist airport sponsors that have completed the assessment described in subsection (a) to acquire or construct equipment, including hydrogen equipment and related infrastructure, that will increase energy efficiency at the airport.

“(2) APPLICATION.—To be eligible for a grant under paragraph (1), the sponsor of a public-use airport shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.”.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 47140 the following:

“47140a. Increasing the energy efficiency of airport power sources.”.

## **TITLE VI—FAA EMPLOYEES AND ORGANIZATION**

**SEC. 601. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.**

Section 40122(a) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by striking paragraph (2) and inserting the following:

“(2) DISPUTE RESOLUTION.—

“(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or the provisions referred to in subsection (g)(2)(C) with the exclusive bargaining representative of the employees, the Administrator and the bargaining representative—

“(i) shall use the services of the Federal Mediation and Conciliation Service to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the FAA Modernization and Reform Act of 2012); or

“(ii) may by mutual agreement adopt alternative procedures for the resolution of disputes or impasses arising in the negotiation of the collective-bargaining agreement.

“(B) MID-TERM BARGAINING.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a mid-term collective-bargaining agreement, the Federal Service Impasses Panel shall assist the parties in resolving the impasse in accordance with section 7119 of title 5.

“(C) BINDING ARBITRATION FOR TERM BARGAINING.—

Submission.

“(i) ASSISTANCE FROM FEDERAL SERVICE IMPASSES PANEL.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a term collective-bargaining agreement, the Administrator and the exclusive bargaining representative of the employees (in this subparagraph referred to as the ‘parties’) shall submit their issues in controversy to the Federal Service Impasses Panel. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members.

List.  
Deadlines.

“(ii) APPOINTMENT OF ARBITRATION BOARD.—The Executive Director of the Panel shall provide for the appointment of the 3 members of a private arbitration board under clause (i) by requesting the Director of the Federal Mediation and Conciliation Service to prepare a list of not less than 15 names of arbitrators with Federal sector experience and by providing the list to the parties. Not later than 10 days after receiving the list, the parties shall each select one person from the list. The 2 arbitrators selected by the parties shall then select a third person from the list not later than 7 days after being selected. If either of the parties fails to select a person or if the 2 arbitrators are unable to agree on the third person in 7 days, the parties shall make the selection by alternately striking names on the list until one arbitrator remains.

“(iii) FRAMING ISSUES IN CONTROVERSY.—If the parties do not agree on the framing of the issues to be submitted for arbitration, the arbitration board shall frame the issues.

“(iv) HEARINGS.—The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may elect.

Deadline.

“(v) DECISIONS.—The arbitration board shall render its decision within 90 days after the date of its appointment. Decisions of the arbitration board shall be conclusive and binding upon the parties.

“(vi) MATTERS FOR CONSIDERATION.—The arbitration board shall take into consideration such factors as—

“(I) the effect of its arbitration decisions on the Federal Aviation Administration’s ability to attract and retain a qualified workforce;

“(II) the effect of its arbitration decisions on the Federal Aviation Administration’s budget; and

“(III) any other factors whose consideration would assist the board in fashioning a fair and equitable award.

“(vii) COSTS.—The parties shall share costs of the arbitration equally.

“(3) RATIFICATION OF AGREEMENTS.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under paragraph (2)(C), the final agreement, except for those matters decided by an arbitration board, shall be subject to ratification by the exclusive bargaining representative of the employees, if so requested by the bargaining representative, and the final agreement shall be subject to approval by the head of the agency in accordance with the provisions referred to in subsection (g)(2)(C).”.

#### SEC. 602. PRESIDENTIAL RANK AWARD PROGRAM.

Section 40122(g)(2) is amended—

(1) in subparagraph (G) by striking “and” after the semicolon;

(2) in subparagraph (H) by striking “Board.” and inserting “Board; and”; and

(3) by adding at the end the following:

“(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards) and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

“(i) for purposes of applying such provisions to the personnel management system—

Definitions.

“(I) the term ‘agency’ means the Department of Transportation;

“(II) the term ‘senior executive’ means a Federal Aviation Administration executive;

“(III) the term ‘career appointee’ means a Federal Aviation Administration career executive; and

“(IV) the term ‘senior career employee’ means a Federal Aviation Administration career senior professional;

“(ii) receipt by a career appointee or a senior career employee of the rank of Meritorious Executive or Meritorious Senior Professional entitles the individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

“(iii) receipt by a career appointee or a senior career employee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal

Aviation Administration Executive Compensation Plan.”.

**SEC. 603. COLLEGIATE TRAINING INITIATIVE STUDY.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on training options for graduates of the Collegiate Training Initiative program (in this section referred to as “CTI” programs) conducted under section 44506(c) of title 49, United States Code.

(b) **CONTENTS.**—The study shall analyze the impact of providing as an alternative to the current training provided at the Mike Monroney Aeronautical Center of the Federal Aviation Administration a new air traffic controller orientation session at such Center for graduates of CTI programs followed by on-the-job training for such new air traffic controllers who are graduates of CTI programs and shall include an analysis of—

(1) the cost effectiveness of such an alternative training approach; and

(2) the effect that such an alternative training approach would have on the overall quality of training received by graduates of CTI programs.

(c) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

**SEC. 604. FRONTLINE MANAGER STAFFING.**

Deadline.

(a) **STUDY.**—Not later than 45 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall commission an independent study on frontline manager staffing requirements in air traffic control facilities.

(b) **CONSIDERATIONS.**—In conducting the study, the Administrator may take into consideration—

(1) the managerial tasks expected to be performed by frontline managers, including employee development, management, and counseling;

(2) the number of supervisory positions of operation requiring watch coverage in each air traffic control facility;

(3) coverage requirements in relation to traffic demand;

(4) facility type;

(5) complexity of traffic and managerial responsibilities;

(6) proficiency and training requirements; and

(7) such other factors as the Administrator considers appropriate.

(c) **PARTICIPATION.**—The Administrator shall ensure the participation of frontline managers who currently work in safety-related operational areas of the Administration.

(d) **DETERMINATIONS.**—The Administrator shall transmit any determinations made as a result of the study to the heads of the appropriate lines of business within the Administration, including the Chief Operating Officer of the Air Traffic Organization.

(e) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of

Representatives a report on the results of the study and a description of any determinations submitted to the Chief Operating Officer under subsection (d).

(f) DEFINITION.—In this section, the term “frontline manager” means first-level, operational supervisors and managers who work in safety-related operational areas of the Administration.

**SEC. 605. FAA TECHNICAL TRAINING AND STAFFING.**

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a study to assess the adequacy of the Administrator’s technical training strategy and improvement plan for airway transportation systems specialists (in this section referred to as “FAA systems specialists”).

(2) CONTENTS.—The study shall include—

(A) a review of the current technical training strategy and improvement plan for FAA systems specialists;

(B) recommendations to improve the technical training strategy and improvement plan needed by FAA systems specialists to be proficient in the maintenance of the latest technologies;

(C) a description of actions that the Administration has undertaken to ensure that FAA systems specialists receive up-to-date training on the latest technologies; and

(D) a recommendation regarding the most cost-effective approach to provide training to FAA systems specialists.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) WORKLOAD OF SYSTEMS SPECIALISTS.—

(1) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing needs for FAA systems specialists to ensure proper maintenance and certification of the national airspace system.

Deadline.

(2) CONSULTATION.—In conducting the study, the National Academy of Sciences shall—

(A) consult with the exclusive bargaining representative certified under section 7111 of title 5, United States Code; and

(B) include recommendations for objective staffing standards that maintain the safety of the national airspace system.

Recommendations.

(3) REPORT.—Not later than 1 year after the initiation of the arrangements under paragraph (1), the National Academy of Sciences shall submit to Congress a report on the results of the study.

**SEC. 606. SAFETY CRITICAL STAFFING.**

(a) IN GENERAL.—Not later than October 1, 2012, the Administrator of the Federal Aviation Administration shall implement, in as cost-effective a manner as possible, the staffing model for aviation

49 USC 44701  
note.  
Deadline.

Consultation. safety inspectors developed pursuant to the National Academy of Sciences study entitled “Staffing Standards for Aviation Safety Inspectors”. In doing so, the Administrator shall consult with interested persons, including the exclusive bargaining representative for aviation safety inspectors certified under section 7111 of title 5, United States Code.

(b) REPORT.—Not later than January 1 of each year beginning after September 30, 2012, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, the staffing model described in subsection (a).

**SEC. 607. AIR TRAFFIC CONTROL SPECIALIST QUALIFICATION TRAINING.**

Section 44506 is amended—

- (1) by redesignating subsection (d) as subsection (e); and
- (2) by inserting after subsection (c) the following:

“(d) AIR TRAFFIC CONTROL SPECIALIST QUALIFICATION TRAINING.—

“(1) APPOINTMENT OF AIR TRAFFIC CONTROL SPECIALISTS.—

The Administrator is authorized to appoint a qualified air traffic control specialist candidate for placement in an airport traffic control facility if the candidate has—

“(A) received a control tower operator certification (referred to in this subsection as a ‘CTO’ certificate); and

“(B) satisfied all other applicable qualification requirements for an air traffic control specialist position, including successful completion of orientation training at the Federal Aviation Administration Academy.

“(2) COMPENSATION AND BENEFITS.—An individual appointed under paragraph (1) shall receive the same compensation and benefits, and be treated in the same manner as, any other individual appointed as a developmental air traffic controller.

“(3) REPORT.—Not later than 2 years after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator shall submit to Congress a report that evaluates the effectiveness of the air traffic control specialist qualification training provided pursuant to this section, including the graduation rates of candidates who received a CTO certificate and are working in airport traffic control facilities.

Determination. “(4) ADDITIONAL APPOINTMENTS.—If the Administrator determines that air traffic control specialists appointed pursuant to this subsection are more successful in carrying out the duties of an air traffic controller than air traffic control specialists hired from the general public without any such certification, the Administrator shall increase, to the maximum extent practicable, the number of appointments of candidates who possess such certification.

“(5) REIMBURSEMENT FOR TRAVEL EXPENSES ASSOCIATED WITH CERTIFICATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Administrator may accept reimbursement from an educational entity that provides training to an air traffic control specialist candidate to cover reasonable travel expenses



of the Administrator associated with issuing certifications to such candidates.

“(B) TREATMENT OF REIMBURSEMENTS.—Notwithstanding section 3302 of title 31, any reimbursement authorized to be collected under subparagraph (A) shall—

“(i) be credited as offsetting collections to the account that finances the activities and services for which the reimbursement is accepted;

“(ii) be available for expenditure only to pay the costs of activities and services for which the reimbursement is accepted, including all costs associated with collecting such reimbursement; and

“(iii) remain available until expended.”.

**SEC. 608. FAA AIR TRAFFIC CONTROLLER STAFFING.**

(a) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the air traffic controller standards used by the Federal Aviation Administration (in this section referred to as the “FAA”) to estimate staffing needs for FAA air traffic controllers to ensure the safe operation of the national airspace system in the most cost effective manner. Deadline.

(b) CONSULTATION.—In conducting the study, the National Academy of Sciences shall consult with the exclusive bargaining representative of employees of the FAA certified under section 7111 of title 5, United States Code, and other interested parties, including Government and industry representatives.

(c) CONTENTS.—The study shall include—

(1) an examination of representative information on productivity, human factors, traffic activity, and improved technology and equipment used in air traffic control;

(2) an examination of recent National Academy of Sciences reviews of the complexity model performed by MITRE Corporation that support the staffing standards models for the en route air traffic control environment; and

(3) consideration of the Administration’s current and estimated budgets and the most cost-effective staffing model to best leverage available funding.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

**SEC. 609. AIR TRAFFIC CONTROLLER TRAINING AND SCHEDULING.**

(a) TRAINING STRATEGY AND IMPROVEMENT PLAN.—The Administrator of the Federal Aviation Administration shall conduct a study to assess the adequacy of training programs for air traffic controllers, including the Administrator’s technical training strategy and improvement plan for air traffic controllers. Study.

(1) CONTENTS.—The study shall include—

(A) a review of the current training system for air traffic controllers, including the technical training strategy and improvement plan;

(B) an analysis of the competencies required of air traffic controllers for successful performance in the current and future projected air traffic control environment;

(C) an analysis of the competencies projected to be required of air traffic controllers as the Federal Aviation Administration transitions to the Next Generation Air Transportation System;

(D) an analysis of various training approaches available to satisfy the air traffic controller competencies identified under subparagraphs (B) and (C);

(E) recommendations to improve the current training system for air traffic controllers, including the technical training strategy and improvement plan; and

(F) the most cost-effective approach to provide training to air traffic controllers.

(2) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

Deadline.  
Review.  
Evaluation.  
49 USC 44506  
note.

(b) FACILITY TRAINING PROGRAM.—Not later than 1 year after the date of enactment of this Act, the Administrator shall conduct a comprehensive review and evaluation of its Academy and facility training efforts. The Administrator shall—

(1) clarify responsibility for oversight and direction of the Academy's facility training program at the national level;

(2) communicate information concerning that responsibility to facility managers; and

Standards.

(3) establish standards to identify the number of developmental air traffic controllers that can be accommodated at each facility, based on—

(A) the number of available on-the-job training instructors;

(B) available classroom space;

(C) the number of available simulators;

(D) training requirements; and

(E) the number of recently placed new personnel already in training.

Deadline.  
Assessment.

(c) AIR TRAFFIC CONTROLLER SCHEDULING.—Not later than 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall conduct an assessment of the Federal Aviation Administration's air traffic controller scheduling practices.

(1) CONTENTS.—The assessment shall include, at a minimum—

(A) an analysis of how air traffic controller schedules are determined;

(B) an evaluation of how safety is taken into consideration when schedules are being developed and adopted;

(C) an evaluation of scheduling practices that are cost effective to the Government;

(D) an examination of how scheduling practices impact air traffic controller performance; and

(E) any recommendations the Inspector General may have related to air traffic controller scheduling practices.

(2) REPORT.—Not later than 120 days after the date of enactment of this Act, the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the assessment conducted under this subsection.

**SEC. 610. FAA FACILITY CONDITIONS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of and review—

(1) the conditions of a sampling of Federal Aviation Administration facilities across the United States, including offices, towers, centers, and terminal radar air control;

(2) reports from employees of the Administration relating to respiratory ailments and other health conditions resulting from exposure to mold, asbestos, poor air quality, radiation, and facility-related hazards in facilities of the Administration;

(3) conditions of such facilities that could interfere with such employees' ability to effectively and safely perform their duties;

(4) the ability of managers and supervisors of such employees to promptly document and seek remediation for unsafe facility conditions;

(5) whether employees of the Administration who report facility-related illnesses are treated appropriately;

(6) utilization of scientifically approved remediation techniques to mitigate hazardous conditions in accordance with applicable State and local regulations and Occupational Safety and Health Administration practices by the Administration; and

(7) resources allocated to facility maintenance and renovation by the Administration.

(b) FACILITY CONDITION INDICES.—The Comptroller General shall review the facility condition indices of the Administration for inclusion in the recommendations under subsection (c).

(c) RECOMMENDATIONS.—Based on the results of the study and review of facility condition indices under subsection (a), the Comptroller General shall make such recommendations as the Comptroller General considers necessary—

(1) to prioritize those facilities needing the most immediate attention based on risks to employee health and safety;

(2) to ensure that the Administration is using scientifically approved remediation techniques in all facilities; and

(3) to assist the Administration in making programmatic changes so that aging facilities do not deteriorate to unsafe levels.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on results of the study, including the recommendations under subsection (c).

**SEC. 611. TECHNICAL CORRECTION.**

Section 40122(g)(3) is amended by adding at the end the following: "Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996."

## TITLE VII—AVIATION INSURANCE

### SEC. 701. GENERAL AUTHORITY.

Extension dates.

Section 44302(f)(1) is amended by striking “shall extend through” and all that follows through “the termination date” and inserting “shall extend through September 30, 2013, and may extend through December 31, 2013, the termination date”.

### SEC. 702. EXTENSION OF AUTHORITY TO LIMIT THIRD-PARTY LIABILITY OF AIR CARRIERS ARISING OUT OF ACTS OF TERRORISM.

The first sentence of section 44303(b) is amended by striking “ending on” and all that follows through “the Secretary may certify” and inserting “ending on December 31, 2013, the Secretary may certify”.

### SEC. 703. CLARIFICATION OF REINSURANCE AUTHORITY.

The second sentence of section 44304 is amended by striking “the carrier” and inserting “any insurance carrier”.

### SEC. 704. USE OF INDEPENDENT CLAIMS ADJUSTERS.

The second sentence of section 44308(c)(1) is amended by striking “agent” and inserting “agent, or a claims adjuster who is independent of the underwriting agent,”.

## TITLE VIII—MISCELLANEOUS

### SEC. 801. DISCLOSURE OF DATA TO FEDERAL AGENCIES IN INTEREST OF NATIONAL SECURITY.

Section 40119(b) is amended by adding at the end the following: “(4) Section 552a of title 5 shall not apply to disclosures that the Administrator may make from the systems of records of the Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.”.

### SEC. 802. FAA AUTHORITY TO CONDUCT CRIMINAL HISTORY RECORD CHECKS.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

49 USC 40130.

#### “§ 40130. FAA authority to conduct criminal history record checks

“(a) CRIMINAL HISTORY BACKGROUND CHECKS.—

“(1) ACCESS TO INFORMATION.—The Administrator of the Federal Aviation Administration, for certification purposes of the Administration only, is authorized—

“(A) to conduct, in accordance with the established request process, a criminal history background check of an airman in the criminal repositories of the Federal Bureau of Investigation and States by submitting positive identification of the airman to a fingerprint-based repository in compliance with section 217 of the National Crime Prevention and Privacy Compact Act of 1998 (42 U.S.C. 14616); and

“(B) to receive relevant criminal history record information regarding the airman checked.

“(2) RELEASE OF INFORMATION.—In accessing a repository referred to in paragraph (1), the Administrator shall be subject to the conditions and procedures established by the Department of Justice or the State, as appropriate, for other governmental agencies conducting background checks for noncriminal justice purposes.

“(3) LIMITATION.—The Administrator may not use the authority under paragraph (1) to conduct criminal investigations.

“(4) REIMBURSEMENT.—The Administrator may collect reimbursement to process the fingerprint-based checks under this subsection, to be used for expenses incurred, including Federal Bureau of Investigation fees, in providing these services.

“(b) DESIGNATED EMPLOYEES.—The Administrator shall designate, by order, employees of the Administration who may carry out the authority described in subsection (a).”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

“40130. FAA authority to conduct criminal history record checks.”.

#### **SEC. 803. CIVIL PENALTIES TECHNICAL AMENDMENTS.**

Section 46301 of title 49, United States Code, is amended—

(1) in subsection (a)(1)(A) by inserting “chapter 451,” before “section 47107(b)”;

(2) in subsection (a)(5)(A)(i)—

(A) by striking “or chapter 449” and inserting “chapter 449”; and

(B) by inserting after “44909)” the following: “, or chapter 451”;

(3) in subsection (d)(2)—

(A) in the first sentence—

(i) by striking “44723) or” and inserting the following: “44723), chapter 451,”;

(ii) by striking “46302” and inserting “section 46302”; and

(iii) by striking “46318, or 47107(b)” and inserting “section 46318, section 46319, or section 47107(b)”;

(B) in the second sentence—

(i) by striking “46302” and inserting “section 46302”;

(ii) by striking “46303,” and inserting “or section 46303 of this title”; and

(iii) by striking “such chapter 449” and inserting “any of those provisions”; and

(4) in subsection (f)(1)(A)(i)—

(A) by striking “or chapter 449” and inserting “chapter 449”; and

(B) by inserting after “44909)” the following: “, or chapter 451”.

#### **SEC. 804. CONSOLIDATION AND REALIGNMENT OF FAA SERVICES AND FACILITIES.**

(a) NATIONAL FACILITIES REALIGNMENT AND CONSOLIDATION REPORT.—

49 USC 44501  
note.

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a report, to be known as the National Facilities Realignment and Consolidation Report, in accordance with the requirements of this subsection.

(2) PURPOSE.—The purpose of the report shall be—

(A) to support the transition to the Next Generation Air Transportation System; and

(B) to reduce capital, operating, maintenance, and administrative costs of the FAA where such cost reductions can be implemented without adversely affecting safety.

(3) CONTENTS.—The report shall include—

(A) recommendations of the Administrator on realignment and consolidation of services and facilities (including regional offices) of the FAA; and

(B) for each of the recommendations, a description of—

(i) the Administrator’s justification;

(ii) the projected costs and savings; and

(iii) the proposed timing for implementation.

(4) INPUT.—The report shall be developed by the Administrator (or the Administrator’s designee)—

(A) in coordination with the Chief NextGen Officer and the Chief Operating Officer of the Air Traffic Organization of the FAA; and

(B) with the participation of—

(i) representatives of labor organizations representing operations and maintenance employees of the air traffic control system; and

(ii) industry stakeholders.

(5) SUBMISSION TO CONGRESS.—Not later than 120 days after the date of enactment of this Act, the Administrator shall submit the report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

Federal Register,  
publication.

(6) PUBLIC NOTICE AND COMMENT.—The Administrator shall publish the report in the Federal Register and allow 45 days for the submission of public comments.

(b) REPORT TO CONGRESS CONTAINING RECOMMENDATIONS OF ADMINISTRATOR.—Not later than 60 days after the last day of the period for public comment under subsection (a)(6), the Administrator shall submit to the committees specified in subsection (a)(5)—

(1) a report containing the recommendations of the Administrator on realignment and consolidation of services and facilities (including regional offices) of the FAA; and

Records.

(2) copies of any public comments received by the Administrator under subsection (a)(6).

(c) REALIGNMENT AND CONSOLIDATION OF FAA SERVICES AND FACILITIES.—Except as provided in subsection (d), the Administrator shall realign and consolidate the services and facilities of the FAA in accordance with the recommendations included in the report submitted under subsection (b).

(d) CONGRESSIONAL DISAPPROVAL.—

Time periods.

(1) IN GENERAL.—The Administrator may not carry out a recommendation for realignment or consolidation of services or facilities of the FAA that is included in the report submitted under subsection (b) if a joint resolution of disapproval is

enacted disapproving such recommendation before the earlier of—

(A) the last day of the 30-day period beginning on the date of submission of the report; or

(B) the adjournment of Congress sine die for the session during which the report is transmitted.

(2) COMPUTATION OF 30-DAY PERIOD.—For purposes of paragraph (1)(A), the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in computation of the 30-day period.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) FAA.—The term “FAA” means the Federal Aviation Administration.

(2) REALIGNMENT; CONSOLIDATION.—

(A) IN GENERAL.—The terms “realignment” and “consolidation” include any action that—

(i) relocates functions, services, or personnel positions;

(ii) discontinues or severs existing facility functions or services; or

(iii) combines the results described in clauses (i) and (ii).

(B) EXCLUSION.—The terms do not include a reduction in personnel resulting from workload adjustments.

**SEC. 805. LIMITING ACCESS TO FLIGHT DECKS OF ALL-CARGO AIRCRAFT.**

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with appropriate air carriers, aircraft manufacturers, and air carrier labor representatives, shall conduct a study to assess the feasibility of developing a physical means, or a combination of physical and procedural means, to prohibit individuals other than authorized flight crewmembers from accessing the flight deck of an all-cargo aircraft. Deadline.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

**SEC. 806. CONSOLIDATION OR ELIMINATION OF OBSOLETE, REDUNDANT, OR OTHERWISE UNNECESSARY REPORTS; USE OF ELECTRONIC MEDIA FORMAT.**

49 USC 40114  
note.

(a) CONSOLIDATION OR ELIMINATION OF REPORTS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing—

(1) a list of obsolete, redundant, or otherwise unnecessary reports the Administration is required by law to submit to Congress or publish that the Administrator recommends eliminating or consolidating with other reports; and

(2) an estimate of the cost savings that would result from the elimination or consolidation of those reports.

(b) **USE OF ELECTRONIC MEDIA FOR REPORTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Administration—

(A) may not publish any report required or authorized by law in a printed format; and

(B) shall publish any such report by posting it on the Administration’s Internet Web site in an easily accessible and downloadable electronic format.

Determination.

(2) **EXCEPTION.**—Paragraph (1) does not apply to any report with respect to which the Administrator determines that—

(A) its publication in a printed format is essential to the mission of the Administration; or

(B) its publication in accordance with the requirements of paragraph (1) would disclose matter—

(i) described in section 552(b) of title 5, United States Code; or

(ii) the disclosure of which would have an adverse impact on aviation safety or security, as determined by the Administrator.

**SEC. 807. PROHIBITION ON USE OF CERTAIN FUNDS.**

The Secretary of Transportation may not use any funds made available pursuant to this Act (including any amendment made by this Act) to name, rename, designate, or redesignate any project or program authorized by this Act (including any amendment made by this Act) for an individual then serving in Congress as a Member, Delegate, Resident Commissioner, or Senator.

**SEC. 808. STUDY ON AVIATION FUEL PRICES.**

Deadline.  
Reports.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on the impact of increases in aviation fuel prices on the Airport and Airway Trust Fund and the aviation industry in general.

(b) **CONTENTS.**—The study shall include an assessment of the impact of increases in aviation fuel prices on—

(1) general aviation;

(2) commercial passenger aviation;

(3) piston aircraft purchase and use;

(4) the aviation services industry, including repair and maintenance services;

(5) aviation manufacturing;

(6) aviation exports; and

(7) the use of small airport installations.

(c) **ASSUMPTIONS ABOUT AVIATION FUEL PRICES.**—In conducting the study required by subsection (a), the Comptroller General shall use the average aviation fuel price for fiscal year 2010 as a baseline and measure the impact of increases in aviation fuel prices that range from 5 percent to 200 percent over the 2010 baseline.

**SEC. 809. WIND TURBINE LIGHTING.**

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a study on wind turbine lighting systems.

(b) **CONTENTS.**—In conducting the study, the Administrator shall examine the following:



(1) The aviation safety issues associated with alternative lighting strategies, technologies, and regulations.

(2) The feasibility of implementing alternative lighting strategies or technologies to improve aviation safety.

(3) Any other issue relating to wind turbine lighting.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study, including information and recommendations concerning the issues examined under subsection (b).

**SEC. 810. AIR-RAIL CODE SHARING STUDY.**

(a) CODE SHARE STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall initiate a study regarding—

Deadline.

(1) existing airline and intercity passenger rail code sharing arrangements; and

(2) the feasibility, costs to taxpayers and other parties, and benefits of increasing the intermodal connectivity of airline and intercity passenger rail facilities and systems to improve passenger travel.

(b) CONSIDERATIONS.—In conducting the study, the Comptroller General shall consider—

(1) the potential costs to taxpayers and other parties and benefits of the implementation of more integrated scheduling between airlines and Amtrak or other intercity passenger rail carriers achieved through code sharing arrangements;

(2) airport and intercity passenger rail operations that can improve connectivity between airports and intercity passenger rail facilities and stations;

(3) the experience of other countries with respect to airport and intercity passenger rail connectivity; and

(4) such other issues the Comptroller General considers appropriate.

(c) REPORT.—Not later than 1 year after initiating the study required by subsection (a), the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study, including any conclusions of the Comptroller General resulting from the study.

**SEC. 811. D.C. METROPOLITAN AREA SPECIAL FLIGHT RULES AREA.**

(a) SUBMISSION OF PLAN TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with the Secretary of Homeland Security and the Secretary of Defense, shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the D.C. Metropolitan Area Special Flight Rules Area.

Deadline.

(b) CONTENTS OF PLAN.—The plan shall outline specific changes to the D.C. Metropolitan Area Special Flight Rules Area that will decrease operational impacts and improve general aviation access to airports in the National Capital Region that are currently impacted by the zone.

49 USC 106 note. **SEC. 812. FAA REVIEW AND REFORM.**

Deadline.

(a) **AGENCY REVIEW.**—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall undertake a thorough review of each program, office, and organization within the Administration, including the Air Traffic Organization, to identify—

- (1) duplicative positions, programs, roles, or offices;
- (2) wasteful practices;
- (3) redundant, obsolete, or unnecessary functions;
- (4) inefficient processes; and
- (5) ineffectual or outdated policies.

Deadline.

(b) **ACTIONS TO STREAMLINE AND REFORM FAA.**—Not later than 120 days after the date of enactment of this Act, the Administrator shall undertake such actions as may be necessary to address the Administrator’s findings under subsection (a), including—

- (1) consolidating, phasing-out, or eliminating duplicative positions, programs, roles, or offices;
- (2) eliminating or streamlining wasteful practices;
- (3) eliminating or phasing-out redundant, obsolete, or unnecessary functions;
- (4) reforming and streamlining inefficient processes so that the activities of the Administration are completed in an expedited and efficient manner; and
- (5) reforming or eliminating ineffectual or outdated policies.

(c) **AUTHORITY.**—Notwithstanding any other provision of law, the Administrator shall have the authority to undertake the actions required under subsection (b).

(d) **REPORT TO CONGRESS.**—Not later than 150 days after the date of enactment of this Act, the Administrator shall submit to Congress a report on the actions taken by the Administrator under this section, including any recommendations for legislative or administrative actions.

49 USC 47133 note.

**SEC. 813. USE OF MINERAL REVENUE AT CERTAIN AIRPORTS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may declare certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport to be revenue greater than the amount needed to carry out the 5-year projected maintenance needs of the airport in order to comply with the applicable design and safety standards of the Administration.

(b) **USE OF REVENUE.**—An airport sponsor that is in compliance with the conditions under subsection (c) may allocate revenue identified by the Administrator under subsection (a) for Federal, State, or local transportation infrastructure projects carried out by the airport sponsor or by a governing body within the geographical limits of the airport sponsor’s jurisdiction.

Contracts.  
Time periods.

(c) **CONDITIONS.**—An airport sponsor may not allocate revenue identified by the Administrator under subsection (a) unless the airport sponsor—

- (1) enters into a written agreement with the Administrator that sets forth a 5-year capital improvement program for the airport, which—

(A) includes the projected costs for the operation, maintenance, and capacity needs of the airport in order

to comply with applicable design and safety standards of the Administration; and

(B) appropriately adjusts such costs to account for inflation;

(2) agrees in writing—

(A) to waive all rights to receive entitlement funds or discretionary funds to be used at the airport under section 47114 or 47115 of title 49, United States Code, during the 5-year period of the capital improvement plan described in paragraph (1);

(B) to perpetually comply with sections 47107(b) and 47133 of such title, unless granted specific exceptions by the Administrator in accordance with this section; and

(C) to operate the airport as a public-use airport, unless the Administrator specifically grants a request to allow the airport to close; and

(3) complies with all grant assurance obligations in effect as of the date of the enactment of this Act during the 20-year period beginning on the date of enactment of this Act.

(d) **COMPLETION OF DETERMINATION.**—Not later than 90 days after receiving an airport sponsor’s application and requisite supporting documentation to declare that certain mineral revenue is not needed to carry out the 5-year capital improvement program at such airport, the Administrator shall determine whether the airport sponsor’s request should be granted. The Administrator may not unreasonably deny an application under this subsection.

(e) **RULEMAKING.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate regulations to carry out this section.

(f) **GENERAL AVIATION AIRPORT DEFINED.**—In this section, the term “general aviation airport” has the meaning given that term in section 47102 of title 49, United States Code, as amended by this Act.

#### **SEC. 814. CONTRACTING.**

When drafting contract proposals for training facilities under the general contracting authority of the Federal Aviation Administration, the Administrator of the Federal Aviation Administration shall ensure—

(1) the proposal is drafted so that all parties can fairly compete; and

(2) the proposal takes into consideration the most cost-effective location, accessibility, and services options.

#### **SEC. 815. FLOOD PLANNING.**

(a) **STUDY.**—The Administrator of the Federal Aviation Administration, in consultation with the Administrator of the Federal Emergency Management Agency, shall conduct a review and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the state of preparedness and response capability for airports located in flood plains to respond to and seek assistance in rebuilding after catastrophic flooding.

(b) **ELIGIBILITY OF DEMOLITION AND REBUILDING OF PROPERTIES.**—Section 1366(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(e)) is amended by adding at the end the following:

Waiver.

Deadline.  
Time period.

Deadline.

49 USC 40110  
note.

Review.  
Reports.

“(6) ELIGIBILITY OF DEMOLITION AND REBUILDING OF PROPERTIES.—The Director shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood levels or higher, if required by the Director or if required by any State or local ordinance, and in accordance with project implementation criteria established by the Director.”.

49 USC 44704  
note.

#### SEC. 816. HISTORICAL AIRCRAFT DOCUMENTS.

##### (a) PRESERVATION OF DOCUMENTS.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall take such actions as the Administrator determines necessary to preserve original aircraft type certificate engineering and technical data in the possession of the Federal Aviation Administration related to—

(A) approved aircraft type certificate numbers ATC 1 through ATC 713; and

(B) Group-2 approved aircraft type certificate numbers 2–1 through 2–544.

Deadline.

(2) REVISION OF ORDER.—Not later than 3 years after the date of enactment of this Act, the Administrator shall revise FAA Order 1350.15C, Item Number 8110. Such revision shall prohibit the destruction of the historical aircraft documents identified in paragraph (1).

(3) CONSULTATION.—The Administrator may carry out paragraph (1) in consultation with the Archivist of the United States and the Administrator of General Services.

##### (b) AVAILABILITY OF DOCUMENTS.—

(1) FREEDOM OF INFORMATION ACT REQUESTS.—The Administrator shall make the documents to be preserved under subsection (a)(1) available to a person—

(A) upon receipt of a request made by the person pursuant to section 552 of title 5, United States Code; and

(B) subject to a prohibition on use of the documents for commercial purposes.

(2) TRADE SECRETS, COMMERCIAL, AND FINANCIAL INFORMATION.—Section 552(b)(4) of such title shall not apply to requests for documents to be made available pursuant to paragraph (1).

##### (c) HOLDER OF TYPE CERTIFICATE.—

(1) RIGHTS OF HOLDER.—Nothing in this section shall affect the rights of a holder or owner of a type certificate identified in subsection (a)(1), nor require the holder or owner to provide, surrender, or preserve any original or duplicate engineering or technical data to or for the Federal Aviation Administration, a person, or the public.

(2) LIABILITY.—There shall be no liability on the part of, and no cause of action of any nature shall arise against, a holder of a type certificate, its authorized representative, its agents, or its employees, or any firm, person, corporation, or insurer related to the type certificate data and documents identified in subsection (a)(1).

(3) AIRWORTHINESS.—Notwithstanding any other provision of law, the holder of a type certificate identified in subsection (a)(1) shall only be responsible for Federal Aviation Administration regulation requirements related to type certificate data and documents identified in subsection (a)(1) for aircraft having

a standard airworthiness certificate issued prior to the date the documents are released to a person by the Federal Aviation Administration under subsection (b)(1).

**SEC. 817. RELEASE FROM RESTRICTIONS.**

49 USC 47125  
note.

(a) **IN GENERAL.**—Subject to subsection (b), the Secretary of Transportation is authorized to grant to an airport, city, or county a release from any of the terms, conditions, reservations, or restrictions contained in a deed under which the United States conveyed to the airport, city, or county an interest in real property for airport purposes pursuant to section 16 of the Federal Airport Act (60 Stat. 179) or section 23 of the Airport and Airway Development Act of 1970 (84 Stat. 232).

(b) **CONDITION.**—Any release granted by the Secretary pursuant to subsection (a) shall be subject to the following conditions:

(1) The applicable airport, city, or county shall agree that in conveying any interest in the real property which the United States conveyed to the airport, city, or county, the airport, city, or county will receive consideration for such interest that is equal to its fair market value.

(2) Any consideration received by the airport, city, or county under paragraph (1) shall be used exclusively for the development, improvement, operation, or maintenance of a public airport by the airport, city, or county.

(3) Any other conditions required by the Secretary.

**SEC. 818. SENSE OF CONGRESS.**

It is the sense of Congress that Los Angeles World Airports, the operator of Los Angeles International Airport (LAX)—

(1) should consult on a regular basis with representatives of the community surrounding the airport regarding—

(A) the ongoing operations of LAX; and

(B) plans to expand, modify, or realign LAX facilities;

and

(2) should include in such consultations any organization, the membership of which includes at least 100 individuals who reside within 10 miles of the airport, that notifies Los Angeles World Airports of its desire to be included in such consultations.

**SEC. 819. HUMAN INTERVENTION MOTIVATION STUDY.**

49 USC 45105  
note.  
Deadline.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a Human Intervention Motivation Study program for cabin crew members employed by commercial air carriers in the United States.

**SEC. 820. STUDY OF AERONAUTICAL MOBILE TELEMETRY.**

Deadline.  
Reports.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with other Federal agencies, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives a report that identifies—

(1) the current and anticipated, with respect to the next decade, need by civil aviation, including equipment manufacturers, for aeronautical mobile telemetry services; and

(2) the potential impact to the aerospace industry of the introduction of a new radio service that operates in the same spectrum allocated to the aeronautical mobile telemetry service.

49 USC 40101  
note.

**SEC. 821. CLARIFICATION OF REQUIREMENTS FOR VOLUNTEER PILOTS OPERATING CHARITABLE MEDICAL FLIGHTS.**

(a) REIMBURSEMENT OF FUEL COSTS.—Notwithstanding any other law or regulation, in administering section 61.113(c) of title 14, Code of Federal Regulations (or any successor regulation), the Administrator of the Federal Aviation Administration shall allow an aircraft owner or operator to accept reimbursement from a volunteer pilot organization for the fuel costs associated with a flight operation to provide transportation for an individual or organ for medical purposes (and for other associated individuals), if the aircraft owner or operator has—

(1) volunteered to provide such transportation; and

(2) notified any individual that will be on the flight, at the time of inquiry about the flight, that the flight operation is for charitable purposes and is not subject to the same requirements as a commercial flight.

(b) CONDITIONS TO ENSURE SAFETY.—The Administrator may impose minimum standards with respect to training and flight hours for single-engine, multi-engine, and turbine-engine operations conducted by an aircraft owner or operator that is being reimbursed for fuel costs by a volunteer pilot organization, including mandating that the pilot in command of such aircraft hold an instrument rating and be current and qualified for the aircraft being flown to ensure the safety of flight operations described in subsection (a).

Definition.

(c) VOLUNTEER PILOT ORGANIZATION.—In this section, the term “volunteer pilot organization” means an organization that—

(1) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code; and

(2) is organized for the primary purpose of providing, arranging, or otherwise fostering charitable medical transportation.

49 USC 47141  
note.

**SEC. 822. PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES.**

Deadline.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a pilot program under which operators of up to 4 public-use airports may receive grants for activities related to the redevelopment of airport properties in accordance with the requirements of this section.

(b) GRANTS.—Under the pilot program, the Administrator may make a grant in a fiscal year, from funds made available for grants under section 47117(e)(1)(A) of title 49, United States Code, to an airport operator for a project—

(1) to support joint planning, engineering, design, and environmental permitting of projects, including the assembly and redevelopment of property purchased with noise mitigation funds made available under section 48103 of such title or passenger facility revenue collected under section 40117 of such title; and

(2) to encourage airport-compatible land uses and generate economic benefits to the local airport authority and adjacent community.

(c) ELIGIBILITY.—An airport operator shall be eligible to participate in the pilot program if—

(1) the operator has received approval for a noise compatibility program under section 47504 of such title; and

(2) the operator demonstrates, as determined by the Administrator—

(A) a readiness to implement cooperative land use management and redevelopment plans with neighboring local jurisdictions; and

(B) the probability of a clear economic benefit to neighboring local jurisdictions and financial return to the airport through the implementation of those plans.

(d) DISTRIBUTION.—The Administrator shall seek to award Grants. grants under the pilot program to airport operators representing different geographic areas of the United States.

(e) PARTNERSHIP WITH NEIGHBORING LOCAL JURISDICTIONS.—An airport operator shall use grant funds made available under the pilot program only in partnership with neighboring local jurisdictions.

(f) GRANT REQUIREMENTS.—The Administrator may not make a grant to an airport operator under the pilot program unless the grant is—

(1) made to enable the airport operator and local jurisdictions undertaking community redevelopment efforts to expedite those efforts;

(2) subject to a requirement that the local jurisdiction governing the property interests subject to the redevelopment efforts has adopted and will continue in effect zoning regulations that permit airport-compatible redevelopment; and

(3) subject to a requirement that, in determining the part of the proceeds from disposing of land that is subject to repayment and reinvestment requirements under section 47107(c)(2)(A) of such title, the total amount of a grant issued under the pilot program that is attributable to the redevelopment of such land shall be added to other amounts that must be repaid or reinvested under that section upon disposal of such land by the airport operator.

(g) EXCEPTIONS TO REPAYMENT AND REINVESTMENT REQUIREMENTS.—Amounts paid to the Secretary of Transportation under subsection (f)(3)—

(1) shall be available to the Secretary for, giving preference to the actions in descending order—

(A) reinvestment in an approved noise compatibility project at the applicable airport;

(B) reinvestment in another approved project at the airport that is eligible for funding under section 47117(e) of such title;

(C) reinvestment in an approved airport development project at the airport that is eligible for funding under section 47114, 47115, or 47117 of such title;

(D) transfer to an operator of another public airport to be reinvested in an approved noise compatibility project at such airport; and

(E) deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502);

(2) shall be available in addition to amounts authorized under section 48103 of such title;

(3) shall not be subject to any limitation on grant obligations for any fiscal year; and

(4) shall remain available until expended.

(h) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Federal share of the allowable costs of a project carried out under the pilot program shall be 80 percent.

(2) **ALLOWABLE COSTS.**—In determining the allowable costs, the Administrator shall deduct from the total costs of the activities described in subsection (b) that portion of the costs which is equal to that portion of the total property to be redeveloped under this section that is not owned or to be acquired by the airport operator pursuant to the noise compatibility program or that is not owned by the affected neighboring local jurisdictions or other public entities.

(i) **MAXIMUM AMOUNT.**—Not more than \$5,000,000 of the funds made available for grants under section 47117(e)(1)(A) of such title may be expended under the pilot program for any single public-use airport.

(j) **USE OF PASSENGER REVENUE.**—An airport operator participating in the pilot program may use passenger facility revenue collected under section 40117 of such title to pay any project cost described in subsection (b) that is not financed by a grant under the pilot program.

(k) **SUNSET.**—This section shall not be in effect after September 30, 2015.

**SEC. 823. REPORT ON NEW YORK CITY AND NEWARK AIR TRAFFIC CONTROL FACILITIES.**

Time period.

Under previous agreements, the Federal Aviation Administration negotiated staffing levels at the air traffic control facilities in the Newark and New York City areas. Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Federal Aviation Administration's staffing and scheduling plans for air traffic control facilities in the New York City and Newark Region for the 1-year period beginning on such date of enactment.

**SEC. 824. CYLINDERS OF COMPRESSED OXYGEN OR OTHER OXIDIZING GASES.**

Alaska.

(a) **IN GENERAL.**—Subject to subsections (b) and (c), entities transporting, in the State of Alaska, cylinders of compressed oxygen or other oxidizing gases aboard aircraft shall be exempt from compliance with the regulations described in subsection (d), to the extent that the regulations require that oxidizing gases transported aboard aircraft be enclosed in outer packaging capable of passing the flame penetration resistance test and the thermal resistance test, without regard to the end use of the cylinders.

(b) **APPLICABILITY OF EXEMPTION.**—The exemption provided under subsection (a) shall apply only if—



(1) transportation of the cylinders by a ground-based or water-based mode of transportation is unavailable and transportation by aircraft is the only practical means for transporting the cylinders to their destination;

(2) each cylinder is fully covered with a fire- or flame-resistant blanket that is secured in place; and

(3) the operator of the aircraft complies with the applicable notification procedures under section 175.33 of title 49, Code of Federal Regulations.

(c) AIRCRAFT RESTRICTION.—The exemption provided under subsection (a) shall apply only to the following types of aircraft: Applicability.

(1) Cargo-only aircraft transporting the cylinders to a delivery destination that receives cargo-only service at least once a week.

(2) Passenger and cargo-only aircraft transporting the cylinders to a delivery destination that does not receive cargo-only service at least once a week.

(d) DESCRIPTION OF REGULATORY REQUIREMENTS.—The regulations described in this subsection are the regulations of the Pipeline and Hazardous Materials Safety Administration contained in sections 173.302(f)(3), 173.302(f)(4), 173.302(f)(5), 173.304(f)(3), 173.304(f)(4), and 173.304(f)(5) of title 49, Code of Federal Regulations.

#### SEC. 825. ORPHAN AVIATION EARMARKS.

49 USC 106 note.

(a) EARMARK DEFINED.—In this section, the term “earmark” means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate, or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, or other expenditure with or to an entity or a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

(b) RESCISSION.—If any earmark relating to the Federal Aviation Administration has more than 90 percent of applicable appropriated amounts remaining available for obligation at the end of the 9th fiscal year beginning after the fiscal year in which those amounts were appropriated, the unobligated portion of those amounts is rescinded effective at the end of that 9th fiscal year, except that the Administrator of the Federal Aviation Administration may delay any such rescission if the Administrator determines that an obligation with respect to those amounts is likely to occur during the 12-month period beginning on the last day of that 9th fiscal year.

Effective date.  
Determination.  
Time period.

(c) IDENTIFICATION AND REPORT.—

(1) AGENCY IDENTIFICATION.—At the end of each fiscal year, the Administrator shall identify and report to the Director of the Office of Management and Budget every earmark related to the Administration and with respect to which there is an unobligated balance of appropriated amounts.

(2) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director shall submit to Congress and make available to the public on the Internet Web site of the Office a report that includes—

Public  
information.  
Web posting.

(A) a listing of each earmark related to the Administration and with respect to which there is an unobligated balance of appropriated amounts, which shall include the amount of the original earmark, the amount of the unobligated balance related to that earmark, and the date on which the funding expires, if applicable;

(B) the number of rescissions under subsection (b) and the savings resulting from those rescissions for the previous fiscal year; and

(C) a listing of earmarks related to the Administration with amounts scheduled for rescission at the end of the current fiscal year.

**SEC. 826. PRIVACY PROTECTIONS FOR AIR PASSENGER SCREENING WITH ADVANCED IMAGING TECHNOLOGY.**

Section 44901 is amended by adding at the end the following:

“(1) LIMITATIONS ON USE OF ADVANCED IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) ADVANCED IMAGING TECHNOLOGY.—The term ‘advanced imaging technology’—

“(i) means a device used in the screening of passengers that creates a visual image of an individual showing the surface of the skin and revealing other objects on the body; and

“(ii) may include devices using backscatter x-rays or millimeter waves and devices referred to as ‘whole-body imaging technology’ or ‘body scanning machines’.

“(B) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(i) the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(ii) the Committee on Homeland Security of the House of Representatives.

“(C) AUTOMATIC TARGET RECOGNITION SOFTWARE.—The term ‘automatic target recognition software’ means software installed on an advanced imaging technology that produces a generic image of the individual being screened that is the same as the images produced for all other screened individuals.

Effective date.

“(2) USE OF ADVANCED IMAGING TECHNOLOGY.—Beginning June 1, 2012, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that any advanced imaging technology used for the screening of passengers under this section—

“(A) is equipped with and employs automatic target recognition software; and

“(B) complies with such other requirements as the Assistant Secretary determines necessary to address privacy considerations.

“(3) EXTENSION.—

Determination.

“(A) IN GENERAL.—The Assistant Secretary may extend the deadline specified in paragraph (2), if the Assistant Secretary determines that—

“(i) an advanced imaging technology equipped with automatic target recognition software is not substantially as effective at screening passengers as an advanced imaging technology without such software; or

“(ii) additional testing of such software is necessary.

“(B) DURATION OF EXTENSIONS.—The Assistant Secretary may issue one or more extensions under subparagraph (A). The duration of each extension may not exceed one year.

“(4) REPORTS.—

“(A) IN GENERAL.—Not later than 60 days after the deadline specified in paragraph (2), and not later than 60 days after the date on which the Assistant Secretary issues any extension under paragraph (3), the Assistant Secretary shall submit to the appropriate congressional committees a report on the implementation of this subsection.

“(B) ELEMENTS.—A report submitted under subparagraph (A) shall include the following:

“(i) A description of all matters the Assistant Secretary considers relevant to the implementation of the requirements of this subsection.

“(ii) The status of compliance by the Transportation Security Administration with such requirements.

“(iii) If the Administration is not in full compliance with such requirements—

“(I) the reasons for the noncompliance; and

“(II) a timeline depicting when the Assistant Secretary expects the Administration to achieve full compliance.

“(C) SECURITY CLASSIFICATION.—To the greatest extent practicable, a report prepared under subparagraph (A) shall be submitted in an unclassified format. If necessary, the report may include a classified annex.”.

#### **SEC. 827. COMMERCIAL SPACE LAUNCH LICENSE REQUIREMENTS.**

Section 50905(c)(3) of title 51, United States Code, is amended by striking “Beginning 8 years after the date of enactment of the Commercial Space Launch Amendments Act of 2004,” and inserting “Beginning on October 1, 2015,”.

Effective date.

#### **SEC. 828. AIR TRANSPORTATION OF LITHIUM CELLS AND BATTERIES.**

(a) IN GENERAL.—The Secretary of Transportation, including a designee of the Secretary, may not issue or enforce any regulation or other requirement regarding the transportation by aircraft of lithium metal cells or batteries or lithium ion cells or batteries, whether transported separately or packed with or contained in equipment, if the requirement is more stringent than the requirements of the ICAO Technical Instructions.

49 USC 44701 note.

(b) EXCEPTIONS.—

(1) PASSENGER CARRYING AIRCRAFT.—Notwithstanding subsection (a), the Secretary may enforce the prohibition on transporting primary (non-rechargeable) lithium batteries and cells aboard passenger carrying aircraft set forth in special provision A100 under section 172.102(c)(2) of title 49, Code of Federal

Regulations (as in effect on the date of enactment of this Act).

(2) CREDIBLE REPORTS.—Notwithstanding subsection (a), if the Secretary obtains a credible report with respect to a safety incident from a national or international governmental regulatory or investigating body that demonstrates that the presence of lithium metal cells or batteries or lithium ion cells or batteries on an aircraft, whether transported separately or packed with or contained in equipment, in accordance with the requirements of the ICAO Technical Instructions, has substantially contributed to the initiation or propagation of an onboard fire, the Secretary—

(A) may issue and enforce an emergency regulation, more stringent than the requirements of the ICAO Technical Instructions, that governs the transportation by aircraft of such cells or batteries, if that regulation—

(i) addresses solely deficiencies referenced in the report; and

(ii) is effective for not more than 1 year; and

(B) may adopt and enforce a permanent regulation, more stringent than the requirements of the ICAO Technical Instructions, that governs the transportation by aircraft of such cells or batteries, if—

(i) the Secretary bases the regulation upon substantial credible evidence that the otherwise permissible presence of such cells or batteries would substantially contribute to the initiation or propagation of an onboard fire;

(ii) the regulation addresses solely the deficiencies in existing regulations; and

(iii) the regulation imposes the least disruptive and least expensive variation from existing requirements while adequately addressing identified deficiencies.

(c) ICAO TECHNICAL INSTRUCTIONS DEFINED.—In this section, the term “ICAO Technical Instructions” means the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (as amended, including amendments adopted after the date of enactment of this Act).

**SEC. 829. CLARIFICATION OF MEMORANDUM OF UNDERSTANDING WITH OSHA.**

Deadline. Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

Milestones. Reports. (1) establish milestones, in consultation with the Occupational Safety and Health Administration, in a report to Congress—

(A) for the completion of work begun under the August 2000 memorandum of understanding between the Administrations; and

(B) to address issues that need further action, as set forth in the December 2000 joint report of the Administrations; and

Policy statement. (2) initiate development of a policy statement to set forth the circumstances in which requirements of the Occupational

Safety and Health Administration may be applied to crewmembers while working in an aircraft.

**SEC. 830. APPROVAL OF APPLICATIONS FOR THE AIRPORT SECURITY SCREENING OPT-OUT PROGRAM.**

(a) IN GENERAL.—Section 44920(b) is amended to read as follows:

“(b) APPROVAL OF APPLICATIONS.—

“(1) IN GENERAL.—Not later than 120 days after the date of receipt of an application submitted by an airport operator under subsection (a), the Under Secretary shall approve or deny the application. Deadline.

“(2) STANDARDS.—The Under Secretary shall approve an application submitted by an airport operator under subsection (a) if the Under Secretary determines that the approval would not compromise security or detrimentally affect the cost-efficiency or the effectiveness of the screening of passengers or property at the airport. Determination.

“(3) REPORTS ON DENIALS OF APPLICATIONS.—

“(A) IN GENERAL.—If the Under Secretary denies an application submitted by an airport operator under subsection (a), the Under Secretary shall provide to the airport operator, not later than 60 days following the date of the denial, a written report that sets forth—

“(i) the findings that served as the basis for the denial;

“(ii) the results of any cost or security analysis conducted in considering the application; and

“(iii) recommendations on how the airport operator can address the reasons for the denial.

“(B) SUBMISSION TO CONGRESS.—The Under Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a copy of any report provided to an airport operator under subparagraph (A).” Records.

(b) WAIVERS.—Section 44920(d) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the subparagraphs 2 ems to the right;

(2) by striking “The Under Secretary” and inserting the following:

“(1) IN GENERAL.—The Under Secretary”; and

(3) by adding at the end the following:

“(2) WAIVERS.—The Under Secretary may waive the requirement of paragraph (1)(B) for any company that is a United States subsidiary with a parent company that has implemented a foreign ownership, control, or influence mitigation plan that has been approved by the Defense Security Service of the Department of Defense prior to the submission of the application. The Under Secretary has complete discretion to reject any application from a private screening company to provide screening services at an airport that requires a waiver under this paragraph.”.

(c) RECOMMENDATIONS OF AIRPORT OPERATOR.—Section 44920 is amended by adding at the end the following:

“(h) RECOMMENDATIONS OF AIRPORT OPERATOR.—As part of any submission of an application for a private screening company to provide screening services at an airport, the airport operator shall provide to the Under Secretary a recommendation as to which company would best serve the security screening and passenger needs of the airport, along with a statement explaining the basis of the operator’s recommendation.”.

(d) RECONSIDERATION OF APPLICATIONS PENDING AS OF JANUARY 1, 2011.—

(1) IN GENERAL.—Upon the request of an airport operator, the Secretary of Homeland Security shall reconsider any application for the screening of passengers and property that—

(A) was submitted by the operator of an airport pursuant to section 44920(a) of title 49, United States Code;

Time period.

(B) was pending for final decision by the Secretary on any day between January 1, 2011, and February 3, 2011, and was resubmitted by the applicant in accordance with new guidelines provided by the Secretary after February 3, 2011; and

(C) has not been approved by the Secretary on or before the date of enactment of this Act.

(2) NOTICE TO AIRPORT OPERATORS.—In reconsidering an application submitted under paragraph (1), the Secretary shall—

(A) notify the airport operator that submitted the application that the Secretary will reconsider the application;

(B) if the application was initially denied, advise the operator of the findings that served as the basis for the denial; and

(C) request the operator to provide the Secretary with such additional information as the Secretary determines necessary to reconsider the application.

Applicability.

(3) DEADLINE; STANDARDS.—The Secretary shall approve or deny an application to be reconsidered under paragraph (1) not later than the 120th day following the date of the request for reconsideration from the airport operator. The Secretary shall apply the standards set forth in section 44920(b) of title 49, United States Code (as amended by this section), in approving and denying such application.

(4) REPORTS ON DENIALS OF APPLICATIONS.—

(A) IN GENERAL.—If the Secretary denies an application of an airport operator following reconsideration under this subsection, the Secretary shall provide to the airport operator a written report that sets forth—

(i) the findings that served as the basis for the denial; and

(ii) the results of any cost or security analysis conducted in considering the application.

Records.

(B) SUBMISSION TO CONGRESS.—The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a copy of any report provided to an airport operator under subparagraph (A).

## TITLE IX—FEDERAL AVIATION RESEARCH AND DEVELOPMENT

### SEC. 901. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 48102(a) is amended—

(1) in the matter before paragraph (1) by striking “of this title” and inserting “of this title and, for each of fiscal years 2012 through 2015, under subsection (g)”;

(2) by striking paragraphs (1) through (8);

(3) by redesignating paragraphs (9) through (15) as paragraphs (1) through (7), respectively;

(4) in paragraph (3) (as so redesignated)—

(A) in subparagraph (K) by adding “and” at the end;

and

(B) in subparagraph (L) by striking “and” at the end;

and

(5) by striking paragraph (16) and inserting the following:

“(8) \$168,000,000 for each of fiscal years 2012 through 2015.”

(b) SPECIFIC PROGRAM LIMITATIONS.—Section 48102 is amended by inserting after subsection (f) the following:

“(g) SPECIFIC AUTHORIZATIONS.—The following programs described in the research, engineering, and development account of the national aviation research plan required under section 44501(c) are authorized:

“(1) Fire Research and Safety.

“(2) Propulsion and Fuel Systems.

“(3) Advanced Materials/Structural Safety.

“(4) Atmospheric Hazards—Aircraft Icing/Digital System Safety.

“(5) Continued Airworthiness.

“(6) Aircraft Catastrophic Failure Prevention Research.

“(7) Flightdeck/Maintenance/System Integration Human Factors.

“(8) System Safety Management.

“(9) Air Traffic Control/Technical Operations Human Factors.

“(10) Aeromedical Research.

“(11) Weather Program.

“(12) Unmanned Aircraft Systems Research.

“(13) NextGen—Alternative Fuels for General Aviation.

“(14) Joint Planning and Development Office.

“(15) NextGen—Wake Turbulence Research.

“(16) NextGen—Air Ground Integration Human Factors.

“(17) NextGen—Self Separation Human Factors.

“(18) NextGen—Weather Technology in the Cockpit.

“(19) Environment and Energy Research.

“(20) NextGen Environmental Research—Aircraft Technologies, Fuels, and Metrics.

“(21) System Planning and Resource Management.

“(22) The William J. Hughes Technical Center Laboratory Facility.”

(c) PROGRAM AUTHORIZATIONS.—From the other accounts described in the national aviation research plan required under section 44501(c) of title 49, United States Code, the following research and development activities are authorized:

49 USC 44501  
note.

- (1) Runway Incursion Reduction.
- (2) System Capacity, Planning, and Improvement.
- (3) Operations Concept Validation.
- (4) NAS Weather Requirements.
- (5) Airspace Management Program.
- (6) NextGen—Air Traffic Control/Technical Operations Human Factors.
- (7) NextGen—Environment and Energy—Environmental Management System and Advanced Noise and Emissions Reduction.
- (8) NextGen—New Air Traffic Management Requirements.
- (9) NextGen—Operations Concept Validation—Validation Modeling.
- (10) NextGen—System Safety Management Transformation.
- (11) NextGen—Wake Turbulence—Recategorization.
- (12) NextGen—Operational Assessments.
- (13) NextGen—Staffed NextGen Towers.
- (14) Center for Advanced Aviation System Development.
- (15) Airports Technology Research Program—Capacity.
- (16) Airports Technology Research Program—Safety.
- (17) Airports Technology Research Program—Environment.
- (18) Airport Cooperative Research—Capacity.
- (19) Airport Cooperative Research—Environment.
- (20) Airport Cooperative Research—Safety.

49 USC 40101  
note.

#### **SEC. 902. DEFINITIONS.**

In this title, the following definitions apply:

- (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the FAA.
- (2) FAA.—The term “FAA” means the Federal Aviation Administration.
- (3) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the same meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).
- (4) NASA.—The term “NASA” means the National Aeronautics and Space Administration.
- (5) NOAA.—The term “NOAA” means the National Oceanic and Atmospheric Administration.

#### **SEC. 903. UNMANNED AIRCRAFT SYSTEMS.**

(a) RESEARCH INITIATIVE.—Section 44504(b) is amended—

- (1) in paragraph (6) by striking “and” after the semicolon;
- (2) in paragraph (7) by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:

“(8) in conjunction with other Federal agencies, as appropriate, to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, and processes for use in all classes of unmanned aircraft systems that could result in a catastrophic failure of the unmanned aircraft that would endanger other aircraft in the national airspace system.”.

(b) SYSTEMS, PROCEDURES, FACILITIES, AND DEVICES.—Section 44505(b) is amended—

- (1) in paragraph (4) by striking “and” after the semicolon;



(2) in paragraph (5)(C) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(6) to develop a better understanding of the relationship between human factors and unmanned aircraft system safety; and

“(7) to develop dynamic simulation models for integrating all classes of unmanned aircraft systems into the national airspace system without any degradation of existing levels of safety for all national airspace system users.”.

#### **SEC. 904. RESEARCH PROGRAM ON RUNWAYS.**

49 USC 44505  
note.

Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator shall continue to carry out a research program under which the Administrator may make grants to and enter into cooperative agreements with institutions of higher education and pavement research organizations for research and technology demonstrations related to—

(1) the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements; and

(2) engineered material restraining systems for runways at both general aviation airports and airports with commercial air carrier operations.

#### **SEC. 905. RESEARCH ON DESIGN FOR CERTIFICATION.**

Section 44505 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d) RESEARCH ON DESIGN FOR CERTIFICATION.—

“(1) RESEARCH.—Not later than 1 year after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator shall conduct research on methods and procedures to improve both confidence in and the timeliness of certification of new technologies for their introduction into the national airspace system.

Deadline.

“(2) RESEARCH PLAN.—Not later than 6 months after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator shall develop a plan for the research under paragraph (1) that contains objectives, proposed tasks, milestones, and a 5-year budgetary profile.

“(3) REVIEW.—The Administrator shall enter into an arrangement with the National Research Council to conduct an independent review of the plan developed under paragraph (2) and shall provide the results of that review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 18 months after the date of enactment of the FAA Modernization and Reform Act of 2012.”.

#### **SEC. 906. AIRPORT COOPERATIVE RESEARCH PROGRAM.**

Section 44511(f) is amended—

(1) in paragraph (1) by striking “establish a 4-year pilot” and inserting “maintain an”; and

(2) in paragraph (4)—

Deadline.

(A) by striking “Not later than 6 months after the expiration of the program under this subsection,” and inserting “Not later than September 30, 2012;” and

(B) by striking “program, including recommendations as to the need for establishing a permanent airport cooperative research program” and inserting “program”.

**SEC. 907. CENTERS OF EXCELLENCE.**

(a) GOVERNMENT’S SHARE OF COSTS.—Section 44513(f) is amended to read as follows:

“(f) GOVERNMENT’S SHARE OF COSTS.—The United States Government’s share of establishing and operating a center and all related research activities that grant recipients carry out shall not exceed 50 percent of the costs, except that the Administrator may increase such share to a maximum of 75 percent of the costs for a fiscal year if the Administrator determines that a center would be unable to carry out the authorized activities described in this section without additional funds.”.

(b) ANNUAL REPORT.—Section 44513 is amended by adding at the end the following:

“(h) ANNUAL REPORT.—The Administrator shall transmit annually to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at the time of the President’s budget request a report that lists—

“(1) the research projects that have been initiated by each center in the preceding year;

“(2) the amount of funding for each research project and the funding source;

“(3) the institutions participating in each research project and their shares of the overall funding for each research project; and

“(4) the level of cost-sharing for each research project.”.

49 USC 44513  
note.

**SEC. 908. CENTER OF EXCELLENCE FOR AVIATION HUMAN RESOURCE RESEARCH.**

(a) ESTABLISHMENT.—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator may establish a center of excellence to conduct research on—

(1) human performance in the air transportation environment, including among air transportation personnel such as air traffic controllers, pilots, and technicians; and

(2) any other aviation human resource issue pertinent to developing and maintaining a safe and efficient air transportation system.

(b) ACTIVITIES.—Activities conducted under this section may include the following:

(1) Research, development, and evaluation of training programs for air traffic controllers, aviation safety inspectors, airway transportation safety specialists, and engineers.

(2) Research and development of best practices for recruitment of individuals into the aviation field for mission critical positions.

(3) Research, in consultation with other relevant Federal agencies, to develop a baseline of general aviation employment statistics and an analysis of future needs in the aviation field.

(4) Research and the development of a comprehensive assessment of the airframe and power plant technician certification process and its effect on employment trends.

(5) Evaluation of aviation maintenance technician school environments.

(6) Research and an assessment of the ability to develop training programs to allow for the transition of recently unemployed and highly skilled mechanics into the aviation field.

**SEC. 909. INTERAGENCY RESEARCH ON AVIATION AND THE ENVIRONMENT.**

49 USC 40101  
note.

(a) **IN GENERAL.**—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator, in coordination with NASA and after consultation with other relevant agencies, may maintain a research program to assess the potential effect of aviation activities on the environment and, if warranted, to evaluate approaches to address any such effect.

Consultation.

(b) **RESEARCH PLAN.**—

(1) **IN GENERAL.**—The Administrator, in coordination with NASA and after consultation with other relevant agencies, shall jointly develop a plan to carry out the research under subsection (a).

(2) **CONTENTS.**—The plan shall contain an inventory of current interagency research being undertaken in this area, future research objectives, proposed tasks, milestones, and a 5-year budgetary profile.

(3) **REQUIREMENTS.**—The plan—

Deadline.

(A) shall be completed not later than 1 year after the date of enactment of this Act;

(B) shall be submitted to Congress for review; and

Submission.

(C) shall be updated, as appropriate, every 3 years after the initial submission.

Updates.

**SEC. 910. AVIATION FUEL RESEARCH AND DEVELOPMENT PROGRAM.**

49 USC 44504  
note.

(a) **IN GENERAL.**—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator, in coordination with the Administrator of NASA, shall continue research and development activities into the qualification of an unleaded aviation fuel and safe transition to this fuel for the fleet of piston engine aircraft.

(b) **REQUIREMENTS.**—In carrying out the program under subsection (a), the Administrator shall, at a minimum—

(1) not later than 120 days after the date of enactment of this Act, develop a research and development plan containing the specific research and development objectives, including consideration of aviation safety, technical feasibility, and other relevant factors, and the anticipated timetable for achieving the objectives;

Deadline.

(2) assess the methods and processes by which the FAA and industry may expeditiously certify and approve new aircraft and recertify existing aircraft with respect to unleaded aviation fuel;

Assessment.

(3) assess technologies that modify existing piston engine aircraft to enable safe operation of the aircraft using unleaded aviation fuel and determine the resources necessary to certify those technologies; and

Assessment.

Recommendations.

(4) develop recommendations for appropriate policies and guidelines to facilitate a transition to unleaded aviation fuel for piston engine aircraft.

(c) COLLABORATION.—In carrying out the program under subsection (a), the Administrator shall collaborate with—

(1) industry groups representing aviation consumers, manufacturers, and fuel producers and distributors; and

(2) other appropriate Federal agencies.

(d) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the plan, information obtained, and policies and guidelines developed pursuant to subsection (b).

49 USC 44504 note.

**SEC. 911. RESEARCH PROGRAM ON ALTERNATIVE JET FUEL TECHNOLOGY FOR CIVIL AIRCRAFT.**

(a) IN GENERAL.—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator shall establish a research program to assist in the development and qualification of jet fuel from alternative sources (such as natural gas, biomass, ethanol, butanol, and hydrogen) and other renewable sources.

(b) AUTHORITY TO MAKE GRANTS.—The Administrator shall carry out the program through the use of grants or other measures authorized under section 106(1)(6) of such title, including reimbursable agreements with other Federal agencies.

(c) PARTICIPATION IN PROGRAM.—

(1) PARTICIPATION OF EDUCATIONAL AND RESEARCH INSTITUTIONS.—In carrying out the program, the Administrator shall include participation by—

(A) educational and research institutions that have existing facilities and leverage private sector partnerships; and

(B) consortia with experience across the supply chain, including with research, feedstock development and production, small-scale development, testing, and technology evaluation related to the creation, processing, production, and transportation of alternative aviation fuel.

(2) USE OF NASA FACILITIES.—In carrying out the program, the Administrator shall consider utilizing the existing capacity in aeronautics research at Langley Research Center, Glenn Research Center, and other appropriate facilities of NASA.

(d) DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator may designate an institution described in subsection (c)(1)(A) as a Center of Excellence for Alternative Jet-Fuel Research in Civil Aircraft.

(2) EFFECT OF DESIGNATION.—The center designated under paragraph (1) shall become, upon its designation—

(A) a member of the Consortium for Continuous Low Energy, Emissions, and Noise of the FAA; and

(B) part of a Joint Center of Excellence with the Partnership for Air Transportation Noise and Emission Reduction FAA Center of Excellence.

**SEC. 912. REVIEW OF FAA'S ENERGY-RELATED AND ENVIRONMENT-RELATED RESEARCH PROGRAMS.**

(a) **REVIEW.**—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator shall enter into an arrangement for an independent external review of FAA energy-related and environment-related research programs. The review shall assess whether—

- (1) the programs have well-defined, prioritized, and appropriate research objectives;
- (2) the programs are properly coordinated with the energy-related and environment-related research programs at NASA, NOAA, and other relevant agencies;
- (3) the programs have allocated appropriate resources to each of the research objectives; and
- (4) there exist suitable mechanisms for transitioning the research results into the FAA's operational technologies and procedures and certification activities.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate containing the results of the review.

**SEC. 913. REVIEW OF FAA'S AVIATION SAFETY-RELATED RESEARCH PROGRAMS.**

(a) **REVIEW.**—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator shall enter into an arrangement for an independent external review of the FAA's aviation safety-related research programs. The review shall assess whether—

- (1) the programs have well-defined, prioritized, and appropriate research objectives;
- (2) the programs are properly coordinated with the safety research programs of NASA and other relevant Federal agencies;
- (3) the programs have allocated appropriate resources to each of the research objectives;
- (4) the programs should include a determination about whether a survey of participants across the air transportation system is an appropriate way to study safety risks within such system; and
- (5) there exist suitable mechanisms for transitioning the research results from the programs into the FAA's operational technologies and procedures and certification activities in a timely manner.

(b) **AVIATION SAFETY-RELATED RESEARCH PROGRAMS TO BE ASSESSED.**—The FAA aviation safety-related research programs to be assessed under the review shall include, at a minimum, the following:

- (1) Air traffic control/technical operations human factors.
- (2) Runway incursion reduction.
- (3) Flightdeck/maintenance system integration human factors.
- (4) Airports technology research—safety.
- (5) Airport Cooperative Research Program— safety.
- (6) Weather Program.
- (7) Atmospheric hazards/digital system safety.

- (8) Fire research and safety.
- (9) Propulsion and fuel systems.
- (10) Advanced materials/structural safety.
- (11) Aging aircraft.
- (12) Aircraft catastrophic failure prevention research.
- (13) Aeromedical research.
- (14) Aviation safety risk analysis.
- (15) Unmanned aircraft systems research.

(c) **REPORT.**—Not later than 14 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review.

49 USC 44504  
note.

**SEC. 914. PRODUCTION OF CLEAN COAL FUEL TECHNOLOGY FOR CIVILIAN AIRCRAFT.**

(a) **ESTABLISHMENT OF RESEARCH PROGRAM.**—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator shall establish a research program related to developing jet fuel from clean coal.

(b) **AUTHORITY TO MAKE GRANTS.**—The Administrator shall carry out the program through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies.

(c) **PARTICIPATION IN PROGRAM.**—In carrying out the program, the Administrator shall include participation by educational and research institutions that have existing facilities and experience in the development and deployment of technology that processes coal into aviation fuel.

Deadline.

(d) **DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.**—Not later than 180 days after the date of enactment of this Act, the Administrator may designate an institution described in subsection (c) as a Center of Excellence for Coal-to-Jet-Fuel Research.

49 USC 44505  
note.

**SEC. 915. WAKE TURBULENCE, VOLCANIC ASH, AND WEATHER RESEARCH.**

Deadline.

Not later than 60 days after the date of enactment of this Act, the Administrator shall—

Evaluation.

(1) initiate an evaluation of proposals related to research on the nature of wake vortexes that would increase national airspace system capacity by reducing existing spacing requirements between aircraft of all sizes;

(2) begin implementation of a system to improve volcanic ash avoidance options for aircraft, including the development of a volcanic ash warning and notification system for aviation; and

(3) coordinate with NOAA, NASA, and other appropriate Federal agencies to conduct research to reduce the hazards presented to commercial aviation related to—

(A) ground de-icing and anti-icing, ice pellets, and freezing drizzle;

(B) oceanic weather, including convective weather;

(C) en route turbulence prediction and detection; and

(D) all hazards during oceanic operations, where commercial traffic is high and only rudimentary satellite sensing is available.

**SEC. 916. REAUTHORIZATION OF CENTER OF EXCELLENCE IN APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.** 49 USC 44504 note.

Section 708(b) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44504 note) is amended by striking “for fiscal year 2004” and inserting “for each of fiscal years 2012 through 2015”.

**SEC. 917. RESEARCH AND DEVELOPMENT OF EQUIPMENT TO CLEAN AND MONITOR THE ENGINE AND APU BLEED AIR SUPPLIED ON PRESSURIZED AIRCRAFT.** 49 USC 44504 note.

(a) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, the Administrator, to the extent practicable, shall implement a research program for the identification or development of appropriate and effective air cleaning technology and sensor technology for the engine and auxiliary power unit bleed air supplied to the passenger cabin and flight deck of a pressurized aircraft. Deadline.

(b) **TECHNOLOGY REQUIREMENTS.**—The technology referred to in subsection (a) shall have the capacity, at a minimum—

(1) to remove oil-based contaminants from the bleed air supplied to the passenger cabin and flight deck; and

(2) to detect and record oil-based contaminants in the portion of the total air supplied to the passenger cabin and flight deck from bleed air.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives a report on the results of the research and development work carried out under this section.

**SEC. 918. EXPERT REVIEW OF ENTERPRISE ARCHITECTURE FOR NEXTGEN.**

(a) **REVIEW.**—The Administrator shall enter into an arrangement for an independent external review of the enterprise architecture for the Next Generation Air Transportation System.

(b) **CONTENTS.**—At a minimum, the review to be conducted under subsection (a) shall—

(1) highlight the technical activities, including human-system design, organizational design, and other safety and human factor aspects of the system, that will be necessary to successfully transition current and planned modernization programs to the future system envisioned by the Joint Planning and Development Office of the FAA;

(2) assess technical, cost, and schedule risk for the software development that will be necessary to achieve the expected benefits from a highly automated air traffic management system and the implications for ongoing modernization projects; and

(3) determine how risks with automation efforts for the Next Generation Air Transportation System can be mitigated based on the experiences of other public or private entities in developing complex, software-intensive systems.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on

Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the review conducted pursuant to subsection (a).

**SEC. 919. AIRPORT SUSTAINABILITY PLANNING WORKING GROUP.**

Deadline.  
Statement.  
Study.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall prepare and submit a problem statement to the Transportation Research Board for the purpose of initiating a study under the Airport Cooperative Research Program on airport sustainability practices.

(b) **FUNCTIONS.**—The purpose of the study shall be—

(1) to examine and develop best airport practices and metrics for the sustainable design, construction, planning, maintenance, and operation of an airport;

(2) to examine potential standards for a rating system based on the best sustainable practices and metrics;

(3) to examine potential standards for a voluntary airport rating process based on the best sustainable practices, metrics, and ratings; and

(4) to examine and develop recommendations for future actions with regard to sustainability.

(c) **REPORT.**—Not later than 18 months after the date of initiation of the study, a report on the study shall be submitted to the Administrator and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

## **TITLE X—NATIONAL MEDIATION BOARD**

**SEC. 1001. RULEMAKING AUTHORITY.**

Title I of the Railway Labor Act (45 U.S.C. 151 et seq.) is amended by inserting after section 10 the following:

45 USC 160a.

**“SEC. 10A. RULES AND REGULATIONS.**

“(a) **IN GENERAL.**—The Mediation Board shall have the authority from time to time to make, amend, and rescind, in the manner prescribed by section 553 of title 5, United States Code, and after opportunity for a public hearing, such rules and regulations as may be necessary to carry out the provisions of this Act.

“(b) **APPLICATION.**—The requirements of subsection (a) shall not apply to any rule or proposed rule to which the third sentence of section 553(b) of title 5, United States Code, applies.”.

**SEC. 1002. RUNOFF ELECTION RULES.**

Paragraph Ninth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended by inserting after the fourth sentence the following: “In any such election for which there are 3 or more options (including the option of not being represented by any labor organization) on the ballot and no such option receives a majority of the valid votes cast, the Mediation Board shall arrange for a second election between the options receiving the largest and the second largest number of votes.”.



**SEC. 1003. BARGAINING REPRESENTATIVE CERTIFICATION.**

Section 2 of the Railway Labor Act (45 U.S.C. 152) is amended by adding at the end the following:

“Twelfth. Showing of interest for representation elections. The Mediation Board, upon receipt of an application requesting that an organization or individual be certified as the representative of any craft or class of employees, shall not direct an election or use any other method to determine who shall be the representative of such craft or class unless the Mediation Board determines that the application is supported by a showing of interest from not less than 50 percent of the employees in the craft or class.”.

**SEC. 1004. OVERSIGHT.**

Title I of the Railway Labor Act (45 U.S.C. 151 et seq.) is amended by adding at the end the following:

**“SEC. 15. EVALUATION AND AUDIT OF MEDIATION BOARD.**

45 USC 165.

“(a) EVALUATION AND AUDIT OF MEDIATION BOARD.—

“(1) IN GENERAL.—In order to promote economy, efficiency, and effectiveness in the administration of the programs, operations, and activities of the Mediation Board, the Comptroller General of the United States shall evaluate and audit the programs and expenditures of the Mediation Board. Such an evaluation and audit shall be conducted not less frequently than every 2 years, but may be conducted as determined necessary by the Comptroller General or the appropriate congressional committees.

Time period.

“(2) RESPONSIBILITY OF COMPTROLLER GENERAL.—In carrying out the evaluation and audit required under paragraph (1), the Comptroller General shall evaluate and audit the programs, operations, and activities of the Mediation Board, including, at a minimum—

“(A) information management and security, including privacy protection of personally identifiable information;

“(B) resource management;

“(C) workforce development;

“(D) procurement and contracting planning, practices, and policies;

“(E) the extent to which the Mediation Board follows leading practices in selected management areas; and

“(F) the processes the Mediation Board follows to address challenges in—

“(i) initial investigations of applications requesting that an organization or individual be certified as the representative of any craft or class of employees;

“(ii) determining and certifying representatives of employees; and

“(iii) ensuring that the process occurs without interference, influence, or coercion.

“(b) IMMEDIATE REVIEW OF CERTIFICATION PROCEDURES.—Not later than 180 days after the date of enactment of this section, the Comptroller General shall review the processes applied by the Mediation Board to certify or decertify representation of employees by a labor organization and make recommendations to the Board and appropriate congressional committees regarding actions that may be taken by the Board or Congress to ensure that the processes

Deadline.  
Recommendations.

are fair and reasonable for all parties. Such review shall be conducted separately from any evaluation and audit under subsection (a) and shall include, at a minimum—

“(1) an evaluation of the existing processes and changes to such processes that have occurred since the establishment of the Mediation Board and whether those changes are consistent with congressional intent; and

“(2) a description of the extent to which such processes are consistent with similar processes applied to other Federal or State agencies with jurisdiction over labor relations, and an evaluation of any justifications for any discrepancies between the processes of the Mediation Board and such similar Federal or State processes.

“(c) APPROPRIATE CONGRESSIONAL COMMITTEE DEFINED.—In this section, the term ‘appropriate congressional committees’ means the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.”.

## **TITLE XI—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES**

### **SEC. 1100. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

### **SEC. 1101. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.**

26 USC 4081.

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) is amended by striking “February 17, 2012” and inserting “September 30, 2015”.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) is amended by striking “February 17, 2012” and inserting “September 30, 2015”.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking “February 17, 2012” and inserting “September 30, 2015”.

26 USC 4081  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on February 18, 2012.

### **SEC. 1102. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.**

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended—

(1) by striking “February 18, 2012” in the matter preceding subparagraph (A) and inserting “October 1, 2015”, and

(2) by striking the semicolon at the end of subparagraph (A) and inserting “or the FAA Modernization and Reform Act of 2012;”.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) is amended by striking “February 18, 2012” and inserting “October 1, 2015”. 26 USC 9502.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on February 18, 2012. 26 USC 9502 note.

**SEC. 1103. TREATMENT OF FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.**

(a) FUEL SURTAX.—

(1) IN GENERAL.—Subchapter B of chapter 31 is amended by adding at the end the following new section:

**“SEC. 4043. SURTAX ON FUEL USED IN AIRCRAFT PART OF A FRACTIONAL OWNERSHIP PROGRAM.** 26 USC 4043.

“(a) IN GENERAL.—There is hereby imposed a tax on any liquid used (during any calendar quarter by any person) in a fractional program aircraft as fuel—

“(1) for the transportation of a qualified fractional owner with respect to the fractional ownership aircraft program of which such aircraft is a part, or

“(2) with respect to the use of such aircraft on account of such a qualified fractional owner, including use in deadhead service.

“(b) AMOUNT OF TAX.—The rate of tax imposed by subsection (a) is 14.1 cents per gallon.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) FRACTIONAL PROGRAM AIRCRAFT.—The term ‘fractional program aircraft’ means, with respect to any fractional ownership aircraft program, any aircraft which—

“(A) is listed as a fractional program aircraft in the management specifications issued to the manager of such program by the Federal Aviation Administration under subpart K of part 91 of title 14, Code of Federal Regulations, and

“(B) is registered in the United States.

“(2) FRACTIONAL OWNERSHIP AIRCRAFT PROGRAM.—The term ‘fractional ownership aircraft program’ means a program under which—

“(A) a single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners,

“(B) there are 1 or more fractional owners per fractional program aircraft, with at least 1 fractional program aircraft having more than 1 owner,

“(C) with respect to at least 2 fractional program aircraft, none of the ownership interests in such aircraft are—

“(i) less than the minimum fractional ownership interest, or

“(ii) held by the program manager referred to in subparagraph (A),

“(D) there exists a dry-lease aircraft exchange arrangement among all of the fractional owners, and

“(E) there are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

“(3) DEFINITIONS RELATED TO FRACTIONAL OWNERSHIP INTERESTS.—

“(A) QUALIFIED FRACTIONAL OWNER.—The term ‘qualified fractional owner’ means any fractional owner which has a minimum fractional ownership interest in at least one fractional program aircraft.

“(B) MINIMUM FRACTIONAL OWNERSHIP INTEREST.—The term ‘minimum fractional ownership interest’ means, with respect to each type of aircraft—

“(i) a fractional ownership interest equal to or greater than 1/16 of at least 1 subsonic, fixed wing, or powered lift aircraft, or

“(ii) a fractional ownership interest equal to or greater than 1/32 of at least 1 rotorcraft aircraft.

“(C) FRACTIONAL OWNERSHIP INTEREST.—The term ‘fractional ownership interest’ means—

“(i) the ownership of an interest in a fractional program aircraft,

“(ii) the holding of a multi-year leasehold interest in a fractional program aircraft, or

“(iii) the holding of a multi-year leasehold interest which is convertible into an ownership interest in a fractional program aircraft.

“(D) FRACTIONAL OWNER.—The term ‘fractional owner’ means any person owning any interest (including the entire interest) in a fractional program aircraft.

“(4) DRY-LEASE AIRCRAFT EXCHANGE.—The term ‘dry-lease aircraft exchange’ means an agreement, documented by the written program agreements, under which the fractional program aircraft are available, on an as needed basis without crew, to each fractional owner.

“(5) SPECIAL RULE RELATING TO USE OF FRACTIONAL PROGRAM AIRCRAFT FOR FLIGHT DEMONSTRATION, MAINTENANCE, OR TRAINING.—For purposes of subsection (a), a fractional program aircraft shall not be considered to be used for the transportation of a qualified fractional owner, or on account of such qualified fractional owner, when it is used for flight demonstration, maintenance, or crew training.

“(6) SPECIAL RULE RELATING TO DEADHEAD SERVICE.—A fractional program aircraft shall not be considered to be used on account of a qualified fractional owner when it is used in deadhead service and a person other than a qualified fractional owner is separately charged for such service.

“(d) TERMINATION.—This section shall not apply to liquids used as a fuel in an aircraft after September 30, 2021.”.

26 USC 4082.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 4082 is amended by inserting “(other than kerosene with respect to which tax is imposed under section 4043)” after “In the case of kerosene”.

(3) TRANSFER OF REVENUES TO AIRPORT AND AIRWAY TRUST FUND.—Paragraph (1) of section 9502(b) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program),”.

(4) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 31 is amended by adding at the end the following new item:

“Sec. 4043. Surtax on fuel used in aircraft part of a fractional ownership program.”.

(b) FRACTIONAL OWNERSHIP PROGRAMS TREATED AS NON-COMMERCIAL AVIATION.—Subsection (b) of section 4083 is amended by adding at the end the following new sentence: “Such term shall not include the use of any aircraft before October 1, 2015, if tax is imposed under section 4043 with respect to the fuel consumed in such use or if no tax is imposed on such use under section 4043 by reason of subsection (c)(5) thereof.”.

26 USC 4083.  
Effective date.

(c) EXEMPTION FROM TAX ON TRANSPORTATION OF PERSONS.—Section 4261, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be imposed by this section or section 4271 on any air transportation if tax is imposed under section 4043 with respect to the fuel used in such transportation. This subsection shall not apply after September 30, 2015.”.

Termination  
date.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to fuel used after March 31, 2012.

26 USC 4043  
note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to uses of aircraft after March 31, 2012.

26 USC 4083  
note.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable transportation provided after March 31, 2012.

26 USC 4261  
note.

#### SEC. 1104. TRANSPARENCY IN PASSENGER TAX DISCLOSURES.

(a) IN GENERAL.—Section 7275 is amended—

(1) by redesignating subsection (c) as subsection (d),  
(2) by striking “subsection (a) or (b)” in subsection (d), as so redesignated, and inserting “subsection (a), (b), or (c)”, and

(3) by inserting after subsection (b) the following new subsection:

“(c) NON-TAX CHARGES.—

“(1) IN GENERAL.—In the case of transportation by air for which disclosure on the ticket or advertising for such transportation of the amounts paid for passenger taxes is required by subsection (a)(2) or (b)(1)(B), if such amounts are separately disclosed, it shall be unlawful for the disclosure of such amounts to include any amounts not attributable to such taxes.

“(2) INCLUSION IN TRANSPORTATION COST.—Nothing in this subsection shall prohibit the inclusion of amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261 in the disclosure of the amount paid for transportation as required by subsection (a)(1) or (b)(1)(A), or in a separate disclosure of amounts not attributable to such taxes.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after March 31, 2012.

26 USC 7275  
note.

**SEC. 1105. TAX-EXEMPT BOND FINANCING FOR FIXED-WING EMERGENCY MEDICAL AIRCRAFT.**

26 USC 147. (a) **IN GENERAL.**—Subsection (e) of section 147 is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to any fixed-wing aircraft equipped for, and exclusively dedicated to providing, acute care emergency medical services (within the meaning of section 4261(g)(2)).”.

26 USC 147 note. (b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

26 USC 408 note. **SEC. 1106. ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE CARRIER BANKRUPTCY.**

Time period. (a) **GENERAL RULES.**—

(1) **ROLLOVER OF AIRLINE PAYMENT AMOUNT.**—If a qualified airline employee receives any airline payment amount and transfers any portion of such amount to a traditional IRA within 180 days of receipt of such amount (or, if later, within 180 days of the date of the enactment of this Act), then such amount (to the extent so transferred) shall be treated as a rollover contribution described in section 402(c) of the Internal Revenue Code of 1986. A qualified airline employee making such a transfer may exclude from gross income the amount transferred, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier.

(2) **TRANSFER OF AMOUNTS ATTRIBUTABLE TO AIRLINE PAYMENT AMOUNT FOLLOWING ROLLOVER TO ROTH IRA.**—A qualified airline employee who has contributed an airline payment amount to a Roth IRA that is treated as a qualified rollover contribution pursuant to section 125 of the Worker, Retiree, and Employer Recovery Act of 2008, may transfer to a traditional IRA, in a trustee-to-trustee transfer, all or any part of the contribution (together with any net income allocable to such contribution), and the transfer to the traditional IRA will be deemed to have been made at the time of the rollover to the Roth IRA, if such transfer is made within 180 days of the date of the enactment of this Act. A qualified airline employee making such a transfer may exclude from gross income the airline payment amount previously rolled over to the Roth IRA, to the extent an amount attributable to the previous rollover was transferred to a traditional IRA, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier. No amount so transferred to a traditional IRA may be treated as a qualified rollover contribution with respect to a Roth IRA within the 5-taxable year period beginning with the taxable year in which such transfer was made.

(3) **EXTENSION OF TIME TO FILE CLAIM FOR REFUND.**—A qualified airline employee who excludes an amount from gross income in a prior taxable year under paragraph (1) or (2) may reflect such exclusion in a claim for refund filed within the period of limitation under section 6511(a) of such Code (or, if later, April 15, 2013).

(4) **OVERALL LIMITATION ON AMOUNTS TRANSFERRED TO TRADITIONAL IRAS.**—

(A) IN GENERAL.—The aggregate amount of airline payment amounts which may be transferred to 1 or more traditional IRAs under paragraphs (1) and (2) with respect to any qualified employee for any taxable year shall not exceed the excess (if any) of—

(i) 90 percent of the aggregate airline payment amounts received by the qualified airline employee during the taxable year and all preceding taxable years, over

(ii) the aggregate amount of such transfers to which paragraphs (1) and (2) applied for all preceding taxable years.

(B) SPECIAL RULES.—For purposes of applying the limitation under subparagraph (A)—

Applicability.

(i) any airline payment amount received by the surviving spouse of any qualified employee, and any amount transferred to a traditional IRA by such spouse under subsection (d), shall be treated as an amount received or transferred by the qualified employee, and

(ii) any amount transferred to a traditional IRA which is attributable to net income described in paragraph (2) shall not be taken into account.

(5) COVERED EXECUTIVES NOT ELIGIBLE TO MAKE TRANSFERS.—Paragraphs (1) and (2) shall not apply to any transfer by a qualified airline employee (or any transfer authorized under subsection (d) by a surviving spouse of the qualified airline employee) if at any time during the taxable year of the transfer or any preceding taxable year the qualified airline employee held a position described in subparagraph (A) or (B) of section 162(m)(3) with the commercial passenger airline carrier from whom the airline payment amount was received.

(b) TREATMENT OF AIRLINE PAYMENT AMOUNTS AND TRANSFERS FOR EMPLOYMENT TAXES.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, an airline payment amount shall not fail to be treated as a payment of wages by the commercial passenger airline carrier to the qualified airline employee in the taxable year of payment because such amount is excluded from the qualified airline employee's gross income under subsection (a).

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) AIRLINE PAYMENT AMOUNT.—

(A) IN GENERAL.—The term “airline payment amount” means any payment of any money or other property which is payable by a commercial passenger airline carrier to a qualified airline employee—

(i) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007, and

(ii) in respect of the qualified airline employee's interest in a bankruptcy claim against the carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount.

The amount of such payment shall be determined without regard to any requirement to deduct and withhold tax

from such payment under sections 3102(a) of the Internal Revenue Code of 1986 and 3402(a) of such Code.

(B) EXCEPTION.—An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits.

(2) QUALIFIED AIRLINE EMPLOYEE.—The term “qualified airline employee” means an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier which—

(A) is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code, and

(B) was terminated or became subject to the restrictions contained in paragraphs (2) and (3) of section 402(b) of the Pension Protection Act of 2006.

(3) TRADITIONAL IRA.—The term “traditional IRA” means an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) which is not a Roth IRA.

(4) ROTH IRA.—The term “Roth IRA” has the meaning given such term by section 408A(b) of such Code.

(d) SURVIVING SPOUSE.—If a qualified airline employee died after receiving an airline payment amount, or if an airline payment amount was paid to the surviving spouse of a qualified airline employee in respect of the qualified airline employee, the surviving spouse of the qualified airline employee may take all actions permitted under section 125 of the Worker, Retiree and Employer Recovery Act of 2008, or under this section, to the same extent that the qualified airline employee could have done had the qualified airline employee survived.

(e) EFFECTIVE DATE.—This section shall apply to transfers made after the date of the enactment of this Act with respect to airline payment amounts paid before, on, or after such date.

Applicability.  
26 USC 4281  
note.

#### **SEC. 1107. TERMINATION OF EXEMPTION FOR SMALL JET AIRCRAFT ON NONESTABLISHED LINES.**

26 USC 4281.

(a) IN GENERAL.—The first sentence of section 4281 is amended by inserting “or when such aircraft is a jet aircraft” after “an established line”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable transportation provided after March 31, 2012.

#### **SEC. 1108. MODIFICATION OF CONTROL DEFINITION FOR PURPOSES OF SECTION 249.**

(a) IN GENERAL.—Section 249(a) is amended by striking “, or a corporation in control of, or controlled by,” and inserting “, or a corporation in the same parent-subsidiary controlled group (within the meaning of section 1563(a)(1) as”.

(b) CONFORMING AMENDMENT.—Section 249(b) is amended—  
(1) by striking all that precedes “is the issue price” and inserting:

“(b) ADJUSTED ISSUE PRICE.—For purposes of subsection (a), the adjusted issue price”, and

(2) by striking paragraph (2).

26 USC 249 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repurchases after the date of the enactment of this Act.



## **TITLE XII—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010**

### **SEC. 1201. COMPLIANCE PROVISION.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

Approved February 14, 2012.

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#### **LEGISLATIVE HISTORY—H.R. 658 (S. 223):**

**HOUSE REPORTS:** Nos. 112–29, Pts. 1 and 2 (Comm. on Transportation and Infrastructure) and 112–381 (Comm. of Conference).

#### **CONGRESSIONAL RECORD:**

- Vol. 157 (2011): Mar. 31, Apr. 1, considered and passed House.  
Apr. 7, considered and passed Senate, amended, in lieu of S. 223.
- Vol. 158 (2012): Feb. 3, House agreed to conference report.  
Feb. 6, Senate agreed to conference report.



Public Law 112–96  
112th Congress

An Act

Feb. 22, 2012

[H.R. 3630]

Middle Class Tax  
Relief and Job  
Creation Act  
of 2012.  
26 USC 1 note.

To provide incentives for the creation of jobs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Middle Class Tax Relief and Job Creation Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—EXTENSION OF PAYROLL TAX REDUCTION**

Sec. 1001. Extension of payroll tax reduction.

**TITLE II—UNEMPLOYMENT BENEFIT CONTINUATION AND PROGRAM  
IMPROVEMENT**

Sec. 2001. Short title.

**Subtitle A—Reforms of Unemployment Compensation to Promote Work and Job  
Creation**

Sec. 2101. Consistent job search requirements.

Sec. 2102. State flexibility to promote the reemployment of unemployed workers.

Sec. 2103. Improving program integrity by better recovery of overpayments.

Sec. 2104. Data exchange standardization for improved interoperability.

Sec. 2105. Drug testing of applicants.

**Subtitle B—Provisions Relating To Extended Benefits**

Sec. 2121. Short title.

Sec. 2122. Extension and modification of emergency unemployment compensation program.

Sec. 2123. Temporary extension of extended benefit provisions.

Sec. 2124. Additional extended unemployment benefits under the Railroad Unemployment Insurance Act.

**Subtitle C—Improving Reemployment Strategies Under the Emergency  
Unemployment Compensation Program**

Sec. 2141. Improved work search for the long-term unemployed.

Sec. 2142. Reemployment services and reemployment and eligibility assessment activities.

Sec. 2143. Promoting program integrity through better recovery of overpayments.

Sec. 2144. Restore State flexibility to improve unemployment program solvency.

**Subtitle D—Short-Time Compensation Program**

Sec. 2160. Short title.

Sec. 2161. Treatment of short-time compensation programs.

Sec. 2162. Temporary financing of short-time compensation payments in States with programs in law.

Sec. 2163. Temporary financing of short-time compensation agreements.

Sec. 2164. Grants for short-time compensation programs.

Sec. 2165. Assistance and guidance in implementing programs.

Sec. 2166. Reports.

Subtitle E—Self-Employment Assistance

Sec. 2181. State administration of self-employment assistance programs.

Sec. 2182. Grants for self-employment assistance programs.

Sec. 2183. Assistance and guidance in implementing self-employment assistance programs.

Sec. 2184. Definitions.

TITLE III—MEDICARE AND OTHER HEALTH PROVISIONS

Subtitle A—Medicare Extensions

Sec. 3001. Extension of MMA section 508 reclassifications.

Sec. 3002. Extension of outpatient hold harmless payments.

Sec. 3003. Physician payment update.

Sec. 3004. Work geographic adjustment.

Sec. 3005. Payment for outpatient therapy services.

Sec. 3006. Payment for technical component of certain physician pathology services.

Sec. 3007. Ambulance add-on payments.

Subtitle B—Other Health Provisions

Sec. 3101. Qualifying individual program.

Sec. 3102. Transitional medical assistance.

Subtitle C—Health Offsets

Sec. 3201. Reduction of bad debt treated as an allowable cost.

Sec. 3202. Rebase Medicare clinical laboratory payment rates.

Sec. 3203. Rebasing State DSH allotments for fiscal year 2021.

Sec. 3204. Technical correction to the disaster recovery FMAP provision.

Sec. 3205. Prevention and Public Health Fund.

TITLE IV—TANF EXTENSION

Sec. 4001. Short title.

Sec. 4002. Extension of program.

Sec. 4003. Data exchange standardization for improved interoperability.

Sec. 4004. Spending policies for assistance under State TANF programs.

Sec. 4005. Technical corrections.

TITLE V—FEDERAL EMPLOYEES RETIREMENT

Sec. 5001. Increase in contributions to Federal Employees' Retirement System for new employees.

Sec. 5002. Foreign Service Pension System.

Sec. 5003. Central Intelligence Agency Retirement and Disability System.

TITLE VI—PUBLIC SAFETY COMMUNICATIONS AND ELECTROMAGNETIC SPECTRUM AUCTIONS

Sec. 6001. Definitions.

Sec. 6002. Rule of construction.

Sec. 6003. Enforcement.

Sec. 6004. National security restrictions on use of funds and auction participation.

Subtitle A—Reallocation of Public Safety Spectrum

Sec. 6101. Reallocation of D block to public safety.

Sec. 6102. Flexible use of narrowband spectrum.

Sec. 6103. 470–512 MHz public safety spectrum.

Subtitle B—Governance of Public Safety Spectrum

Sec. 6201. Single public safety wireless network licensee.

Sec. 6202. Public safety broadband network.

Sec. 6203. Public Safety Interoperability Board.

Sec. 6204. Establishment of the First Responder Network Authority.

Sec. 6205. Advisory committees of the First Responder Network Authority.

Sec. 6206. Powers, duties, and responsibilities of the First Responder Network Authority.

Sec. 6207. Initial funding for the First Responder Network Authority.

Sec. 6208. Permanent self-funding; duty to assess and collect fees for network use.

Sec. 6209. Audit and report.

Sec. 6210. Annual report to Congress.

Sec. 6211. Public safety roaming and priority access.

- Sec. 6212. Prohibition on direct offering of commercial telecommunications service directly to consumers.
- Sec. 6213. Provision of technical assistance.

Subtitle C—Public Safety Commitments

- Sec. 6301. State and Local Implementation Fund.
- Sec. 6302. State and local implementation.
- Sec. 6303. Public safety wireless communications research and development.

Subtitle D—Spectrum Auction Authority

- Sec. 6401. Deadlines for auction of certain spectrum.
- Sec. 6402. General authority for incentive auctions.
- Sec. 6403. Special requirements for incentive auction of broadcast TV spectrum.
- Sec. 6404. Certain conditions on auction participation prohibited.
- Sec. 6405. Extension of auction authority.
- Sec. 6406. Unlicensed use in the 5 GHz band.
- Sec. 6407. Guard bands and unlicensed use.
- Sec. 6408. Study on receiver performance and spectrum efficiency.
- Sec. 6409. Wireless facilities deployment.
- Sec. 6410. Functional responsibility of NTIA to ensure efficient use of spectrum.
- Sec. 6411. System certification.
- Sec. 6412. Deployment of 11 GHz, 18 GHz, and 23 GHz microwave bands.
- Sec. 6413. Public Safety Trust Fund.
- Sec. 6414. Study on emergency communications by amateur radio and impediments to amateur radio communications.

Subtitle E—Next Generation 9–1–1 Advancement Act of 2012

- Sec. 6501. Short title.
- Sec. 6502. Definitions.
- Sec. 6503. Coordination of 9–1–1 implementation.
- Sec. 6504. Requirements for multi-line telephone systems.
- Sec. 6505. GAO study of State and local use of 9–1–1 service charges.
- Sec. 6506. Parity of protection for provision or use of Next Generation 9–1–1 services.
- Sec. 6507. Commission proceeding on autodialing.
- Sec. 6508. Report on costs for requirements and specifications of Next Generation 9–1–1 services.
- Sec. 6509. Commission recommendations for legal and statutory framework for Next Generation 9–1–1 services.

Subtitle F—Telecommunications Development Fund

- Sec. 6601. No additional Federal funds.
- Sec. 6602. Independence of the Fund.

Subtitle G—Federal Spectrum Relocation

- Sec. 6701. Relocation of and spectrum sharing by Federal Government stations.
- Sec. 6702. Spectrum Relocation Fund.
- Sec. 6703. National security and other sensitive information.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 7001. Repeal of certain shifts in the timing of corporate estimated tax payments.
- Sec. 7002. Repeal of requirement relating to time for remitting certain merchandise processing fees.
- Sec. 7003. Treatment for PAYGO purposes.

## TITLE I—EXTENSION OF PAYROLL TAX REDUCTION

### SEC. 1001. EXTENSION OF PAYROLL TAX REDUCTION.

(a) IN GENERAL.—Subsection (c) of section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (26 U.S.C. 1401 note) is amended to read as follows:

Definition.

“(c) PAYROLL TAX HOLIDAY PERIOD.—The term ‘payroll tax holiday period’ means calendar years 2011 and 2012.”.

(b) CONFORMING AMENDMENTS.—Section 601 of such Act (26 U.S.C. 1401 note) is amended by striking subsections (f) and (g).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to remuneration received, and taxable years beginning, after December 31, 2011. 26 USC 1401 note.

## **TITLE II—UNEMPLOYMENT BENEFIT CONTINUATION AND PROGRAM IM- PROVEMENT**

Extended  
Benefits,  
Reemployment,  
and Program  
Integrity  
Improvement  
Act.  
State and local  
governments.  
26 USC 1 note.

### **SEC. 2001. SHORT TITLE.**

This title may be cited as the “Extended Benefits, Reemployment, and Program Integrity Improvement Act”.

## **Subtitle A—Reforms of Unemployment Compensation to Promote Work and Job Creation**

### **SEC. 2101. CONSISTENT JOB SEARCH REQUIREMENTS.**

(a) **IN GENERAL.**—Section 303(a) of the Social Security Act is amended by adding at the end the following: 42 USC 503.

“(12) A requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act. 42 USC 503 note.

### **SEC. 2102. STATE FLEXIBILITY TO PROMOTE THE REEMPLOYMENT OF UNEMPLOYED WORKERS.**

Title III of the Social Security Act (42 U.S.C. 501 and following) is amended by adding at the end the following:

#### **“DEMONSTRATION PROJECTS**

“SEC. 305. (a) The Secretary of Labor may enter into agreements, with up to 10 States that submit an application described in subsection (b), for the purpose of allowing such States to conduct demonstration projects to test and evaluate measures designed— 42 USC 505.

“(1) to expedite the reemployment of individuals who have established a benefit year and are otherwise eligible to claim unemployment compensation under the State law of such State; or

“(2) to improve the effectiveness of a State in carrying out its State law with respect to reemployment.

“(b) The Governor of any State desiring to conduct a demonstration project under this section shall submit an application to the Secretary of Labor. Any such application shall include—

“(1) a general description of the proposed demonstration project, including the authority (under the laws of the State) for the measures to be tested, as well as the period of time during which such demonstration project would be conducted;

“(2) if a waiver under subsection (c) is requested, a statement describing the specific aspects of the project to which

the waiver would apply and the reasons why such waiver is needed;

“(3) a description of the goals and the expected programmatic outcomes of the demonstration project, including how the project would contribute to the objective described in subsection (a)(1), subsection (a)(2), or both;

“(4) assurances (accompanied by supporting analysis) that the demonstration project would operate for a period of at least 1 calendar year and not result in any increased net costs to the State’s account in the Unemployment Trust Fund;

“(5) a description of the manner in which the State—  
 “(A) will conduct an impact evaluation, using a methodology appropriate to determine the effects of the demonstration project, including on individual skill levels, earnings, and employment retention; and

“(B) will determine the extent to which the goals and outcomes described in paragraph (3) were achieved;

“(6) assurances that the State will provide any reports relating to the demonstration project, after its approval, as the Secretary of Labor may require; and

“(7) assurances that employment meets the State’s suitable work requirement and the requirements of section 3304(a)(5) of the Internal Revenue Code of 1986.

Waiver authority.

“(c) The Secretary of Labor may waive any of the requirements of section 3304(a)(4) of the Internal Revenue Code of 1986 or of paragraph (1) or (5) of section 303(a), to the extent and for the period the Secretary of Labor considers necessary to enable the State to carry out a demonstration project under this section.

“(d) A demonstration project under this section—

“(1) may be commenced any time after the date of enactment of this section;

Time period.

“(2) may not be approved for a period of time greater than 3 years; and

Deadline.

“(3) must be completed by not later than December 31, 2015.

“(e) Activities that may be pursued under a demonstration project under this section are limited to—

“(1) subsidies for employer-provided training, such as wage subsidies; and

“(2) direct disbursements to employers who hire individuals receiving unemployment compensation, not to exceed the weekly benefit amount for each such individual, to pay part of the cost of wages that exceed the unemployed individual’s prior benefit level.

Time periods.

“(f) The Secretary of Labor shall, in the case of any State for which an application is submitted under subsection (b)—

Notification.

“(1) notify the State as to whether such application has been approved or denied within 30 days after receipt of a complete application; and

Notice.

“(2) provide public notice of the decision within 10 days after providing notification to the State in accordance with paragraph (1).

Public notice under paragraph (2) may be provided through the Internet or other appropriate means. Any application under this section that has not been denied within the 30-day period described in paragraph (1) shall be deemed approved, and public notice of

any approval under this sentence shall be provided within 10 days thereafter.

“(g) The Secretary of Labor may terminate a demonstration project under this section if the Secretary determines that the State has violated the substantive terms or conditions of the project. Determination.

“(h) Funding certified under section 302(a) may be used for an approved demonstration project.”.

**SEC. 2103. IMPROVING PROGRAM INTEGRITY BY BETTER RECOVERY OF OVERPAYMENTS.**

(a) **USE OF UNEMPLOYMENT COMPENSATION TO REPAY OVERPAYMENTS.**—Section 3304(a)(4)(D) of the Internal Revenue Code of 1986 and section 303(g)(1) of the Social Security Act are each amended by striking “may” and inserting “shall”. 26 USC 3304; 42 USC 503.

(b) **USE OF UNEMPLOYMENT COMPENSATION TO REPAY FEDERAL ADDITIONAL COMPENSATION OVERPAYMENTS.**—Section 303(g)(3) of the Social Security Act is amended by inserting “Federal additional compensation,” after “trade adjustment allowances,”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act. 26 USC 3304 note.

**SEC. 2104. DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.**

(a) **IN GENERAL.**—Title IX of the Social Security Act is amended by adding at the end the following:

“DATA EXCHANGE STANDARDIZATION FOR IMPROVED  
INTEROPERABILITY

“Data Exchange Standards

“SEC. 911. (a)(1) The Secretary of Labor, in consultation with an interagency work group which shall be established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate a data exchange standard for any category of information required under title III, title XII, or this title. Establishment. Regulations. 42 USC 1111.

“(2) Data exchange standards designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.

“(3) In designating data exchange standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate—

“(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

“(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

“(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulations Council.

“Data Exchange Standards for Reporting

“(b)(1) The Secretary of Labor, in consultation with an inter-agency work group established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate data exchange standards to govern the reporting required under title III, title XII, or this title.

“(2) The data exchange standards required by paragraph (1) shall, to the extent practicable—

“(A) incorporate a widely accepted, nonproprietary, searchable, computer-readable format;

“(B) be consistent with and implement applicable accounting principles; and

“(C) be capable of being continually upgraded as necessary.

“(3) In designating reporting standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Markup Language.”.

42 USC 1111  
note.  
Time periods.

(b) EFFECTIVE DATES.—

(1) DATA EXCHANGE STANDARDS.—The Secretary of Labor shall issue a proposed rule under section 911(a)(1) of the Social Security Act (as added by subsection (a)) within 12 months after the date of the enactment of this section, and shall issue a final rule under such section 911(a)(1), after public comment, within 24 months after such date of enactment.

(2) DATA REPORTING STANDARDS.—The reporting standards required under section 911(b)(1) of such Act (as so added) shall become effective with respect to reports required in the first reporting period, after the effective date of the final rule referred to in paragraph (1) of this subsection, for which the authority for data collection and reporting is established or renewed under the Paperwork Reduction Act.

**SEC. 2105. DRUG TESTING OF APPLICANTS.**

42 USC 305.

Section 303 of the Social Security Act is amended by adding at the end the following:

“(1)(1) Nothing in this Act or any other provision of Federal law shall be considered to prevent a State from enacting legislation to provide for—

“(A) testing an applicant for unemployment compensation for the unlawful use of controlled substances as a condition for receiving such compensation, if such applicant—

“(i) was terminated from employment with the applicant’s most recent employer (as defined under the State law) because of the unlawful use of controlled substances; or

Regulations.

“(ii) is an individual for whom suitable work (as defined under the State law) is only available in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor); or

“(B) denying such compensation to such applicant on the basis of the result of the testing conducted by the State under legislation described in subparagraph (A).

Definitions.

“(2) For purposes of this subsection—

“(A) the term ‘unemployment compensation’ has the meaning given such term in subsection (d)(2)(A); and



“(B) the term ‘controlled substance’ has the meaning given such term in section 102 of the Controlled Substances Act (21 U.S.C. 802).”.

## Subtitle B—Provisions Relating To Extended Benefits

Unemployment  
Benefits  
Extension Act  
of 2012.

26 USC 1 note.

### SEC. 2121. SHORT TITLE.

This subtitle may be cited as the “Unemployment Benefits Extension Act of 2012”.

### SEC. 2122. EXTENSION AND MODIFICATION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) EXTENSION.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subsection (a)—

(A) by striking “Except as provided in subsection (b), an” and inserting “An”; and

(B) by striking “March 6, 2012” and inserting “January 2, 2013”; and

(2) by striking subsection (b) and inserting the following:

“(b) TERMINATION.—No compensation under this title shall be payable for any week subsequent to the last week described in subsection (a).”.

(b) MODIFICATIONS RELATING TO TRIGGERS.—

(1) FOR SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(c) of such Act is amended—

(A) in the subsection heading, by striking “SPECIAL RULE” and inserting “SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION”;

(B) in paragraph (1), by striking “At” and all that follows through “augmented by an amount” and inserting “If, at the time that the amount established in an individual’s account under subsection (b) is exhausted or at any time thereafter, such individual’s State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount (hereinafter ‘second-tier emergency unemployment compensation’)”;

(C) by redesignating paragraph (2) as paragraph (4); and

(D) by inserting after paragraph (1) the following:

“(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if such a period would then be in effect for such State under such Act if—

“(A) section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970 were applied to such State (regardless of whether the State by law had provided for such application); and

“(B) such section 203(f)—

“(i) were applied by substituting the applicable percentage under paragraph (3) for ‘6.5 percent’ in paragraph (1)(A)(i) thereof; and

“(ii) did not include the requirement under paragraph (1)(A)(ii) thereof.

26 USC 3304  
note.

Applicability.

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 0 percent; and

“(B) after the last week under subparagraph (A), 6 percent.”.

(2) FOR THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(d) of such Act is amended—

(A) in paragraph (2)(A), by striking “under such Act” and inserting “under the Federal-State Extended Unemployment Compensation Act of 1970”;

(B) in paragraph (2)(B)(ii)(I), by striking the matter after “substituting” and before “in paragraph (1)(A)(i) thereof” and inserting “the applicable percentage under paragraph (3) for ‘6.5 percent’”;

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 6 percent; and

“(B) after the last week under subparagraph (A), 7 percent.”.

(3) FOR FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(e) of such Act is amended—

(A) in paragraph (2)(A), by striking “under such Act” and inserting “under the Federal-State Extended Unemployment Compensation Act of 1970”;

(B) in paragraph (2)(B)(ii)(I), by striking the matter after “substituting” and before “in paragraph (1)(A)(i) thereof” and inserting “the applicable percentage under paragraph (3) for ‘6.5 percent’”;

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 8.5 percent; and

“(B) after the last week under subparagraph (A), 9 percent.”.

(c) MODIFICATIONS RELATING TO WEEKS OF EMERGENCY UNEMPLOYMENT COMPENSATION.—

(1) NUMBER OF WEEKS IN FIRST TIER BEGINNING AFTER SEPTEMBER 2, 2012.—Section 4002(b) of such Act is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

“(2) SPECIAL RULE RELATING TO AMOUNTS ESTABLISHED IN AN ACCOUNT AS OF A WEEK ENDING AFTER SEPTEMBER 2, 2012.—Notwithstanding any provision of paragraph (1), in the case of any account established as of a week ending after September 2, 2012—

26 USC 3304  
note.

Applicability.

“(A) paragraph (1)(A) shall be applied by substituting ‘54 percent’ for ‘80 percent’; and

“(B) paragraph (1)(B) shall be applied by substituting ‘14 weeks’ for ‘20 weeks’.”.

(2) NUMBER OF WEEKS IN THIRD TIER BEGINNING AFTER SEPTEMBER 2, 2012.—Section 4002(d) of such Act is amended by adding after paragraph (4) (as so redesignated by subsection (b)(2)(C)) the following:

“(5) SPECIAL RULE RELATING TO AMOUNTS ADDED TO AN ACCOUNT AS OF A WEEK ENDING AFTER SEPTEMBER 2, 2012.—Notwithstanding any provision of paragraph (1), if augmentation under this subsection occurs as of a week ending after September 2, 2012—

“(A) paragraph (1)(A) shall be applied by substituting ‘35 percent’ for ‘50 percent’; and

“(B) paragraph (1)(B) shall be applied by substituting ‘9 times’ for ‘13 times’.”.

(3) NUMBER OF WEEKS IN FOURTH TIER.—Section 4002(e) of such Act is amended by adding after paragraph (4) (as so redesignated by subsection (b)(3)(C)) the following:

“(5) SPECIAL RULES RELATING TO AMOUNTS ADDED TO AN ACCOUNT.—

“(A) MARCH TO MAY OF 2012.—

“(i) SPECIAL RULE.—Notwithstanding any provision of paragraph (1) but subject to the following 2 sentences, if augmentation under this subsection occurs as of a week ending after the date of enactment of this paragraph and before June 1, 2012 (or if, as of such date of enactment, any fourth-tier amounts remain in the individual’s account)—

“(I) paragraph (1)(A) shall be applied by substituting ‘62 percent’ for ‘24 percent’; and

“(II) paragraph (1)(B) shall be applied by substituting ‘16 times’ for ‘6 times’.

The preceding sentence shall apply only if, at the time that the account would be augmented under this subparagraph, such individual’s State is not in an extended benefit period as determined under the Federal-State Extended Unemployment Compensation Act of 1970. In no event shall the total amount added to the account of an individual under this subparagraph cause, in the case of an individual described in the parenthetical matter in the first sentence of this clause, the sum of the total amount previously added to such individual’s account under this subsection (as in effect before the date of enactment of this paragraph) and any further amounts added as a result of the enactment of this clause, to exceed the total amount allowable under subclause (I) or (II), as the case may be.

“(ii) LIMITATION.—Notwithstanding any other provision of this title, the amounts added to the account of an individual under this subparagraph may not cause the sum of the amounts previously established in or added to such account, plus any weeks of extended benefits provided to such individual under the Federal-State Extended Unemployment Compensation Act of

1970 (based on the same exhaustion of regular compensation under section 4001(b)(1)), to in the aggregate exceed the lesser of—

“(I) 282 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under the State law; or

“(II) 73 times the individual’s average weekly benefit amount (as determined under subsection (b)(3)) for the benefit year.

Applicability.

“(B) AFTER AUGUST OF 2012.—Notwithstanding any provision of paragraph (1), if augmentation under this subsection occurs as of a week ending after September 2, 2012—

“(i) paragraph (1)(A) shall be applied by substituting ‘39 percent’ for ‘24 percent’; and

“(ii) paragraph (1)(B) shall be applied by substituting ‘10 times’ for ‘6 times’.”.

26 USC 3304  
note.

(d) ORDER OF PAYMENTS REQUIREMENT.—

(1) IN GENERAL.—Section 4001(e) of such Act is amended to read as follows:

Applicability.  
Determination.

“(e) COORDINATION RULE.—An agreement under this section shall apply with respect to a State only upon a determination by the Secretary that, under the State law or other applicable rules of such State, the payment of extended compensation for which an individual is otherwise eligible must be deferred until after the payment of any emergency unemployment compensation under section 4002, as amended by the Unemployment Benefits Extension Act of 2012, for which the individual is concurrently eligible.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 4001(b)(2) of such Act is amended—

(A) by striking “or extended compensation”; and

(B) by striking “law (except as provided under subsection (e));” and inserting “law;”.

26 USC 3304  
note.

(e) FUNDING.—Section 4004(e)(1) of such Act is amended—

(1) in subparagraph (G), by striking “and” at the end; and

(2) by inserting after subparagraph (H) the following:

“(I) the amendments made by section 2122 of the Unemployment Benefits Extension Act of 2012; and”.

26 USC 3304  
note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (b), (c), and (d) shall take effect as of February 28, 2012, and shall apply with respect to weeks of unemployment beginning after that date.

(2) WEEK DEFINED.—For purposes of this subsection, the term “week” has the meaning given such term under section 4006 of the Supplemental Appropriations Act, 2008.

#### SEC. 2123. TEMPORARY EXTENSION OF EXTENDED BENEFIT PROVISIONS.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note), is amended—

(1) by striking “March 7, 2012” each place it appears and inserting “December 31, 2012”; and

(2) in subsection (c), by striking “August 15, 2012” and inserting “June 30, 2013”.

(b) EXTENSION OF MATCHING FOR STATES WITH NO WAITING WEEK.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking “August 15, 2012” and inserting “June 30, 2013”.

(c) EXTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) in subsection (d), by striking “February 29, 2012” and inserting “December 31, 2012”; and

(2) in subsection (f)(2), by striking “February 29, 2012” and inserting “December 31, 2012”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78). 26 USC 3304 note.

**SEC. 2124. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.**

(a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92), section 505 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111–312), and section 202 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

45 USC 352.

(1) by striking “August 31, 2011” and inserting “June 30, 2012”; and

(2) by striking “February 29, 2012” and inserting “December 31, 2012”.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of enactment of this Act.

(c) FUNDING FOR ADMINISTRATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$500,000 for administrative expenses associated with the payment of additional extended unemployment benefits provided under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

Appropriation authorization.

## Subtitle C—Improving Reemployment Strategies Under the Emergency Unemployment Compensation Program

### SEC. 2141. IMPROVED WORK SEARCH FOR THE LONG-TERM UNEMPLOYED.

(a) IN GENERAL.—Section 4001(b) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

- (1) by striking “and” at the end of paragraph (2);
- (2) by striking the period at the end of paragraph (3) and inserting “; and”; and
- (3) by adding at the end the following:
  - “(4) are able to work, available to work, and actively seeking work.”.

(b) ACTIVELY SEEKING WORK.—Section 4001 of such Act is amended by adding at the end the following:

“(h) ACTIVELY SEEKING WORK.—

Definition.

“(1) IN GENERAL.—For purposes of subsection (b)(4), the term ‘actively seeking work’ means, with respect to any individual, that such individual—

“(A) is registered for employment services in such a manner and to such extent as prescribed by the State agency;

“(B) has engaged in an active search for employment that is appropriate in light of the employment available in the labor market, the individual’s skills and capabilities, and includes a number of employer contacts that is consistent with the standards communicated to the individual by the State;

“(C) has maintained a record of such work search, including employers contacted, method of contact, and date contacted; and

“(D) when requested, has provided such work search record to the State agency.

Claims.

“(2) RANDOM AUDITING.—The Secretary shall establish for each State a minimum number of claims for which work search records must be audited on a random basis in any given week.”.

### SEC. 2142. REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.

(a) PROVISION OF SERVICES AND ACTIVITIES.—Section 4001 of such Act, as amended by section 2141(b), is further amended by adding at the end the following:

“(i) PROVISION OF SERVICES AND ACTIVITIES.—

“(1) IN GENERAL.—An agreement under this section shall require the following:

“(A) The State which is party to such agreement shall provide reemployment services and reemployment and eligibility assessment activities to each individual—

“(i) who, on or after the 30th day after the date of enactment of the Extended Benefits, Reemployment, and Program Integrity Improvement Act, begins receiving amounts described in subsections (b) and (c); and

“(ii) while such individual continues to receive emergency unemployment compensation under this title.

“(B) As a condition of eligibility for emergency unemployment compensation for any week—

“(i) a claimant who has been duly referred to reemployment services shall participate in such services; and

“(ii) a claimant shall be actively seeking work (determined applying subsection (i)).

“(2) DESCRIPTION OF SERVICES AND ACTIVITIES.—The reemployment services and in-person reemployment and eligibility assessment activities provided to individuals receiving emergency unemployment compensation described in paragraph (1)—

“(A) shall include—

“(i) the provision of labor market and career information;

“(ii) an assessment of the skills of the individual;

“(iii) orientation to the services available through the one-stop centers established under title I of the Workforce Investment Act of 1998; and

“(iv) review of the eligibility of the individual for emergency unemployment compensation relating to the job search activities of the individual; and

“(B) may include the provision of—

“(i) comprehensive and specialized assessments;

“(ii) individual and group career counseling;

“(iii) training services;

“(iv) additional reemployment services; and

“(v) job search counseling and the development or review of an individual reemployment plan that includes participation in job search activities and appropriate workshops.

“(3) PARTICIPATION REQUIREMENT.—As a condition of continuing eligibility for emergency unemployment compensation for any week, an individual who has been referred to reemployment services or reemployment and eligibility assessment activities under this subsection shall participate in such services or activities, unless the State agency responsible for the administration of State unemployment compensation law determines that—

“(A) such individual has completed participating in such services or activities; or

“(B) there is justifiable cause for failure to participate or to complete participating in such services or activities, as determined in accordance with guidance to be issued by the Secretary.”.

(b) ISSUANCE OF GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue guidance on the implementation of the reemployment services and reemployment and eligibility assessment activities required to be provided under the amendment made by subsection (a).

Deadline.  
26 USC 3304  
note.

(c) FUNDING.—

(1) IN GENERAL.—Section 4004(c) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking “STATES.—There” and inserting the following: “STATES.—

“(1) ADMINISTRATION.—There”; and

(B) by adding at the end the following new paragraph:

“(2) REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.—

“(A) APPROPRIATION.—There are appropriated from the general fund of the Treasury, for the period of fiscal year 2012 through fiscal year 2013, out of the employment security administration account (as established by section 901(a) of the Social Security Act), such sums as determined by the Secretary of Labor in accordance with subparagraph (B) to assist States in providing reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2).

“(B) DETERMINATION OF TOTAL AMOUNT.—The amount referred to in subparagraph (A) is the amount the Secretary of Labor estimates is equal to—

“(i) the number of individuals who will receive reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2) in all States through the date specified in section 4007(b)(3); multiplied by

“(ii) \$85.

“(C) DISTRIBUTION AMONG STATES.—Of the amounts appropriated under subparagraph (A), the Secretary of Labor shall distribute amounts to each State, in accordance with section 4003(c), that the Secretary estimates is equal to—

“(i) the number of individuals who will receive reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2) in such State through the date specified in section 4007(b)(3); multiplied by

“(ii) \$85.”.

(2) TRANSFER OF FUNDS.—Section 4004(e) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) in paragraph (1)(G), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following paragraph:

“(3) to the Employment Security Administration account (as established by section 901(a) of the Social Security Act) such sums as the Secretary of Labor determines to be necessary in accordance with subsection (c)(2) to assist States in providing reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2).”.

#### **SEC. 2143. PROMOTING PROGRAM INTEGRITY THROUGH BETTER RECOVERY OF OVERPAYMENTS.**

Section 4005(c)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) by striking “may” and inserting “shall”; and

(2) by striking “except that” and all that follows through “made” and inserting “in accordance with the same procedures



as apply to the recovery of overpayments of regular unemployment benefits paid by the State”.

**SEC. 2144. RESTORE STATE FLEXIBILITY TO IMPROVE UNEMPLOYMENT PROGRAM SOLVENCY.**

Subsection (g) of section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) shall not apply with respect to a State that has enacted a law before March 1, 2012, that, upon taking effect, would violate such subsection.

## **Subtitle D—Short-Time Compensation Program**

Layoff  
Prevention Act  
of 2012.

**SEC. 2160. SHORT TITLE.**

26 USC 1 note.

This subtitle may be cited as the “Layoff Prevention Act of 2012”.

**SEC. 2161. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.**

(a) DEFINITION.—

(1) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by adding at the end the following new subsection:

“(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this part, the term ‘short-time compensation program’ means a program under which—

Definition.

“(1) the participation of an employer is voluntary;

“(2) an employer reduces the number of hours worked by employees in lieu of layoffs;

“(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are not disqualified from unemployment compensation;

“(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were unemployed;

“(5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by the State agency;

“(6) eligible employees may participate, as appropriate, in training (including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998) to enhance job skills if such program has been approved by the State agency;

“(7) the State agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced

Certification.

or to the same extent as other employees not participating in the short-time compensation program;

Plans.

“(8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;

“(9) the terms of the employer’s written plan and implementation shall be consistent with employer obligations under applicable Federal and State laws; and

“(10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.”.

26 USC 3306  
note.

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

26 USC 3306  
note.

(3) TRANSITION PERIOD FOR EXISTING PROGRAMS.—In the case of a State that is administering a short-time compensation program as of the date of the enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(A) the date the State changes its State law in order to be consistent with such amendment; or

(B) the date that is 2 years and 6 months after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

26 USC 3304.

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined under section 3306(v));”.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-time compensation) and inserting the following new paragraph:

“(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v)); and”; and

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

42 USC 503.

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking “the payment of short-time compensation under a plan approved by the Secretary of Labor” and inserting “the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)”.

Repeal.  
26 USC 3304  
note.

(3) UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—Subsections (b) through (d) of section 401 of the Unemployment

Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

**SEC. 2162. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION PAYMENTS IN STATES WITH PROGRAMS IN LAW.**

26 USC 3304  
note.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)) under the provisions of the State law.

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) LIMITATIONS ON PAYMENTS.—

(A) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for short-time compensation paid to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(b) APPLICABILITY.—

(1) IN GENERAL.—Payments to a State under subsection

(a) shall be available for weeks of unemployment—

(A) beginning on or after the date of the enactment of this Act; and

Effective date.

(B) ending on or before the date that is 3 years and 6 months after the date of the enactment of this Act.

Termination  
date.

(2) THREE-YEAR FUNDING LIMITATION FOR COMBINED PAYMENTS UNDER THIS SECTION AND SECTION 2163.—States may receive payments under this section and section 2163 with respect to a total of not more than 156 weeks.

(c) TWO-YEAR TRANSITION PERIOD FOR EXISTING PROGRAMS.—

During any period that the transition provision under section 2161(a)(3) is applicable to a State with respect to a short-time compensation program, such State shall be eligible for payments under this section. Subject to paragraphs (1)(B) and (2) of subsection (b), if at any point after the date of the enactment of this Act the State enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a),

the State shall be eligible for payments under this section after the effective date of such enactment.

(d) FUNDING AND CERTIFICATIONS.—

Appropriation  
authorization.

(1) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(2) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(e) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2163. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION AGREEMENTS.**

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL.—Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State’s law does not provide for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).

Notice.

(2) ABILITY TO TERMINATE.—Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

(1) IN GENERAL.—Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(2) LIMITATIONS ON PLANS.—

(A) GENERAL PAYMENT LIMITATIONS.—A short-time compensation plan approved by a State shall not permit the payment of short-time compensation to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents’ allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(3) EMPLOYER PAYMENT OF COSTS.—Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State’s unemployment fund and shall not be used for purposes of calculating

an employer's contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) PAYMENTS TO STATES.—

(1) IN GENERAL.—There shall be paid to each State with an agreement under this section an amount equal to—

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

(B) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

Appropriation  
authorization.

(4) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(d) APPLICABILITY.—

(1) IN GENERAL.—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning on or after the date on which such agreement is entered into; and

Effective date.

(B) ending on or before the date that is 2 years and 13 weeks after the date of the enactment of this Act.

Termination  
date.

(2) TWO-YEAR FUNDING LIMITATION.—States may receive payments under this section with respect to a total of not more than 104 weeks.

(e) SPECIAL RULE.—If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a), the State—

(1) shall not be eligible for payments under this section for weeks of unemployment beginning after the effective date of such State law; and

(2) subject to paragraphs (1)(B) and (2) of section 2162(b), shall be eligible to receive payments under section 2162 after the effective date of such State law.

(f) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2164. GRANTS FOR SHORT-TIME COMPENSATION PROGRAMS.**

(a) GRANTS.—

(1) FOR IMPLEMENTATION OR IMPROVED ADMINISTRATION.—The Secretary shall award grants to States that enact short-time compensation programs (as defined in subsection (i)(2)) for the purpose of implementation or improved administration of such programs.

(2) FOR PROMOTION AND ENROLLMENT.—The Secretary shall award grants to States that are eligible and submit plans for a grant under paragraph (1) for such States to promote and enroll employers in short-time compensation programs (as so defined).

(3) ELIGIBILITY.—

(A) IN GENERAL.—The Secretary shall determine eligibility criteria for the grants under paragraphs (1) and (2).

(B) CLARIFICATION.—A State administering a short-time compensation program, including a program being administered by a State that is participating in the transition under the provisions of sections 301(a)(3) and 302(c), that does not meet the definition of a short-time compensation program under section 3306(v) of the Internal Revenue Code of 1986 (as added by 211(a)), and a State with an agreement under section 2163, shall not be eligible to receive a grant under this section until such time as the State law of the State provides for payments under a short-time compensation program that meets such definition and such law.

(b) AMOUNT OF GRANTS.—

(1) IN GENERAL.—The maximum amount available for making grants to a State under paragraphs (1) and (2) shall be equal to the amount obtained by multiplying \$100,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Security Act (42 U.S.C. 1103) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2010, under the provisions of subsection (a) of such section.

(2) AMOUNT AVAILABLE FOR DIFFERENT GRANTS.—Of the maximum incentive payment determined under paragraph (1) with respect to a State—

(A) one-third shall be available for a grant under subsection (a)(1); and

(B) two-thirds shall be available for a grant under subsection (a)(2).

(c) GRANT APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and complete with such information as the Secretary may require. In no case may the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2014.

(2) NOTICE.—The Secretary shall, within 30 days after receiving a complete application, notify the State agency of

Deadline.

Deadline.

the State of the Secretary's findings with respect to the requirements for a grant under paragraph (1) or (2) (or both) of subsection (a).

(3) CERTIFICATION.—If the Secretary finds that the State law provisions meet the requirements for a grant under subsection (a), the Secretary shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund (as established in section 904(a) of the Social Security Act (42 U.S.C. 1104(a))) pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer to the State account within 7 days after receiving such certification.

Deadline.

(4) REQUIREMENT.—No certification of compliance with the requirements for a grant under paragraph (1) or (2) of subsection (a) may be made with respect to any State whose—

(A) State law is not otherwise eligible for certification under section 303 of the Social Security Act (42 U.S.C. 503) or approvable under section 3304 of the Internal Revenue Code of 1986; or

(B) short-time compensation program is subject to discontinuation or is not scheduled to take effect within 12 months of the certification.

Time period.

(d) USE OF FUNDS.—The amount of any grant awarded under this section shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion and enrollment efforts associated with such programs, such as through—

(1) the creation or support of rapid response teams to advise employers about alternatives to layoffs;

(2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and

(3) the development or enhancement of systems to automate—

(A) the submission and approval of plans; and

(B) the filing and approval of new and ongoing short-time compensation claims.

(e) ADMINISTRATION.—The Secretary is authorized to use 0.25 percent of the funds available under subsection (g) to provide for outreach and to share best practices with respect to this section and short-time compensation programs.

(f) RECOUPMENT.—The Secretary shall establish a process under which the Secretary shall recoup the amount of any grant awarded under paragraph (1) or (2) of subsection (a) if the Secretary determines that, during the 5-year period beginning on the first date that any such grant is awarded to the State, the State—

Determination.  
Time period.

(1) terminated the State's short-time compensation program; or

(2) failed to meet appropriate requirements with respect to such program (as established by the Secretary).

(g) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, to the Secretary, \$100,000,000 to carry out this section, to remain available without fiscal year limitation.

Appropriation  
authorization.

(h) **REPORTING.**—The Secretary may establish reporting requirements for States receiving a grant under this section in order to provide oversight of grant funds.

(i) **DEFINITIONS.**—In this section:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.

(2) **SHORT-TIME COMPENSATION PROGRAM.**—The term “short-time compensation program” has the meaning given such term in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(3) **STATE; STATE AGENCY; STATE LAW.**—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2165. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.**

(a) **IN GENERAL.**—In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)), the Secretary of Labor (in this section referred to as the “Secretary”) shall—

(1) develop model legislative language which may be used by States in developing and enacting such programs and periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs;

Requirements.

(3) establish reporting requirements for States, including reporting on—

(A) the number of estimated averted layoffs;

(B) the number of participating employers and workers;

and

(C) such other items as the Secretary of Labor determines are appropriate.

(b) **MODEL LANGUAGE AND GUIDANCE.**—The model language and guidance developed under subsection (a) shall allow sufficient flexibility by States and participating employers while ensuring accountability and program integrity.

(c) **CONSULTATION.**—In developing the model legislative language and guidance under subsection (a), and in order to meet the requirements of subsection (b), the Secretary shall consult with employers, labor organizations, State workforce agencies, and other program experts.

**SEC. 2166. REPORTS.**

(a) **REPORT.**—

(1) **IN GENERAL.**—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress and to the President a report or reports on the implementation of the provisions of this subtitle.

(2) **REQUIREMENTS.**—Any report under paragraph (1) shall at a minimum include the following:

(A) A description of best practices by States and employers in the administration, promotion, and use of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).



(B) An analysis of the significant challenges to State enactment and implementation of short-time compensation programs.

(C) A survey of employers in all States to determine the level of interest in participating in short-time compensation programs.

(b) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary of Labor, \$1,500,000 to carry out this section, to remain available without fiscal year limitation.

Appropriation  
authorization.

## Subtitle E—Self-Employment Assistance

### SEC. 2181. STATE ADMINISTRATION OF SELF-EMPLOYMENT ASSISTANCE PROGRAMS.

(a) AVAILABILITY FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION.—Title II of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended by inserting at the end the following new section:

#### “AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAMS

“SEC. 208. (a)(1) At the option of a State, for any weeks of unemployment beginning after the date of enactment of this section, the State agency of the State may establish a self-employment assistance program, as described in subsection (b), to provide for the payment of extended compensation as self-employment assistance allowances to individuals who would otherwise satisfy the eligibility criteria under this title.

“(2) Subject to paragraph (3), the self-employment assistance allowance described in paragraph (1) shall be paid to an eligible individual from such individual’s extended compensation account, as described in section 202(b), and the amount in such account shall be reduced accordingly.

“(3)(A) Subject to subparagraph (B), for purposes of self-employment assistance programs established under this section and section 4001(j) of the Supplemental Appropriations Act, 2008, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this section as the ‘combined eligibility limit’).

“(B) For purposes of an individual who is participating in a self-employment assistance program established under this section and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 4001(j) of the Supplemental Appropriations Act, 2008, until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title IV of such Act.

“(b) For the purposes of this section, the term ‘self-employment assistance program’ means a program as defined under section 3306(t) of the Internal Revenue Code of 1986, except as follows:

“(1) all references to ‘regular unemployment compensation under the State law’ shall be deemed to refer instead to

‘extended compensation under title II of the Federal-State Extended Unemployment Compensation Act of 1970’;

“(2) paragraph (3)(B) shall not apply;

“(3) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

“(i) include any entrepreneurial training that the State or non-profit organizations may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and’;

“(4) the reference to ‘5 percent’ in paragraph (4) shall be deemed to refer instead to ‘1 percent’; and

“(5) paragraph (5) shall not apply.

“(c) In the case of an individual who is eligible to receive extended compensation under this title, such individual shall not receive self-employment assistance allowances under this section unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual’s average weekly benefit amount of extended compensation and emergency unemployment compensation.

“(d)(1) An individual who is participating in a self-employment assistance program established under this section may elect to discontinue participation in such program at any time.

“(2) For purposes of an individual whose participation in a self-employment assistance program established under this section is terminated pursuant to subsection (a)(3) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for extended compensation under this title, the individual shall receive extended compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 202(b).”.

(b) AVAILABILITY FOR INDIVIDUALS RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by sections 2141(b) and 2142(a), is further amended by inserting at the end the following new subsection:

“(j) AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT.—Any agreement under subsection (a) may provide that the State agency of the State shall establish a self-employment assistance program, as described in paragraph (2), to provide for the payment of emergency unemployment compensation as self-employment assistance allowances to individuals who would otherwise satisfy the eligibility criteria specified in subsection (b).

“(B) PAYMENT OF ALLOWANCES.—Subject to subparagraph (C), the self-employment assistance allowance described in subparagraph (A) shall be paid to an eligible individual from such individual’s emergency unemployment compensation account, as described in section 4002, and the amount in such account shall be reduced accordingly.

“(C) LIMITATION ON SELF-EMPLOYMENT ASSISTANCE FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION AND EMERGENCY UNEMPLOYMENT COMPENSATION.—

“(i) COMBINED ELIGIBILITY LIMIT.—Subject to clause (ii), for purposes of self-employment assistance programs established under this subsection and section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this subsection as the ‘combined eligibility limit’).

“(ii) CARRYOVER RULE.—For purposes of an individual who is participating in a self-employment assistance program established under this subsection and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 208 of the Federal-State Extended Unemployment Compensation Act of 1970 until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title II of such Act.

“(2) DEFINITION OF ‘SELF-EMPLOYMENT ASSISTANCE PROGRAM’.—For the purposes of this section, the term ‘self-employment assistance program’ means a program as defined under section 3306(t) of the Internal Revenue Code of 1986, except as follows:

“(A) all references to ‘regular unemployment compensation under the State law’ shall be deemed to refer instead to ‘emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008’;

“(B) paragraph (3)(B) shall not apply;

“(C) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

“(i) include any entrepreneurial training that the State or non-profit organizations may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and”;

“(D) the reference to ‘5 percent’ in paragraph (4) shall be deemed to refer instead to ‘1 percent’; and

“(E) paragraph (5) shall not apply.

“(3) AVAILABILITY OF SELF-EMPLOYMENT ASSISTANCE ALLOWANCES.—In the case of an individual who is eligible to receive emergency unemployment compensation payment under this title, such individual shall not receive self-employment assistance allowances under this subsection unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual’s average weekly benefit amount of extended compensation and emergency unemployment compensation.

“(4) PARTICIPANT OPTION TO TERMINATE PARTICIPATION IN SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

“(A) TERMINATION.—An individual who is participating in a self-employment assistance program established under this subsection may elect to discontinue participation in such program at any time.

“(B) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—For purposes of an individual whose participation in the self-employment assistance program established under this subsection is terminated pursuant to paragraph (1)(C) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for emergency unemployment compensation under this title, the individual shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.”.

26 USC 3304  
note.

**SEC. 2182. GRANTS FOR SELF-EMPLOYMENT ASSISTANCE PROGRAMS.**

(a) IN GENERAL.—

(1) ESTABLISHMENT OR IMPROVED ADMINISTRATION.—Subject to the requirements established under subsection (b), the Secretary shall award grants to States for the purposes of—

(A) improved administration of self-employment assistance programs that have been established, prior to the date of the enactment of this Act, pursuant to section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), for individuals who are eligible to receive regular unemployment compensation;

(B) development, implementation, and administration of self-employment assistance programs that are established, subsequent to the date of the enactment of this Act, pursuant to section 3306(t) of the Internal Revenue Code of 1986, for individuals who are eligible to receive regular unemployment compensation; and

(C) development, implementation, and administration of self-employment assistance programs that are established pursuant to section 208 of the Federal-State Extended Unemployment Compensation Act of 1970 or section 4001(j) of the Supplemental Appropriations Act, 2008, for individuals who are eligible to receive extended compensation or emergency unemployment compensation.

(2) PROMOTION AND ENROLLMENT.—Subject to the requirements established under subsection (b), the Secretary shall award additional grants to States that submit approved applications for a grant under paragraph (1) for such States to promote self-employment assistance programs and enroll unemployed individuals in such programs.

(b) APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as is determined appropriate by the Secretary.

In no case shall the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2013. Deadline.

(2) NOTICE.—Not later than 30 days after receiving an application described in paragraph (1) from a State, the Secretary shall notify the State agency as to whether a grant has been approved for such State for the purposes described in subsection (a). Deadline.

(3) CERTIFICATION.—If the Secretary determines that a State has met the requirements for a grant under subsection (a), the Secretary shall make a certification to that effect to the Secretary of the Treasury, as well as a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund under section 904 of the Social Security Act (42 U.S.C. 1104). The Secretary of the Treasury shall make the appropriate transfer to the State account not later than 7 days after receiving such certification. Determination.  
  
Transfer authority.  
Deadline.

(c) ALLOTMENT FACTORS.—For purposes of allotting the funds available under subsection (d) to States that have met the requirements for a grant under this section, the amount of the grant provided to each State shall be determined based upon the percentage of unemployed individuals in the State relative to the percentage of unemployed individuals in all States. Determination.

(d) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, \$35,000,000 for the period of fiscal year 2012 through fiscal year 2013 for purposes of carrying out the grant program under this section, Appropriation authorization.

**SEC. 2183. ASSISTANCE AND GUIDANCE IN IMPLEMENTING SELF-EMPLOYMENT ASSISTANCE PROGRAMS.** 26 USC 3304 note.

(a) MODEL LANGUAGE AND GUIDANCE.—For purposes of assisting States in establishing, improving, and administering self-employment assistance programs, the Secretary shall—

(1) develop model language that may be used by States in enacting such programs, as well as periodically review and revise such model language; and Review.

(2) provide technical assistance and guidance in establishing, improving, and administering such programs.

(b) REPORTING AND EVALUATION.—

(1) REPORTING.—The Secretary shall establish reporting requirements for States that have established self-employment assistance programs, which shall include reporting on—

(A) the total number of individuals who received unemployment compensation and—

(i) were referred to a self-employment assistance program;

(ii) participated in such program; and

(iii) received an allowance under such program;

(B) the total amount of allowances provided to individuals participating in a self-employment assistance program;

(C) the total income (as determined by survey or other appropriate method) for businesses that have been established by individuals participating in a self-employment assistance program, as well as the total number of individuals employed through such businesses; and

- (D) any additional information, as determined appropriate by the Secretary.
- Deadline. (2) EVALUATION.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report that evaluates the effectiveness of self-employment assistance programs established by States, including—
- (A) an analysis of the implementation and operation of self-employment assistance programs by States;
  - (B) an evaluation of the economic outcomes for individuals who participated in a self-employment assistance program as compared to individuals who received unemployment compensation and did not participate in a self-employment assistance program, including a comparison as to employment status, income, and duration of receipt of unemployment compensation or self-employment assistance allowances; and
  - (C) an evaluation of the state of the businesses started by individuals who participated in a self-employment assistance program, including information regarding—
    - (i) the type of businesses established;
    - (ii) the sustainability of the businesses;
    - (iii) the total income collected by the businesses;
    - (iv) the total number of individuals employed through such businesses; and
    - (v) the estimated Federal and State tax revenue collected from such businesses and their employees.
- (c) FLEXIBILITY AND ACCOUNTABILITY.—The model language, guidance, and reporting requirements developed by the Secretary under subsections (a) and (b) shall—
- (1) allow sufficient flexibility for States and participating individuals; and
  - (2) ensure accountability and program integrity.
- (d) CONSULTATION.—For purposes of developing the model language, guidance, and reporting requirements described under subsections (a) and (b), the Secretary shall consult with employers, labor organizations, State agencies, and other relevant program experts.
- (e) ENTREPRENEURIAL TRAINING PROGRAMS.—The Secretary shall utilize resources available through the Department of Labor and coordinate with the Administrator of the Small Business Administration to ensure that adequate funding is reserved and made available for the provision of entrepreneurial training to individuals participating in self-employment assistance programs.
- Definition. (f) SELF-EMPLOYMENT ASSISTANCE PROGRAM.—For purposes of this section, the term “self-employment assistance program” means a program established pursuant to section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, or section 4001(j) of the Supplemental Appropriations Act, 2008, for individuals who are eligible to receive regular unemployment compensation, extended compensation, or emergency unemployment compensation.

**SEC. 2184. DEFINITIONS.**

In this subtitle:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY.—The terms “State” and “State agency” have the meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

## **TITLE III—MEDICARE AND OTHER HEALTH PROVISIONS**

### **Subtitle A—Medicare Extensions**

#### **SEC. 3001. EXTENSION OF MMA SECTION 508 RECLASSIFICATIONS.**

(a) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111–148), section 102(a) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), and section 302(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “November 30, 2011” and inserting “March 31, 2012”.

42 USC 1395ww  
note.

(b) SPECIAL RULE.—

(1) IN GENERAL.—Subject to paragraph (2), for purposes of implementation of the amendment made by subsection (a), including for purposes of the implementation of paragraph (2) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), for the period beginning on December 1, 2011, and ending on March 31, 2012, the Secretary of Health and Human Services shall use the hospital wage index that was promulgated by the Secretary of Health and Human Services in the Federal Register on August 18, 2011 (76 Fed. Reg. 51476), and any subsequent corrections.

42 USC 1395ww  
note.  
Time period.

(2) EXCEPTION.—In determining the wage index applicable to hospitals that qualify for wage index reclassification, the Secretary shall, for the period described in paragraph (1), include the average hourly wage data of hospitals whose reclassification was extended pursuant to the amendment made by subsection (a) only if including such data results in a higher applicable reclassified wage index. Any revision to hospital wage indexes made as a result of this paragraph shall not be effected in a budget neutral manner.

(c) TIMEFRAME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make payments required under subsections (a) and (b) by not later than June 30, 2012.

42 USC 1395ww  
note.

(2) OCTOBER 2011 AND NOVEMBER 2011 CONFORMING CHANGE.—Section 302(c) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78) is amended by striking “December 31, 2012” and inserting “June 30, 2012”.

42 USC 1395ww  
note.

**SEC. 3002. EXTENSION OF OUTPATIENT HOLD HARMLESS PAYMENTS.**

(a) **IN GENERAL.**—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section 308 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking “March 1, 2012” and inserting “January 1, 2013”; and

(B) in the second sentence, by striking “or the first two months of 2012” and inserting “or 2012”; and

(2) in subclause (III), in the first sentence, by striking “March 1, 2012” and inserting “January 1, 2013”.

(b) **REPORT.**—Not later than July 1, 2012, the Secretary of Health and Human Services shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report including recommendations for which types of hospitals should continue to receive hold harmless payments described in subclauses (II) and (III) of section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) in order to maintain adequate beneficiary access to outpatient services. In conducting such report, the Secretary should examine why some similarly situated hospitals do not receive such hold harmless payments and are able to rely only on the prospective payment system for hospital outpatient department services under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)).

**SEC. 3003. PHYSICIAN PAYMENT UPDATE.**

(a) **IN GENERAL.**—Section 1848(d)(13) of the Social Security Act (42 U.S.C. 1395w–4(d)(13)), as added by section 301 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

(1) in the heading, by striking “FIRST TWO MONTHS OF 2012” and inserting “2012”;

(2) in subparagraph (A), by striking “the period beginning on January 1, 2012, and ending on February 29, 2012” and inserting “2012”;

(3) in the heading of subparagraph (B), by striking “REMAINING PORTION OF 2012” and inserting “2013”; and

(4) in subparagraph (B), by striking “for the period beginning on March 1, 2012, and ending on December 31, 2012, and for 2013” and inserting “for 2013”.

(b) **MANDATED STUDIES ON PHYSICIAN PAYMENT REFORM.**—

(1) **STUDY BY SECRETARY ON OPTIONS FOR BUNDLED OR EPISODE-BASED PAYMENT.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services shall conduct a study that examines options for bundled or episode-based payments, to cover physicians’ services currently paid under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4), for one or more prevalent chronic conditions (such as cancer, diabetes, and congestive heart failure) or episodes of care for one or more major procedures (such as medical device implantation). In conducting the study, the Secretary shall consult with medical professional societies and other relevant stakeholders. The study shall



include an examination of related private payer payment initiatives.

(B) REPORT.—Not later than January 1, 2013, the Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph. The Secretary shall include in the report recommendations on suitable alternative payment options for services paid under such fee schedule and on associated implementation requirements (such as timelines, operational issues, and interactions with other payment reform initiatives).

(2) GAO STUDY OF PRIVATE PAYER INITIATIVES.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study that examines initiatives of private entities offering or administering health insurance coverage, group health plans, or other private health benefit plans to base or adjust physician payment rates under such coverage or plans for performance on quality and efficiency, as well as demonstration of care delivery improvement activities (such as adherence to evidence-based guidelines and patient-shared decision making programs). In conducting such study, the Comptroller General shall consult, to the extent appropriate, with medical professional societies and other relevant stakeholders.

Consultation.

(B) REPORT.—Not later than January 1, 2013, the Comptroller General shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph. Such report shall include an assessment of the applicability of the payer initiatives described in subparagraph (A) to the Medicare program and recommendations on modifications to existing Medicare performance-based initiatives.

#### **SEC. 3004. WORK GEOGRAPHIC ADJUSTMENT.**

(a) IN GENERAL.—Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)), as amended by section 303 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “before March 1, 2012” and inserting “before January 1, 2013”.

(b) REPORT.—Not later than June 15, 2013, the Medicare Payment Advisory Commission shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that assesses whether any adjustment under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) to distinguish the difference in work effort by geographic area is appropriate and, if so, what that level should be and where it should be applied. The report shall also assess the impact of the work geographic adjustment under such section, including the extent to which the floor on such adjustment impacts access to care.

#### **SEC. 3005. PAYMENT FOR OUTPATIENT THERAPY SERVICES.**

(a) APPLICATION OF ADDITIONAL REQUIREMENTS.—Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as

amended by section 304 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

(1) by inserting “(A)” after “(5)”;

(2) in the first sentence, by striking “February 29, 2012” and inserting “December 31, 2012”;

(3) in the first sentence, by inserting “and if the requirement of subparagraph (B) is met” after “medically necessary”;

(4) in the second sentence, by inserting “made in accordance with such requirement” after “receipt of the request”; and

(5) by adding at the end the following new subparagraphs:

“(B) In the case of outpatient therapy services for which an exception is requested under the first sentence of subparagraph (A), the claim for such services shall contain an appropriate modifier (such as the KX modifier used as of the date of the enactment of this subparagraph) indicating that such services are medically necessary as justified by appropriate documentation in the medical record involved.

Applicability.  
Time period.  
Review.

“(C)(i) In applying this paragraph with respect to a request for an exception with respect to expenses that would be incurred for outpatient therapy services (including services described in subsection (a)(8)(B)) that would exceed the threshold described in clause (ii) for a year, the request for such an exception, for services furnished on or after October 1, 2012, shall be subject to a manual medical review process that is similar to the manual medical review process used for certain exceptions under this paragraph in 2006.

“(ii) The threshold under this clause for a year is \$3,700. Such threshold shall be applied separately—

“(I) for physical therapy services and speech-language pathology services; and

“(II) for occupational therapy services.”.

(b) TEMPORARY APPLICATION OF THERAPY CAP TO THERAPY FURNISHED AS PART OF HOSPITAL OUTPATIENT SERVICES.—Section 1833(g) of such Act (42 U.S.C. 1395l(g)) is amended—

(1) in each of paragraphs (1) and (3), by striking “but not described in section 1833(a)(8)(B)” and inserting “but (except as provided in paragraph (6)) not described in subsection (a)(8)(B)”; and

(2) by adding at the end the following new paragraph:

“(6) In applying paragraphs (1) and (3) to services furnished during the period beginning not later than October 1, 2012, and ending on December 31, 2012, the exclusion of services described in subsection (a)(8)(B) from the uniform dollar limitation specified in paragraph (2) shall not apply to such services furnished during 2012.”.

Applicability.  
Time period.

(c) REQUIREMENT FOR INCLUSION ON CLAIMS OF NPI OF PHYSICIAN WHO REVIEWS THERAPY PLAN.—Section 1842(t) of such Act (42 U.S.C. 1395u(t)) is amended—

(1) by inserting “(1)” after “(t)”; and

(2) by adding at the end the following new paragraph:

“(2) Each request for payment, or bill submitted, for therapy services described in paragraph (1) or (3) of section 1833(g), including services described in section 1833(a)(8)(B), furnished on or after October 1, 2012, for which payment may be made under this part shall include the national provider identifier of the physician who periodically reviews the plan for such services under section 1861(p)(2).”.

Time period.

(d) **IMPLEMENTATION.**—The Secretary of Health and Human Services shall implement such claims processing edits and issue such guidance as may be necessary to implement the amendments made by this section in a timely manner. Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction. Of the amount of funds made available to the Secretary for fiscal year 2012 for program management for the Centers for Medicare & Medicaid Services, not to exceed \$9,375,000 shall be available for such fiscal year and the first 3 months of fiscal year 2013 to carry out section 1833(g)(5)(C) of the Social Security Act (relating to manual medical review), as added by subsection (a). 42 USC 1395l note.

(e) **EFFECTIVE DATE.**—The requirement of subparagraph (B) of section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as added by subsection (a), shall apply to services furnished on or after March 1, 2012. 42 USC 1395l note.

(f) **MEDPAC REPORT ON IMPROVED MEDICARE THERAPY BENEFITS.**—Not later than June 15, 2013, the Medicare Payment Advisory Commission shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report making recommendations on how to improve the outpatient therapy benefit under part B of title XVIII of the Social Security Act. The report shall include recommendations on how to reform the payment system for such outpatient therapy services under such part so that the benefit is better designed to reflect individual acuity, condition, and therapy needs of the patient. Such report shall include an examination of private sector initiatives relating to outpatient therapy benefits. Deadline.

(g) **COLLECTION OF ADDITIONAL DATA.**—

(1) **STRATEGY.**—The Secretary of Health and Human Services shall implement, beginning on January 1, 2013, a claims-based data collection strategy that is designed to assist in reforming the Medicare payment system for outpatient therapy services subject to the limitations of section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)). Such strategy shall be designed to provide for the collection of data on patient function during the course of therapy services in order to better understand patient condition and outcomes. 42 USC 1395l note.  
Effective date.

(2) **CONSULTATION.**—In proposing and implementing such strategy, the Secretary shall consult with relevant stakeholders.

(h) **GAO REPORT ON MANUAL MEDICAL REVIEW PROCESS IMPLEMENTATION.**—Not later than May 1, 2013, the Comptroller General of the United States shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report on the implementation of the manual medical review process referred to in section 1833(g)(5)(C) of the Social Security Act, as added by subsection (a). Such report shall include aggregate data on the number of individuals and claims subject to such process, the number of reviews conducted under such process, and the outcome of such reviews.

**SEC. 3006. PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.**

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by

section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), section 3104 of the Patient Protection and Affordable Care Act (Public Law 111–148), section 105 of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), and section 305 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “and the first two months of 2012” and inserting “and the first six months of 2012”.

42 USC 1395w–4  
note.

#### SEC. 3007. AMBULANCE ADD-ON PAYMENTS.

(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)), as amended by section 306(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

(1) in the matter preceding clause (i), by striking “March 1, 2012” and inserting “January 1, 2013”; and

(2) in each of clauses (i) and (ii), by striking “March 1, 2012” and inserting “January 1, 2013” each place it appears.

(b) AIR AMBULANCE.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by sections 3105(b) and 10311(b) of the Patient Protection and Affordable Care Act (Public Law 111–148), section 106(b) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309) and section 306(b) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “February 29, 2012” and inserting “December 31, 2012”.

42 USC 1395m  
note.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)), as amended by section 306(c) of Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended in the first sentence by striking “March 1, 2012” and inserting “January 1, 2013”.

(d) GAO REPORT UPDATE.—Not later than October 1, 2012, the Comptroller General of the United States shall update the GAO report GAO–07–383 (relating to Ambulance Providers: Costs and Expected Medicare Margins Vary Greatly) to reflect current costs for ambulance providers.

Study.

(e) MEDPAC REPORT.—The Medicare Payment Advisory Commission shall conduct a study of—

(1) the appropriateness of the add-on payments for ambulance providers under paragraphs (12)(A) and (13)(A) of section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) and the treatment of air ambulance providers under section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275);

(2) the effect these add-on payments and such treatment have on the Medicare margins of ambulance providers; and

(3) whether there is a need to reform the Medicare ambulance fee schedule under such section and, if so, what should such reforms be, including whether the add-on payments should be included in the base rate.

Not later than June 15, 2013, the Commission shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on such study and shall include in the report such recommendations as the Commission deems appropriate.

## Subtitle B—Other Health Provisions

### SEC. 3101. QUALIFYING INDIVIDUAL PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)), as amended by section 310(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “February” and inserting “December”.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)), as amended by section 310(b) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

(1) in paragraph (2)—

(A) in subparagraph (P), by striking “and” after the semicolon;

(B) in subparagraph (Q), by striking “February 29, 2012, the total allocation amount is \$150,000,000.” and inserting “September 30, 2012, the total allocation amount is \$450,000,000; and”; and

(C) by adding at the end the following new subparagraph:

“(R) for the period that begins on October 1, 2012, and ends on December 31, 2012, the total allocation amount is \$280,000,000.”; and

Time period.

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking “or (P)” and inserting “(P), or (R)”.

### SEC. 3102. TRANSITIONAL MEDICAL ASSISTANCE.

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)), as amended by section 311 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), are each amended by striking “February 29” and inserting “December 31”.

## Subtitle C—Health Offsets

### SEC. 3201. REDUCTION OF BAD DEBT TREATED AS AN ALLOWABLE COST.

(a) HOSPITALS.—Section 1861(v)(1)(T) of the Social Security Act (42 U.S.C. 1395x(v)(1)(T)) is amended—

(1) in clause (iii), by striking “and” at the end;

(2) in clause (iv)—

(A) by striking “a subsequent fiscal year” and inserting “fiscal years 2001 through 2012”; and

(B) by striking the period at the end and inserting “, and”; and

(3) by adding at the end the following:

“(v) for cost reporting periods beginning during fiscal year 2013 or a subsequent fiscal year, by 35 percent of such amount otherwise allowable.”.

Time periods. (b) SKILLED NURSING FACILITIES.—Section 1861(v)(1)(V) of such Act (42 U.S.C. 1395x(v)(1)(V)) is amended—

(1) in the matter preceding clause (i), by striking “with respect to cost reporting periods beginning on or after October 1, 2005” and inserting “and (beginning with respect to cost reporting periods beginning during fiscal year 2013) for covered skilled nursing services described in section 1888(e)(2)(A) furnished by hospital providers of extended care services (as described in section 1883)”;

(2) in clause (i), by striking “reduced by” and all that follows through “allowable; and” and inserting the following: “reduced by—

“(I) for cost reporting periods beginning on or after October 1, 2005, but before fiscal year 2013, 30 percent of such amount otherwise allowable; and

“(II) for cost reporting periods beginning during fiscal year 2013 or a subsequent fiscal year, by 35 percent of such amount otherwise allowable.”; and

(3) in clause (ii), by striking “such section shall not be reduced.” and inserting “such section—

“(I) for cost reporting periods beginning on or after October 1, 2005, but before fiscal year 2013, shall not be reduced;

“(II) for cost reporting periods beginning during fiscal year 2013, shall be reduced by 12 percent of such amount otherwise allowable;

“(III) for cost reporting periods beginning during fiscal year 2014, shall be reduced by 24 percent of such amount otherwise allowable; and

“(IV) for cost reporting periods beginning during a subsequent fiscal year, shall be reduced by 35 percent of such amount otherwise allowable.”.

(c) CERTAIN OTHER PROVIDERS.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

Time periods. “(W)(i) In determining such reasonable costs for providers described in clause (ii), the amount of bad debts otherwise treated as allowable costs which are attributable to deductibles and coinsurance amounts under this title shall be reduced—

“(I) for cost reporting periods beginning during fiscal year 2013, by 12 percent of such amount otherwise allowable;

“(II) for cost reporting periods beginning during fiscal year 2014, by 24 percent of such amount otherwise allowable; and

“(III) for cost reporting periods beginning during a subsequent fiscal year, by 35 percent of such amount otherwise allowable.

“(ii) A provider described in this clause is a provider of services not described in subparagraph (T) or (V), a supplier, or any other type of entity that receives payment for bad debts under the authority under subparagraph (A).”.

Time period. 42 USC 1395f note. (d) CONFORMING AMENDMENT FOR HOSPITAL SERVICES.—Section 4008(c) of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1395 note), as amended by section 8402 of the Technical and Miscellaneous Revenue Act of 1988 and section 6023 of the Omnibus Budget Reconciliation Act of 1989, is amended by adding at the

end the following new sentence: “Effective for cost reporting periods beginning on or after October 1, 2012, the provisions of the previous two sentences shall not apply.”.

**SEC. 3202. REBASE MEDICARE CLINICAL LABORATORY PAYMENT RATES.**

Section 1833(h)(2)(A) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)) is amended—

(1) in clause (i), by striking “paragraph (4)” and inserting “clause (v), subparagraph (B), and paragraph (4)”;

(2) by moving clause (iv), subclauses (I) and (II) of such clause, and the flush matter at the end of such clause 6 ems to the left; and

(3) by adding at the end the following new clause:

“(v) The Secretary shall reduce by 2 percent the fee schedules otherwise determined under clause (i) for 2013, and such reduced fee schedules shall serve as the base for 2014 and subsequent years.”. Reduction.

**SEC. 3203. REBASING STATE DSH ALLOTMENTS FOR FISCAL YEAR 2021.**

Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(1) by redesignating paragraph (8) as paragraph (9);

(2) in paragraph (3)(A) by striking “paragraphs (6) and (7)” and inserting “paragraphs (6), (7), and (8)”;

(3) by inserting after paragraph (7) the following new paragraph:

“(8) REBASING OF STATE DSH ALLOTMENTS FOR FISCAL YEAR 2021.—With respect to fiscal year 2021, for purposes of applying paragraph (3)(A) to determine the DSH allotment for a State, the amount of the DSH allotment for the State under paragraph (3) for fiscal year 2020 shall be equal to the DSH allotment as reduced under paragraph (7).”.

Applicability.

**SEC. 3204. TECHNICAL CORRECTION TO THE DISASTER RECOVERY FMAP PROVISION.**

(a) IN GENERAL.—Section 1905(aa) of the Social Security Act (42 U.S.C. 1396d(aa)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “the Federal medical assistance percentage determined for the fiscal year” and all that follows through the period and inserting “the State’s regular FMAP shall be increased by 50 percent of the number of percentage points by which the State’s regular FMAP for such fiscal year is less than the Federal medical assistance percentage determined for the State for the preceding fiscal year after the application of only subsection (a) of section 5001 of Public Law 111–5 (if applicable to the preceding fiscal year) and without regard to this subsection, subsections (y) and (z), and subsections (b) and (c) of section 5001 of Public Law 111–5.”; and

(B) in subparagraph (B), by striking “Federal medical assistance percentage determined for the preceding fiscal year” and all that follows through the period and inserting “State’s regular FMAP for such fiscal year shall be increased by 25 percent of the number of percentage points by which the State’s regular FMAP for such fiscal year

is less than the Federal medical assistance percentage received by the State during the preceding fiscal year.”; (2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “Federal medical assistance percentage determined for the State for the fiscal year” and all that follows through “Act,” and inserting “State’s regular FMAP for the fiscal year”; and

(ii) by striking “subsection (y)” and inserting “subsections (y) and (z)”; and

(B) in subparagraph (B), by striking “Federal medical assistance percentage determined for the State for the fiscal year” and all that follows through “Act,” and inserting “State’s regular FMAP for the fiscal year”;

(3) by redesignating paragraph (3) as paragraph (4); and (4) by inserting after paragraph (2) the following:

Definition. “(3) In this subsection, the term ‘regular FMAP’ means, for each fiscal year for which this subsection applies to a State, the Federal medical assistance percentage that would otherwise apply to the State for the fiscal year, as determined under subsection (b) and without regard to this subsection, subsections (y) and (z), and section 10202 of the Patient Protection and Affordable Care Act.”.

42 USC 1396d  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2013.

#### **SEC. 3205. PREVENTION AND PUBLIC HEALTH FUND.**

Section 4002(b) of the Patient Protection and Affordable Care Act (42 U.S.C. 300u–11(b)) is amended by striking paragraphs (2) through (6) and inserting the following:

“(2) for each of fiscal years 2012 through 2017, \$1,000,000,000;

“(3) for each of fiscal years 2018 and 2019, \$1,250,000,000;

“(4) for each of fiscal years 2020 and 2021, \$1,500,000,000;

and

“(5) for fiscal year 2022, and each fiscal year thereafter, \$2,000,000,000.”.

Welfare Integrity  
and Data  
Improvement  
Act.  
42 USC 1305  
note.

## **TITLE IV—TANF EXTENSION**

#### **SEC. 4001. SHORT TITLE.**

This title may be cited as the “Welfare Integrity and Data Improvement Act”.

#### **SEC. 4002. EXTENSION OF PROGRAM.**

(a) FAMILY ASSISTANCE GRANTS.—Section 403(a)(1) of the Social Security Act (42 U.S.C. 603(a)(1)) is amended—

(1) in subparagraph (A), by striking “each of fiscal years 1996” and all that follows through “2003” and inserting “fiscal year 2012”;

(2) in subparagraph (B)—

(A) by inserting “(as in effect just before the enactment of the Welfare Integrity and Data Improvement Act)” after “this paragraph” the first place it appears; and

(B) by inserting “(as so in effect)” after “this paragraph” the second place it appears; and



(3) in subparagraph (C), by striking “2003” and inserting “2012”.

(b) **HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD GRANTS.**—Section 403(a)(2)(D) of such Act (42 U.S.C. 603(a)(2)(D)) is amended by striking “2011” each place it appears and inserting “2012”.

(c) **MAINTENANCE OF EFFORT REQUIREMENT.**—Section 409(a)(7) of such Act (42 U.S.C. 609(a)(7)) is amended—

(1) in subparagraph (A), by striking “fiscal year” and all that follows through “2013” and inserting “a fiscal year”; and

(2) in subparagraph (B)(ii)—

(A) by striking “for fiscal years 1997 through 2012,”; and

(B) by striking “407(a) for the fiscal year,” and inserting “407(a).”.

(d) **TRIBAL GRANTS.**—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended in each of paragraphs (1)(A) and (2)(A) by striking “each of fiscal years 1997” and all that follows through “2003” and inserting “fiscal year 2012”.

(e) **STUDIES AND DEMONSTRATIONS.**—Section 413(h)(1) of such Act (42 U.S.C. 613(h)(1)) is amended by striking “each of fiscal years 1997 through 2002” and inserting “fiscal year 2012”.

(f) **CENSUS BUREAU STUDY.**—Section 414(b) of such Act (42 U.S.C. 614(b)) is amended by striking “each of fiscal years 1996” and all that follows through “2003” and inserting “fiscal year 2012”.

(g) **CHILD CARE ENTITLEMENT.**—Section 418(a)(3) of such Act (42 U.S.C. 618(a)(3)) is amended by striking “appropriated” and all that follows and inserting “appropriated \$2,917,000,000 for fiscal year 2012.”.

(h) **GRANTS TO TERRITORIES.**—Section 1108(b)(2) of such Act (42 U.S.C. 1308(b)(2)) is amended by striking “fiscal years 1997 through 2003” and inserting “fiscal year 2012”.

(i) **PREVENTION OF DUPLICATE APPROPRIATIONS FOR FISCAL YEAR 2012.**—Expenditures made pursuant to the Short-Term TANF Extension Act (Public Law 112–35) and the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78) for fiscal year 2012 shall be charged to the applicable appropriation or authorization provided by the amendments made by this section for such fiscal year.

(j) **EFFECTIVE DATE.**—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

42 USC 603 note.

**SEC. 4003. DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTER-OPERABILITY.**

(a) **IN GENERAL.**—Section 411 of the Social Security Act (42 U.S.C. 611) is amended by adding at the end the following:

“(d) **DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTER-OPERABILITY.**—

“(1) **DATA EXCHANGE STANDARDS.**—

“(A) **DESIGNATION.**—The Secretary, in consultation with an interagency work group which shall be established by the Office of Management and Budget, and considering State and tribal perspectives, shall, by rule, designate a data exchange standard for any category of information required to be reported under this part.

Establishment.  
Regulations.

“(B) DATA EXCHANGE STANDARDS MUST BE NONPROPRIETARY AND INTEROPERABLE.—The data exchange standard designated under subparagraph (A) shall, to the extent practicable, be nonproprietary and interoperable.

“(C) OTHER REQUIREMENTS.—In designating data exchange standards under this section, the Secretary shall, to the extent practicable, incorporate—

“(i) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

“(ii) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

“(iii) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulatory Council.

“(2) DATA EXCHANGE STANDARDS FOR REPORTING.—

“(A) DESIGNATION.—The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and considering State and tribal perspectives, shall, by rule, designate data exchange standards to govern the data reporting required under this part.

“(B) REQUIREMENTS.—The data exchange standards required by subparagraph (A) shall, to the extent practicable—

“(i) incorporate a widely-accepted, nonproprietary, searchable, computer-readable format;

“(ii) be consistent with and implement applicable accounting principles; and

“(iii) be capable of being continually upgraded as necessary.

“(C) INCORPORATION OF NONPROPRIETARY STANDARDS.—

In designating reporting standards under this paragraph, the Secretary shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Markup Language.”.

Establishment.  
Regulations.

42 USC 611 note.  
Regulations.  
Deadlines.

(b) EFFECTIVE DATES.—

(1) DATA EXCHANGE STANDARDS.—The Secretary of Health and Human Services shall issue a proposed rule under section 411(d)(1) of the Social Security Act within 12 months after the date of the enactment of this section, and shall issue a final rule under such section 411(d)(1), after public comment, within 24 months after such date of enactment.

(2) DATA REPORTING STANDARDS.—The reporting standards required under section 411(d)(2) of such Act shall become effective with respect to reports required in the first reporting period, after the effective date of the final rule referred to in paragraph (1) of this subsection, for which the authority for data collection and reporting is established or renewed under the Paperwork Reduction Act.

**SEC. 4004. SPENDING POLICIES FOR ASSISTANCE UNDER STATE TANF PROGRAMS.**

(a) **STATE REQUIREMENT.**—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

“(12) **STATE REQUIREMENT TO PREVENT UNAUTHORIZED SPENDING OF BENEFITS.**—

“(A) **IN GENERAL.**—A State to which a grant is made under section 403 shall maintain policies and practices as necessary to prevent assistance provided under the State program funded under this part from being used in any electronic benefit transfer transaction in—

“(i) any liquor store;

“(ii) any casino, gambling casino, or gaming establishment; or

“(iii) any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

“(B) **DEFINITIONS.**—For purposes of subparagraph (A)—

“(i) **LIQUOR STORE.**—The term ‘liquor store’ means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (within the meaning of section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r))).

“(ii) **CASINO, GAMBLING CASINO, OR GAMING ESTABLISHMENT.**—The terms ‘casino’, ‘gambling casino’, and ‘gaming establishment’ do not include—

“(I) a grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or

“(II) any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

“(iii) **ELECTRONIC BENEFIT TRANSFER TRANSACTION.**—The term ‘electronic benefit transfer transaction’ means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.”.

(b) **PENALTY.**—Section 409(a) of such Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

“(16) **PENALTY FOR FAILURE TO ENFORCE SPENDING POLICIES.**—

“(A) **IN GENERAL.**—If, within 2 years after the date of the enactment of this paragraph, any State has not reported to the Secretary on such State’s implementation of the policies and practices required by section 408(a)(12), or the Secretary determines, based on the information provided in State reports, that any State has not implemented and maintained such policies and practices, the Secretary shall reduce, by an amount equal to 5 percent of the

Time period.  
Determination.  
Reduction.

State family assistance grant, the grant payable to such State under section 403(a)(1) for—

“(i) the fiscal year immediately succeeding the year in which such 2-year period ends; and

“(ii) each succeeding fiscal year in which the State does not demonstrate that such State has implemented and maintained such policies and practices.

“(B) REDUCTION OF APPLICABLE PENALTY.—The Secretary may reduce the amount of the reduction required under subparagraph (A) based on the degree of noncompliance of the State.

“(C) STATE NOT RESPONSIBLE FOR INDIVIDUAL VIOLATIONS.—Fraudulent activity by any individual in an attempt to circumvent the policies and practices required by section 408(a)(12) shall not trigger a State penalty under subparagraph (A).”.

(c) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 402(a)(1)(A) of such Act (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

“(vii) Implement policies and procedures as necessary to prevent access to assistance provided under the State program funded under this part through any electronic fund transaction in an automated teller machine or point-of-sale device located in a place described in section 408(a)(12), including a plan to ensure that recipients of the assistance have adequate access to their cash assistance.

“(viii) Ensure that recipients of assistance provided under the State program funded under this part have access to using or withdrawing assistance with minimal fees or charges, including an opportunity to access assistance with no fee or charges, and are provided information on applicable fees and surcharges that apply to electronic fund transactions involving the assistance, and that such information is made publicly available.”.

(d) CONFORMING AMENDMENT.—Section 409(c)(4) of such Act (42 U.S.C. 609(c)(4)) is amended by striking “or (13)” and inserting “(13), or (16)”.

#### SEC. 4005. TECHNICAL CORRECTIONS.

(a) Section 404(d)(1)(A) of the Social Security Act (42 U.S.C. 604(d)(1)(A)) is amended by striking “subtitle 1 of Title” and inserting “Subtitle A of title”.

(b) Sections 407(c)(2)(A)(i) and 409(a)(3)(C) of such Act (42 U.S.C. 607(c)(2)(A)(i) and 609(a)(3)(C)) are each amended by striking “403(b)(6)” and inserting “403(b)(5)”.

(c) Section 409(a)(2)(A) of such Act (42 U.S.C. 609(a)(2)(A)) is amended by moving clauses (i) and (ii) 2 ems to the right.

(d) Section 409(c)(2) of such Act (42 U.S.C. 609(c)(2)) is amended by inserting a comma after “appropriate”.

(e) Section 411(a)(1)(A)(ii)(III) of such Act (42 U.S.C. 611(a)(1)(A)(ii)(III)) is amended by striking the last close parenthesis.

## TITLE V—FEDERAL EMPLOYEES RETIREMENT

### SEC. 5001. INCREASE IN CONTRIBUTIONS TO FEDERAL EMPLOYEES' RETIREMENT SYSTEM FOR NEW EMPLOYEES.

(a) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

- (1) in paragraph (35), by striking “and” at the end;
- (2) in paragraph (36), by striking the period and inserting “; and”; and
- (3) by adding at the end the following:  
“(37) the term ‘revised annuity employee’ means any individual who—

“(A) on December 31, 2012—

“(i) is not an employee or Member covered under this chapter;

“(ii) is not performing civilian service which is creditable service under section 8411; and

“(iii) has less than 5 years of creditable civilian service under section 8411; and

“(B) after December 31, 2012, becomes employed as an employee or becomes a Member covered under this chapter performing service which is creditable service under section 8411.”.

(b) INCREASE IN CONTRIBUTIONS.—Section 8422(a)(3) of title 5, United States Code, is amended—

- (1) by striking “The applicable percentage under this paragraph for civilian service” and inserting “(A) The applicable percentage under this paragraph for civilian service by employees or Members other than revised annuity employees”; and

(2) by adding at the end the following:

“(B) The applicable percentage under this paragraph for civilian service by revised annuity employees shall be as follows:

“Employee	9.3	After December 31, 2012.
Congressional employee	9.3	After December 31, 2012.
Member	9.3	After December 31, 2012.
Law enforcement officer, fire-fighter, member of the Capitol Police, member of the Supreme Court Police, or air traffic controller	9.8	After December 31, 2012.
Nuclear materials courier	9.8	After December 31, 2012.
Customs and border protection officer	9.8	After December 31, 2012.”.

(c) REDUCTION IN CONGRESSIONAL ANNUITIES.—

(1) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(A) by redesignating subsections (d) through (m) as subsections (e) through (n), respectively; and

(B) by inserting after subsection (c) the following:

“(d) Notwithstanding any other provision of law, the annuity of an individual described in subsection (b) or (c) who is a revised annuity employee shall be computed in the same manner as in the case of an individual described in subsection (a).”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 8422(d)(2) of title 5, United States Code, is amended by striking “section 8415(l)” and inserting “section 8415(m)”.

(B) Section 8452(d)(1) of title 5, United States Code, is amended by striking “subsection (g)” and inserting “subsection (h)”.

(C) Section 8468(b)(1)(A) of title 5, United States Code, is amended by striking “section 8415(a) through (h)” and inserting “section 8415(a) through (i)”.

(D) Section 805(a)(2)(B) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)(B)) is amended by striking “section 8415(d)” and inserting “section 8415(e)”.

(E) Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)) is amended by striking “section 8415(d)” each place it appears and inserting “section 8415(e)”.

(F) Section 855(b) of the Foreign Service Act of 1980 (22 U.S.C. 4071d(b)) is amended—

(i) in paragraph (2)(A), by striking “section 8415(d)(1)” and inserting “section 8415(e)(1)”; and

(ii) in paragraph (5), by striking “section 8415(f)(1)” and inserting “section 8415(g)(1)”.

(G) Section 303(b)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2153(b)(1)) is amended by striking “section 8415(d)” and inserting “section 8415(e)”.

#### **SEC. 5002. FOREIGN SERVICE PENSION SYSTEM.**

(a) **DEFINITION.**—Section 852 of the Foreign Service Act of 1980 (22 U.S.C. 4071a) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following:

“(7) the term ‘revised annuity participant’ means any individual who—

“(A) on December 31, 2012—

“(i) is not a participant;

“(ii) is not performing service which is creditable service under section 854; and

“(iii) has less than 5 years creditable service under section 854; and

“(B) after December 31, 2012, becomes a participant performing service which is creditable service under section 854.”.

(b) **DEDUCTIONS AND WITHHOLDINGS FROM PAY.**—Section 856(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)(2)) is amended—

(1) by striking “The applicable percentage under this subsection” and inserting “(A) The applicable percentage for a participant other than a revised annuity participant”; and

(2) by adding at the end the following:

“(B) The applicable percentage for a revised annuity participant shall be as follows:

“9.85 ..... After December 31, 2012”.

#### **SEC. 5003. CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.**

Section 211(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and  
 (2) by striking paragraphs (1) and (2) and inserting the following:

“(1) DEFINITION.—In this subsection, the term ‘revised annuity participant’ means an individual who—

“(A) on December 31, 2012—

“(i) is not a participant;

“(ii) is not performing qualifying service; and

“(iii) has less than 5 years of qualifying service;

and

“(B) after December 31, 2012, becomes a participant performing qualifying service.

“(2) CONTRIBUTIONS.—

“(A) IN GENERAL.—Except as provided in subsection (d), 7 percent of the basic pay received by a participant other than a revised annuity participant for any pay period shall be deducted and withheld from the pay of that participant and contributed to the fund.

“(B) REVISED ANNUITY PARTICIPANTS.—Except as provided in subsection (d), 9.3 percent of the basic pay received by a revised annuity participant for any pay period shall be deducted and withheld from the pay of that revised annuity participant and contributed to the fund.

“(3) AGENCY CONTRIBUTIONS.—

“(A) IN GENERAL.—An amount equal to 7 percent of the basic pay received by a participant other than a revised annuity participant shall be contributed to the fund for a pay period for the participant from the appropriation or fund which is used for payment of the participant’s basic pay.

“(B) REVISED ANNUITY PARTICIPANTS.—An amount equal to 4.7 percent of the basic pay received by a revised annuity participant shall be contributed to the fund for a pay period for the revised annuity participant from the appropriation or fund which is used for payment of the revised annuity participant’s basic pay.”.

## **TITLE VI—PUBLIC SAFETY COMMUNICATIONS AND ELECTROMAGNETIC SPECTRUM AUCTIONS**

### **SEC. 6001. DEFINITIONS.**

47 USC 1401.

In this title:

(1) 700 MHZ BAND.—The term “700 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 698 megahertz to 806 megahertz.

(2) 700 MHZ D BLOCK SPECTRUM.—The term “700 MHz D block spectrum” means the portion of the electromagnetic spectrum between the frequencies from 758 megahertz to 763 megahertz and between the frequencies from 788 megahertz to 793 megahertz.

(3) APPROPRIATE COMMITTEES OF CONGRESS.—Except as otherwise specifically provided, the term “appropriate committees of Congress” means—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(4) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information.

(5) BOARD.—The term “Board” means the Board of the First Responder Network Authority established under section 6204(b).

(6) BROADCAST TELEVISION LICENSEE.—The term “broadcast television licensee” means the licensee of—

(A) a full-power television station; or

(B) a low-power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

(7) BROADCAST TELEVISION SPECTRUM.—The term “broadcast television spectrum” means the portions of the electromagnetic spectrum between the frequencies from 54 megahertz to 72 megahertz, from 76 megahertz to 88 megahertz, from 174 megahertz to 216 megahertz, and from 470 megahertz to 698 megahertz.

(8) COMMERCIAL MOBILE DATA SERVICE.—The term “commercial mobile data service” means any mobile service (as defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153)) that is—

(A) a data service;

(B) provided for profit; and

(C) available to the public or such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission.

(9) COMMERCIAL MOBILE SERVICE.—The term “commercial mobile service” has the meaning given such term in section 332 of the Communications Act of 1934 (47 U.S.C. 332).

(10) COMMERCIAL STANDARDS.—The term “commercial standards” means the technical standards followed by the commercial mobile service and commercial mobile data service industries for network, device, and Internet Protocol connectivity. Such term includes standards developed by the Third Generation Partnership Project (3GPP), the Institute of Electrical and Electronics Engineers (IEEE), the Alliance for Telecommunications Industry Solutions (ATIS), the Internet Engineering Task Force (IETF), and the International Telecommunication Union (ITU).

(11) COMMISSION.—The term “Commission” means the Federal Communications Commission.

(12) CORE NETWORK.—The term “core network” means the core network described in section 6202(b)(1).

(13) EMERGENCY CALL.—The term “emergency call” means any real-time communication with a public safety answering point or other emergency management or response agency, including—

(A) through voice, text, or video and related data; and

(B) nonhuman-initiated automatic event alerts, such as alarms, telematics, or sensor data, which may also include real-time voice, text, or video communications.



(14) **EXISTING PUBLIC SAFETY BROADBAND SPECTRUM.**—The term “existing public safety broadband spectrum” means the portion of the electromagnetic spectrum between the frequencies—

- (A) from 763 megahertz to 768 megahertz;
- (B) from 793 megahertz to 798 megahertz;
- (C) from 768 megahertz to 769 megahertz; and
- (D) from 798 megahertz to 799 megahertz.

(15) **FIRST RESPONDER NETWORK AUTHORITY.**—The term “First Responder Network Authority” means the First Responder Network Authority established under section 6204.

(16) **FORWARD AUCTION.**—The term “forward auction” means the portion of an incentive auction of broadcast television spectrum under section 6403(c).

(17) **INCENTIVE AUCTION.**—The term “incentive auction” means a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402.

(18) **INTEROPERABILITY BOARD.**—The term “Interoperability Board” means the Technical Advisory Board for First Responder Interoperability established under section 6203.

(19) **MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR.**—The term “multichannel video programming distributor” has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(20) **NARROWBAND SPECTRUM.**—The term “narrowband spectrum” means the portion of the electromagnetic spectrum between the frequencies from 769 megahertz to 775 megahertz and between the frequencies from 799 megahertz to 805 megahertz.

(21) **NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK.**—The term “nationwide public safety broadband network” means the nationwide, interoperable public safety broadband network described in section 6202.

(22) **NEXT GENERATION 9–1–1 SERVICES.**—The term “Next Generation 9–1–1 services” means an IP-based system comprised of hardware, software, data, and operational policies and procedures that—

(A) provides standardized interfaces from emergency call and message services to support emergency communications;

(B) processes all types of emergency calls, including voice, text, data, and multimedia information;

(C) acquires and integrates additional emergency call data useful to call routing and handling;

(D) delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

(E) supports data or video communications needs for coordinated incident response and management; and

(F) provides broadband service to public safety answering points or other first responder entities.

(23) **NIST.**—The term “NIST” means the National Institute of Standards and Technology.

(24) **NTIA.**—The term “NTIA” means the National Telecommunications and Information Administration.

(25) **PUBLIC SAFETY ANSWERING POINT.**—The term “public safety answering point” has the meaning given such term in section 222 of the Communications Act of 1934 (47 U.S.C. 222).

(26) **PUBLIC SAFETY ENTITY.**—The term “public safety entity” means an entity that provides public safety services.

(27) **PUBLIC SAFETY SERVICES.**—The term “public safety services”—

(A) has the meaning given the term in section 337(f) of the Communications Act of 1934 (47 U.S.C. 337(f)); and

(B) includes services provided by emergency response providers, as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(28) **PUBLIC SAFETY TRUST FUND.**—The term “Public Safety Trust Fund” means the trust fund established under section 6413(a)(1).

(29) **RADIO ACCESS NETWORK.**—The term “radio access network” means the radio access network described in section 6202(b)(2).

(30) **REVERSE AUCTION.**—The term “reverse auction” means the portion of an incentive auction of broadcast television spectrum under section 6403(a), in which a broadcast television licensee may submit bids stating the amount it would accept for voluntarily relinquishing some or all of its broadcast television spectrum usage rights.

(31) **STATE.**—The term “State” has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(32) **ULTRA HIGH FREQUENCY.**—The term “ultra high frequency” means, with respect to a television channel, that the channel is located in the portion of the electromagnetic spectrum between the frequencies from 470 megahertz to 698 megahertz.

(33) **VERY HIGH FREQUENCY.**—The term “very high frequency” means, with respect to a television channel, that the channel is located in the portion of the electromagnetic spectrum between the frequencies from 54 megahertz to 72 megahertz, from 76 megahertz to 88 megahertz, or from 174 megahertz to 216 megahertz.

47 USC 1402.

**SEC. 6002. RULE OF CONSTRUCTION.**

Each range of frequencies described in this title shall be construed to be inclusive of the upper and lower frequencies in the range.

47 USC 1403.

**SEC. 6003. ENFORCEMENT.**

(a) **IN GENERAL.**—The Commission shall implement and enforce this title as if this title is a part of the Communications Act of 1934 (47 U.S.C. 151 et seq.). A violation of this title, or a regulation promulgated under this title, shall be considered to be a violation of the Communications Act of 1934, or a regulation promulgated under such Act, respectively.

(b) **EXCEPTIONS.**—

(1) **OTHER AGENCIES.**—Subsection (a) does not apply in the case of a provision of this title that is expressly required to be carried out by an agency (as defined in section 551 of title 5, United States Code) other than the Commission.

(2) **NTIA REGULATIONS.**—The Assistant Secretary may promulgate such regulations as are necessary to implement and enforce any provision of this title that is expressly required to be carried out by the Assistant Secretary.

**SEC. 6004. NATIONAL SECURITY RESTRICTIONS ON USE OF FUNDS AND AUCTION PARTICIPATION.** 47 USC 1404.

(a) **USE OF FUNDS.**—No funds made available by subtitle B or C may be used to make payments under a contract to a person described in subsection (c).

(b) **AUCTION PARTICIPATION.**—A person described in subsection (c) may not participate in a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j))—

(1) that is required to be conducted by this title; or

(2) in which any spectrum usage rights for which licenses are being assigned were made available under clause (i) of subparagraph (G) of paragraph (8) of such section, as added by section 6402.

(c) **PERSON DESCRIBED.**—A person described in this subsection is a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant.

## Subtitle A—Reallocation of Public Safety Spectrum

**SEC. 6101. REALLOCATION OF D BLOCK TO PUBLIC SAFETY.** 47 USC 1411.

(a) **IN GENERAL.**—The Commission shall reallocate the 700 MHz D block spectrum for use by public safety entities in accordance with the provisions of this Act.

(b) **SPECTRUM ALLOCATION.**—Section 337(a) of the Communications Act of 1934 (47 U.S.C. 337(a)) is amended—

(1) by striking “24” in paragraph (1) and inserting “34”; and

(2) by striking “36” in paragraph (2) and inserting “26”.

**SEC. 6102. FLEXIBLE USE OF NARROWBAND SPECTRUM.** 47 USC 1412.

The Commission may allow the narrowband spectrum to be used in a flexible manner, including usage for public safety broadband communications, subject to such technical and interference protection measures as the Commission may require.

**SEC. 6103. 470–512 MHZ PUBLIC SAFETY SPECTRUM.** 47 USC 1413.

(a) **IN GENERAL.**—Not later than 9 years after the date of enactment of this title, the Commission shall—

(1) reallocate the spectrum in the 470–512 MHz band (referred to in this section as the “T-Band spectrum”) currently used by public safety eligibles as identified in section 90.303 of title 47, Code of Federal Regulations; and

(2) begin a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for the use of the spectrum described in paragraph (1).

(b) **AUCTION PROCEEDS.**—Proceeds (including deposits and upfront payments from successful bidders) from the competitive bidding system described in subsection (a)(2) shall be available Grants.

to the Assistant Secretary to make grants in such sums as necessary to cover relocation costs for the relocation of public safety entities from the T-Band spectrum.

Deadline.

(c) RELOCATION.—Relocation shall be completed not later than 2 years after the date on which the system of competitive bidding described in subsection (a)(2) is completed.

## Subtitle B—Governance of Public Safety Spectrum

47 USC 1421.

### SEC. 6201. SINGLE PUBLIC SAFETY WIRELESS NETWORK LICENSEE.

(a) REALLOCATION AND GRANT OF LICENSE.—Notwithstanding any other provision of law, and subject to the provisions of this Act, the Commission shall reallocate and grant a license to the First Responder Network Authority for the use of the 700 MHz D block spectrum and existing public safety broadband spectrum.

(b) TERM OF LICENSE.—

(1) INITIAL LICENSE.—The license granted under subsection (a) shall be for an initial term of 10 years from the date of the initial issuance of the license.

(2) RENEWAL OF LICENSE.—Prior to expiration of the term of the initial license granted under subsection (a) or the expiration of any subsequent renewal of such license, the First Responder Network Authority shall submit to the Commission an application for the renewal of such license. Such renewal application shall demonstrate that, during the preceding license term, the First Responder Network Authority has met the duties and obligations set forth under this Act. A renewal license granted under this paragraph shall be for a term of not to exceed 10 years.

(c) FACILITATION OF TRANSITION.—The Commission shall take all actions necessary to facilitate the transition of the existing public safety broadband spectrum to the First Responder Network Authority.

47 USC 1422.

### SEC. 6202. PUBLIC SAFETY BROADBAND NETWORK.

(a) ESTABLISHMENT.—The First Responder Network Authority shall ensure the establishment of a nationwide, interoperable public safety broadband network.

(b) NETWORK COMPONENTS.—The nationwide public safety broadband network shall be based on a single, national network architecture that evolves with technological advancements and initially consists of—

(1) a core network that—

(A) consists of national and regional data centers, and other elements and functions that may be distributed geographically, all of which shall be based on commercial standards; and

(B) provides the connectivity between—

(i) the radio access network; and

(ii) the public Internet or the public switched network, or both; and

(2) a radio access network that—

(A) consists of all cell site equipment, antennas, and backhaul equipment, based on commercial standards, that

are required to enable wireless communications with devices using the public safety broadband spectrum; and

(B) shall be developed, constructed, managed, maintained, and operated taking into account the plans developed in the State, local, and tribal planning and implementation grant program under section 6302(a).

**SEC. 6203. PUBLIC SAFETY INTEROPERABILITY BOARD.**

47 USC 1423.

(a) **ESTABLISHMENT.**—There is established within the Commission an advisory board to be known as the “Technical Advisory Board for First Responder Interoperability”.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—

(A) **VOTING MEMBERS.**—Not later than 30 days after the date of enactment of this title, the Chairman of the Commission shall appoint 14 voting members to the Interoperability Board, of which—

(i) 4 members shall be representatives of wireless providers, of which—

(I) 2 members shall be representatives of national wireless providers;

(II) 1 member shall be a representative of regional wireless providers; and

(III) 1 member shall be a representative of rural wireless providers;

(ii) 3 members shall be representatives of equipment manufacturers;

(iii) 4 members shall be representatives of public safety entities, of which—

(I) not less than 1 member shall be a representative of management level employees of public safety entities; and

(II) not less than 1 member shall be a representative of employees of public safety entities;

(iv) 3 members shall be representatives of State and local governments, chosen to reflect geographic and population density differences across the United States; and

(v) all members shall have specific expertise necessary to developing technical requirements under this section, such as technical expertise, public safety communications expertise, and commercial network experience.

(B) **NON-VOTING MEMBER.**—The Assistant Secretary shall appoint 1 non-voting member to the Interoperability Board.

(2) **PERIOD OF APPOINTMENT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), members of the Interoperability Board shall be appointed for the life of the Interoperability Board.

(B) **REMOVAL FOR CAUSE.**—A member of the Interoperability Board may be removed for cause upon the determination of the Chairman of the Commission.

(3) **VACANCIES.**—Any vacancy in the Interoperability Board shall not affect the powers of the Interoperability Board, and shall be filled in the same manner as the original appointment.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—The Interoperability Board shall select a Chairperson and Vice Chairperson from among the members of the Interoperability Board.

(5) QUORUM.—A majority of the members of the Interoperability Board shall constitute a quorum.

(c) DUTIES OF THE INTEROPERABILITY BOARD.—

Deadline.

(1) DEVELOPMENT OF TECHNICAL REQUIREMENTS.—Not later than 90 days after the date of enactment of this Act, the Interoperability Board, in consultation with the NTIA, NIST, and the Office of Emergency Communications of the Department of Homeland Security, shall—

(A) develop recommended minimum technical requirements to ensure a nationwide level of interoperability for the nationwide public safety broadband network; and

(B) submit to the Commission for review in accordance with paragraph (3) recommended minimum technical requirements described in subparagraph (A).

(2) CONSIDERATION.—In developing recommended minimum technical requirements under paragraph (1), the Interoperability Board shall base the recommended minimum technical requirements on the commercial standards for Long Term Evolution (LTE) service.

(3) APPROVAL OF RECOMMENDATIONS.—

Deadline.

(A) IN GENERAL.—Not later than 30 days after the date on which the Interoperability Board submits recommended minimum technical requirements under paragraph (1)(B), the Commission shall approve the recommendations, with any revisions it deems necessary, and transmit such recommendations to the First Responder Network Authority.

(B) REVIEW.—Any actions taken under subparagraph (A) shall not be reviewable as a final agency action.

(d) TRAVEL EXPENSES.—The members of the Interoperability Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Interoperability Board.

(e) EXEMPTION FROM FACCA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Interoperability Board.

(f) TERMINATION OF AUTHORITY.—The Interoperability Board shall terminate 15 days after the date on which the Commission transmits the recommendations to the First Responder Network Authority under subsection (c)(3)(A).

47 USC 1424.

#### **SEC. 6204. ESTABLISHMENT OF THE FIRST RESPONDER NETWORK AUTHORITY.**

(a) ESTABLISHMENT.—There is established as an independent authority within the NTIA the “First Responder Network Authority” or “FirstNet”.

(b) BOARD.—

(1) IN GENERAL.—The First Responder Network Authority shall be headed by a Board, which shall consist of—

(A) the Secretary of Homeland Security;

(B) the Attorney General of the United States;

(C) the Director of the Office of Management and Budget; and

(D) 12 individuals appointed by the Secretary of Commerce in accordance with paragraph (2).

(2) APPOINTMENTS.—

(A) IN GENERAL.—In making appointments under paragraph (1)(D), the Secretary of Commerce shall—

(i) appoint not fewer than 3 individuals to represent the collective interests of the States, localities, tribes, and territories;

(ii) seek to ensure geographic and regional representation of the United States in such appointments;

(iii) seek to ensure rural and urban representation in such appointments; and

(iv) appoint not fewer than 3 individuals who have served as public safety professionals.

(B) REQUIRED QUALIFICATIONS.—

(i) IN GENERAL.—Each member appointed under paragraph (1)(D) should meet not less than 1 of the following criteria:

(I) PUBLIC SAFETY EXPERIENCE.—Knowledge and experience in the use of Federal, State, local, or tribal public safety or emergency response.

(II) TECHNICAL EXPERTISE.—Technical expertise and fluency regarding broadband communications, including public safety communications.

(III) NETWORK EXPERTISE.—Expertise in building, deploying, and operating commercial telecommunications networks.

(IV) FINANCIAL EXPERTISE.—Expertise in financing and funding telecommunications networks.

(ii) EXPERTISE TO BE REPRESENTED.—In making appointments under paragraph (1)(D), the Secretary of Commerce shall appoint—

(I) not fewer than 1 individual who satisfies the requirement under subclause (II) of clause (i);

(II) not fewer than 1 individual who satisfies the requirement under subclause (III) of clause (i); and

(III) not fewer than 1 individual who satisfies the requirement under subclause (IV) of clause (i).

(C) CITIZENSHIP.—No individual other than a citizen of the United States may serve as a member of the Board.

(c) TERMS OF APPOINTMENT.—

(1) INITIAL APPOINTMENT DEADLINE.—Members of the Board shall be appointed not later than 180 days after the date of the enactment of this title.

(2) TERMS.—

(A) LENGTH.—

(i) IN GENERAL.—Each member of the Board described in subparagraphs (A) through (C) of subsection (b)(1) shall serve as a member of the Board for the life of the First Responder Network Authority.

(ii) APPOINTED INDIVIDUALS.—The term of office of each individual appointed to be a member of the Board under subsection (b)(1)(D) shall be 3 years. No

member described in this clause may serve more than 2 consecutive full 3-year terms.

(B) EXPIRATION OF TERM.—Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.

(C) APPOINTMENT TO FILL VACANCY.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term.

(D) STAGGERED TERMS.—With respect to the initial members of the Board appointed under subsection (b)(1)(D)—

(i) 4 members shall serve for a term of 3 years;

(ii) 4 members shall serve for a term of 2 years;

and

(iii) 4 members shall serve for a term of 1 year.

(3) VACANCIES.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(d) CHAIR.—

(1) SELECTION.—The Secretary of Commerce shall select, from among the members of the Board appointed under subsection (b)(1)(D), an individual to serve for a 2-year term as Chair of the Board.

(2) CONSECUTIVE TERMS.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(e) MEETINGS.—

(1) FREQUENCY.—The Board shall meet—

(A) at the call of the Chair; and

(B) not less frequently than once each quarter.

(2) TRANSPARENCY.—Meetings of the Board, including any committee of the Board, shall be open to the public. The Board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the First Responder Network Authority, including pending or potential litigation.

(f) QUORUM.—Eight members of the Board shall constitute a quorum, including at least 6 of the members appointed under subsection (b)(1)(D).

(g) COMPENSATION.—

(1) IN GENERAL.—The members of the Board appointed under subsection (b)(1)(D) shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such members are engaged in performing a function of the Board.

(2) PROHIBITION ON COMPENSATION.—A member of the Board appointed under subparagraphs (A) through (C) of subsection (b)(1) shall serve without additional pay, and shall not otherwise benefit, directly or indirectly, as a result of their service to the First Responder Network Authority, but shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away



from the home or regular place of business of the member in the performance of the duties of the First Responder Network Authority.

**SEC. 6205. ADVISORY COMMITTEES OF THE FIRST RESPONDER NETWORK AUTHORITY.** 47 USC 1425.

(a) **ADVISORY COMMITTEES.**—The First Responder Network Authority—

(1) shall establish a standing public safety advisory committee to assist the First Responder Network Authority in carrying out its duties and responsibilities under this subtitle; and

(2) may establish additional standing or ad hoc committees, panels, or councils as the First Responder Network Authority determines are necessary.

(b) **SELECTION OF AGENTS, CONSULTANTS, AND EXPERTS.**—

(1) **IN GENERAL.**—The First Responder Network Authority shall select parties to serve as its agents, consultants, or experts in a fair, transparent, and objective manner, and such agents may include a program manager to carry out certain of the duties and responsibilities of deploying and operating the nationwide public safety broadband network described in subsections (b) and (c) of section 6206.

(2) **BINDING AND FINAL.**—If the selection of an agent, consultant, or expert satisfies the requirements under paragraph (1), the selection of that agent, consultant, or expert shall be final and binding.

**SEC. 6206. POWERS, DUTIES, AND RESPONSIBILITIES OF THE FIRST RESPONDER NETWORK AUTHORITY.** 47 USC 1426.

(a) **GENERAL POWERS.**—The First Responder Network Authority shall have the authority to do the following:

(1) To exercise, through the actions of its Board, all powers specifically granted by the provisions of this subtitle, and such incidental powers as shall be necessary.

(2) To hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the First Responder Network Authority considers necessary to carry out its responsibilities and duties.

(3) To obtain grants and funds from and make contracts with individuals, private companies, organizations, institutions, and Federal, State, regional, and local agencies.

(4) To accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, for the purposes of aiding or facilitating the work of the First Responder Network Authority.

(5) To spend funds under paragraph (3) in a manner authorized by the Board, but only for purposes that will advance or enhance public safety communications consistent with this title.

(6) To take such other actions as the First Responder Network Authority (through the Board) may from time to time determine necessary, appropriate, or advisable to accomplish the purposes of this title.

(b) **DUTY AND RESPONSIBILITY TO DEPLOY AND OPERATE A NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK.**—

(1) **IN GENERAL.**—The First Responder Network Authority shall hold the single public safety wireless license granted

under section 6201 and take all actions necessary to ensure the building, deployment, and operation of the nationwide public safety broadband network, in consultation with Federal, State, tribal, and local public safety entities, the Director of NIST, the Commission, and the public safety advisory committee established in section 6205(a), including by, at a minimum—

(A) ensuring nationwide standards for use and access of the network;

(B) issuing open, transparent, and competitive requests for proposals to private sector entities for the purposes of building, operating, and maintaining the network that use, without materially changing, the minimum technical requirements developed under section 6203;

(C) encouraging that such requests leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and

(D) managing and overseeing the implementation and execution of contracts or agreements with non-Federal entities to build, operate, and maintain the network.

(2) REQUIREMENTS.—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the First Responder Network Authority shall—

(A) ensure the safety, security, and resiliency of the network, including requirements for protecting and monitoring the network to protect against cyberattack;

(B) promote competition in the equipment market, including devices for public safety communications, by requiring that equipment for use on the network be—

(i) built to open, non-proprietary, commercially available standards;

(ii) capable of being used by any public safety entity and by multiple vendors across all public safety broadband networks operating in the 700 MHz band; and

(iii) backward-compatible with existing commercial networks to the extent that such capabilities are necessary and technically and economically reasonable;

(C) promote integration of the network with public safety answering points or their equivalent; and

(D) address special considerations for areas or regions with unique homeland security or national security needs.

(3) RURAL COVERAGE.—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the nationwide, interoperable public safety broadband network, consistent with the license granted under section 6201, shall require deployment phases with substantial rural coverage milestones as part of each phase of the construction and deployment of the network. To the maximum extent economically desirable, such proposals shall include partnerships with existing commercial mobile providers to utilize cost-effective opportunities to speed deployment in rural areas.

(4) EXECUTION OF AUTHORITY.—In carrying out the duties and responsibilities of this subsection, the First Responder Network Authority may—

(A) obtain grants from and make contracts with individuals, private companies, and Federal, State, regional, and local agencies;

(B) hire or accept voluntary services of consultants, experts, advisory boards, and panels to aid the First Responder Network Authority in carrying out such duties and responsibilities;

(C) receive payment for use of—

(i) network capacity licensed to the First Responder Network Authority; and

(ii) network infrastructure constructed, owned, or operated by the First Responder Network Authority; and

(D) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(c) OTHER SPECIFIC DUTIES AND RESPONSIBILITIES.—

(1) ESTABLISHMENT OF NETWORK POLICIES.—In carrying out the requirements under subsection (b), the First Responder Network Authority shall develop—

(A) requests for proposals with appropriate—

(i) timetables for construction, including by taking into consideration the time needed to build out to rural areas and the advantages offered through partnerships with existing commercial providers under paragraph (3);

(ii) coverage areas, including coverage in rural and nonurban areas;

(iii) service levels;

(iv) performance criteria; and

(v) other similar matters for the construction and deployment of such network;

(B) the technical and operational requirements of the network;

(C) practices, procedures, and standards for the management and operation of such network;

(D) terms of service for the use of such network, including billing practices; and

(E) ongoing compliance review and monitoring of the—

(i) management and operation of such network;

(ii) practices and procedures of the entities operating on and the personnel using such network; and

(iii) necessary training needs of network operators and users.

(2) STATE AND LOCAL PLANNING.—

(A) REQUIRED CONSULTATION.—In developing requests for proposals and otherwise carrying out its responsibilities under this Act, the First Responder Network Authority shall consult with regional, State, tribal, and local jurisdictions regarding the distribution and expenditure of any amounts required to carry out the policies established under paragraph (1), including with regard to the—

(i) construction of a core network and any radio access network build out;

(ii) placement of towers;

(iii) coverage areas of the network, whether at the regional, State, tribal, or local level;

(iv) adequacy of hardening, security, reliability, and resiliency requirements;

(v) assignment of priority to local users;

(vi) assignment of priority and selection of entities seeking access to or use of the nationwide public safety interoperable broadband network established under subsection (b); and

(vii) training needs of local users.

(B) METHOD OF CONSULTATION.—The consultation required under subparagraph (A) shall occur between the First Responder Network Authority and the single officer or governmental body designated under section 6302(d).

Contracts.

(3) LEVERAGING EXISTING INFRASTRUCTURE.—In carrying out the requirement under subsection (b), the First Responder Network Authority shall enter into agreements to utilize, to the maximum extent economically desirable, existing—

(A) commercial or other communications infrastructure; and

(B) Federal, State, tribal, or local infrastructure.

(4) MAINTENANCE AND UPGRADES.—The First Responder Network Authority shall ensure the maintenance, operation, and improvement of the nationwide public safety broadband network, including by ensuring that the First Responder Network Authority updates and revises any policies established under paragraph (1) to take into account new and evolving technologies.

(5) ROAMING AGREEMENTS.—The First Responder Network Authority shall negotiate and enter into, as it determines appropriate, roaming agreements with commercial network providers to allow the nationwide public safety broadband network to roam onto commercial networks and gain prioritization of public safety communications over such networks in times of an emergency.

Lists.

(6) NETWORK INFRASTRUCTURE AND DEVICE CRITERIA.—The Director of NIST, in consultation with the First Responder Network Authority and the Commission, shall ensure the development of a list of certified devices and components meeting appropriate protocols and standards for public safety entities and commercial vendors to adhere to, if such entities or vendors seek to have access to, use of, or compatibility with the nationwide public safety broadband network.

(7) REPRESENTATION BEFORE STANDARD SETTING ENTITIES.—The First Responder Network Authority, in consultation with the Director of NIST, the Commission, and the public safety advisory committee established under section 6205(a), shall represent the interests of public safety users of the nationwide public safety broadband network before any proceeding, negotiation, or other matter in which a standards organization, standards body, standards development organization, or any other recognized standards-setting entity addresses the development of standards relating to interoperability.

(8) PROHIBITION ON NEGOTIATION WITH FOREIGN GOVERNMENTS.—The First Responder Network Authority shall not have the authority to negotiate or enter into any agreements with a foreign government on behalf of the United States.

(d) **EXEMPTION FROM CERTAIN LAWS.**—Any action taken or decisions made by the First Responder Network Authority shall be exempt from the requirements of—

(1) section 3506 of title 44, United States Code (commonly referred to as the Paperwork Reduction Act);

(2) chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act); and

(3) chapter 6 of title 5, United States Code (commonly referred to as the Regulatory Flexibility Act).

(e) **NETWORK CONSTRUCTION FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the “Network Construction Fund”.

(2) **USE OF FUND.**—Amounts deposited into the Network Construction Fund shall be used by the—

(A) First Responder Network Authority to carry out this section, except for administrative expenses; and

(B) NTIA to make grants to States under section 6302(e)(3)(C)(iii)(I).

(f) **TERMINATION OF AUTHORITY.**—The authority of the First Responder Network Authority shall terminate on the date that is 15 years after the date of enactment of this title.

(g) **GAO REPORT.**—Not later than 10 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on what action Congress should take regarding the 15-year sunset of authority under subsection (f).

**SEC. 6207. INITIAL FUNDING FOR THE FIRST RESPONDER NETWORK AUTHORITY.** 47 USC 1427.

(a) **BORROWING AUTHORITY.**—Prior to the deposit of proceeds into the Public Safety Trust Fund from the incentive auctions to be carried out under section 309(j)(8)(G) of the Communications Act of 1934 or the auction of spectrum pursuant to section 6401, the NTIA may borrow from the Treasury such sums as may be necessary, but not to exceed \$2,000,000,000, to implement this subtitle. The NTIA shall reimburse the Treasury, without interest, from funds deposited into the Public Safety Trust Fund.

Reimbursement.

(b) **PROHIBITION.**—

(1) **IN GENERAL.**—Administrative expenses of the First Responder Network Authority may not exceed \$100,000,000 during the 10-year period beginning on the date of enactment of this title.

Time period.

(2) **DEFINITION.**—For purposes of this subsection, the term “administrative expenses” does not include the costs incurred by the First Responder Network Authority for oversight and audits to protect against waste, fraud, and abuse.

**SEC. 6208. PERMANENT SELF-FUNDING; DUTY TO ASSESS AND COLLECT FEES FOR NETWORK USE.** 47 USC 1428.

(a) **IN GENERAL.**—Notwithstanding section 337 of the Communications Act of 1934 (47 U.S.C. 337), the First Responder Network Authority is authorized to assess and collect the following fees:

(1) **NETWORK USER FEE.**—A user or subscription fee from each entity, including any public safety entity or secondary user, that seeks access to or use of the nationwide public safety broadband network.

(2) **LEASE FEES RELATED TO NETWORK CAPACITY.**—

Definition.

(A) IN GENERAL.—A fee from any entity that seeks to enter into a covered leasing agreement.

(B) COVERED LEASING AGREEMENT.—For purposes of subparagraph (A), a “covered leasing agreement” means a written agreement resulting from a public-private arrangement to construct, manage, and operate the nationwide public safety broadband network between the First Responder Network Authority and secondary user to permit—

(i) access to network capacity on a secondary basis for non-public safety services; and

(ii) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity.

(3) LEASE FEES RELATED TO NETWORK EQUIPMENT AND INFRASTRUCTURE.—A fee from any entity that seeks access to or use of any equipment or infrastructure, including antennas or towers, constructed or otherwise owned by the First Responder Network Authority resulting from a public-private arrangement to construct, manage, and operate the nationwide public safety broadband network.

(b) ESTABLISHMENT OF FEE AMOUNTS; PERMANENT SELF-FUNDING.—The total amount of the fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to recoup the total expenses of the First Responder Network Authority in carrying out its duties and responsibilities described under this subtitle for the fiscal year involved.

Review.

(c) ANNUAL APPROVAL.—The NTIA shall review the fees assessed under this section on an annual basis, and such fees may only be assessed if approved by the NTIA.

(d) REQUIRED REINVESTMENT OF FUNDS.—The First Responder Network Authority shall reinvest amounts received from the assessment of fees under this section in the nationwide public safety interoperable broadband network by using such funds only for constructing, maintaining, operating, or improving the network.

47 USC 1429.

#### **SEC. 6209. AUDIT AND REPORT.**

(a) AUDIT.—

(1) IN GENERAL.—The Secretary of Commerce shall enter into a contract with an independent auditor to conduct an audit, on an annual basis, of the First Responder Network Authority in accordance with general accounting principles and procedures applicable to commercial corporate transactions. Each audit conducted under this paragraph shall be made available to the appropriate committees of Congress.

(2) LOCATION.—Any audit conducted under paragraph (1) shall be conducted at the place or places where accounts of the First Responder Network Authority are normally kept.

(3) ACCESS TO FIRST RESPONDER NETWORK AUTHORITY BOOKS AND DOCUMENTS.—

(A) IN GENERAL.—For purposes of an audit conducted under paragraph (1), the representatives of the independent auditor shall—

(i) have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the First Responder Network

Authority that pertain to the financial transactions of the First Responder Network Authority and are necessary to facilitate the audit; and

(ii) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(B) REQUIREMENT.—All books, accounts, records, reports, files, papers, and property of the First Responder Network Authority shall remain in the possession and custody of the First Responder Network Authority.

(b) REPORT.—

(1) IN GENERAL.—The independent auditor selected to conduct an audit under this section shall submit a report of each audit conducted under subsection (a) to—

(A) the appropriate committees of Congress;

(B) the President; and

(C) the First Responder Network Authority.

(2) CONTENTS.—Each report submitted under paragraph

(1) shall contain—

(A) such comments and information as the independent auditor determines necessary to inform Congress of the financial operations and condition of the First Responder Network Authority;

(B) any recommendations of the independent auditor relating to the financial operations and condition of the First Responder Network Authority; and

(C) a description of any program, expenditure, or other financial transaction or undertaking of the First Responder Network Authority that was observed during the course of the audit, which, in the opinion of the independent auditor, has been carried on or made without the authority of law.

#### SEC. 6210. ANNUAL REPORT TO CONGRESS.

47 USC 1430.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the First Responder Network Authority shall submit an annual report covering the preceding fiscal year to the appropriate committees of Congress.

(b) REQUIRED CONTENT.—The report required under subsection (a) shall include—

(1) a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the First Responder Network Authority under this section; and

(2) such recommendations or proposals for legislative or administrative action as the First Responder Network Authority deems appropriate.

(c) AVAILABILITY TO TESTIFY.—The members of the Board and employees of the First Responder Network Authority shall be available to testify before the appropriate committees of the Congress with respect to—

(1) the report required under subsection (a);

(2) the report of any audit conducted under section 6210;

or

(3) any other matter which such committees may determine appropriate.

47 USC 1431.

**SEC. 6211. PUBLIC SAFETY ROAMING AND PRIORITY ACCESS.**

The Commission may adopt rules, if necessary in the public interest, to improve the ability of public safety networks to roam onto commercial networks and to gain priority access to commercial networks in an emergency if—

(1) the public safety entity equipment is technically compatible with the commercial network;

(2) the commercial network is reasonably compensated; and

(3) such access does not preempt or otherwise terminate or degrade all existing voice conversations or data sessions.

47 USC 1432.

**SEC. 6212. PROHIBITION ON DIRECT OFFERING OF COMMERCIAL TELECOMMUNICATIONS SERVICE DIRECTLY TO CONSUMERS.**

(a) IN GENERAL.—The First Responder Network Authority shall not offer, provide, or market commercial telecommunications or information services directly to consumers.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the First Responder Network Authority and a secondary user from entering into a covered leasing agreement pursuant to section 6208(a)(2)(B). Nothing in this section shall be construed to limit the First Responder Network Authority from collecting lease fees related to network equipment and infrastructure pursuant to section 6208(a)(3).

47 USC 1433.

**SEC. 6213. PROVISION OF TECHNICAL ASSISTANCE.**

The Commission may provide technical assistance to the First Responder Network Authority and may take any action necessary to assist the First Responder Network Authority in effectuating its duties and responsibilities under this subtitle.

## Subtitle C—Public Safety Commitments

47 USC 1441.

**SEC. 6301. STATE AND LOCAL IMPLEMENTATION FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the State and Local Implementation Fund.

(b) AMOUNTS AVAILABLE FOR STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM.—Any amounts borrowed under subsection (c)(1) and any amounts in the State and Local Implementation Fund that are not necessary to reimburse the general fund of the Treasury for such borrowed amounts shall be available to the Assistant Secretary to implement section 6302.

(c) BORROWING AUTHORITY.—

(1) IN GENERAL.—Prior to the end of fiscal year 2022, the Assistant Secretary may borrow from the general fund of the Treasury such sums as may be necessary, but not to exceed \$135,000,000, to implement section 6302.

(2) REIMBURSEMENT.—The Assistant Secretary shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under paragraph (1) as funds are deposited into the State and Local Implementation Fund.

(d) TRANSFER OF UNUSED FUNDS.—If there is a balance remaining in the State and Local Implementation Fund on September 30, 2022, the Secretary of the Treasury shall transfer such balance to the general fund of the Treasury, where such balance shall be dedicated for the sole purpose of deficit reduction.



**SEC. 6302. STATE AND LOCAL IMPLEMENTATION.**

47 USC 1442.

(a) **ESTABLISHMENT OF STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM.**—The Assistant Secretary, in consultation with the First Responder Network Authority, shall take such action as is necessary to establish a grant program to make grants to States to assist State, regional, tribal, and local jurisdictions to identify, plan, and implement the most efficient and effective way for such jurisdictions to utilize and integrate the infrastructure, equipment, and other architecture associated with the nationwide public safety broadband network to satisfy the wireless communications and data services needs of that jurisdiction, including with regards to coverage, siting, and other needs.

(b) **MATCHING REQUIREMENTS; FEDERAL SHARE.**—

(1) **IN GENERAL.**—The Federal share of the cost of any activity carried out using a grant under this section may not exceed 80 percent of the eligible costs of carrying out that activity, as determined by the Assistant Secretary, in consultation with the First Responder Network Authority.

(2) **WAIVER.**—The Assistant Secretary may waive, in whole or in part, the requirements of paragraph (1) for good cause shown if the Assistant Secretary determines that such a waiver is in the public interest.

(c) **PROGRAMMATIC REQUIREMENTS.**—Not later than 6 months after the date of enactment of this Act, the Assistant Secretary, in consultation with the First Responder Network Authority, shall establish requirements relating to the grant program to be carried out under this section, including the following:

Deadline.

(1) Defining eligible costs for purposes of subsection (b)(1).

(2) Determining the scope of eligible activities for grant funding under this section.

(3) Prioritizing grants for activities that ensure coverage in rural as well as urban areas.

(d) **CERTIFICATION AND DESIGNATION OF OFFICER OR GOVERNMENTAL BODY.**—In carrying out the grant program established under this section, the Assistant Secretary shall require each State to certify in its application for grant funds that the State has designated a single officer or governmental body to serve as the coordinator of implementation of the grant funds.

(e) **STATE NETWORK.**—

(1) **NOTICE.**—Upon the completion of the request for proposal process conducted by the First Responder Network Authority for the construction, operation, maintenance, and improvement of the nationwide public safety broadband network, the First Responder Network Authority shall provide to the Governor of each State, or his designee—

(A) notice of the completion of the request for proposal process;

(B) details of the proposed plan for buildout of the nationwide, interoperable broadband network in such State; and

(C) the funding level for the State as determined by the NTIA.

(2) **STATE DECISION.**—Not later than 90 days after the date on which the Governor of a State receives notice under paragraph (1), the Governor shall choose whether to—

Deadline.

(A) participate in the deployment of the nationwide, interoperable broadband network as proposed by the First Responder Network Authority; or

(B) conduct its own deployment of a radio access network in such State.

(3) PROCESS.—

Notification.

(A) IN GENERAL.—Upon making a decision to opt-out under paragraph (2)(B), the Governor shall notify the First Responder Network Authority, the NTIA, and the Commission of such decision.

Deadline.

(B) STATE REQUEST FOR PROPOSALS.—Not later than 180 days after the date on which a Governor provides notice under subparagraph (A), the Governor shall develop and complete requests for proposals for the construction, maintenance, and operation of the radio access network within the State.

(C) SUBMISSION AND APPROVAL OF ALTERNATIVE PLAN.—

(i) IN GENERAL.—The State shall submit an alternative plan for the construction, maintenance, operation, and improvements of the radio access network within the State to the Commission, and such plan shall demonstrate—

(I) that the State will be in compliance with the minimum technical interoperability requirements developed under section 6203; and

(II) interoperability with the nationwide public safety broadband network.

(ii) COMMISSION APPROVAL OR DISAPPROVAL.—Upon submission of a State plan under clause (i), the Commission shall either approve or disapprove the plan.

(iii) APPROVAL.—If the Commission approves a plan under this subparagraph, the State—

(I) may apply to the NTIA for a grant to construct the radio access network within the State that includes the showing described in subparagraph (D); and

(II) shall apply to the NTIA to lease spectrum capacity from the First Responder Network Authority.

(iv) DISAPPROVAL.—If the Commission disapproves a plan under this subparagraph, the construction, maintenance, operation, and improvements of the network within the State shall proceed in accordance with the plan proposed by the First Responder Network Authority.

(D) FUNDING REQUIREMENTS.—In order to obtain grant funds and spectrum capacity leasing rights under subparagraph (C)(iii), a State shall demonstrate—

(i) that the State has—

(I) the technical capabilities to operate, and the funding to support, the State radio access network;

(II) has the ability to maintain ongoing interoperability with the nationwide public safety broadband network; and

(III) the ability to complete the project within specified comparable timelines specific to the State;

(ii) the cost-effectiveness of the State plan submitted under subparagraph (C)(i); and

(iii) comparable security, coverage, and quality of service to that of the nationwide public safety broadband network.

(f) **USER FEES.**—If a State chooses to build its own radio access network, the State shall pay any user fees associated with State use of elements of the core network.

(g) **PROHIBITION.**—

(1) **IN GENERAL.**—A State that chooses to build its own radio access network shall not provide commercial service to consumers or offer wholesale leasing capacity of the network within the State except directly through public-private partnerships for construction, maintenance, operation, and improvement of the network within the State.

(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to prohibit the State and a secondary user from entering into a covered leasing agreement. Any revenue gained by the State from such a leasing agreement shall be used only for constructing, maintaining, operating, or improving the radio access network of the State.

(h) **JUDICIAL REVIEW.**—

(1) **IN GENERAL.**—The United States District Court for the District of Columbia shall have exclusive jurisdiction to review a decision of the Commission made under subsection (e)(3)(C)(iv).

(2) **STANDARD OF REVIEW.**—The court shall affirm the decision of the Commission unless—

(A) the decision was procured by corruption, fraud, or undue means;

(B) there was actual partiality or corruption in the Commission; or

(C) the Commission was guilty of misconduct in refusing to hear evidence pertinent and material to the decision or of any other misbehavior by which the rights of any party have been prejudiced.

**SEC. 6303. PUBLIC SAFETY WIRELESS COMMUNICATIONS RESEARCH AND DEVELOPMENT.** 47 USC 1443.

(a) **NIST DIRECTED RESEARCH AND DEVELOPMENT PROGRAM.**—From amounts made available from the Public Safety Trust Fund, the Director of NIST, in consultation with the Commission, the Secretary of Homeland Security, and the National Institute of Justice of the Department of Justice, as appropriate, shall conduct research and assist with the development of standards, technologies, and applications to advance wireless public safety communications.

(b) **REQUIRED ACTIVITIES.**—In carrying out the requirement under subsection (a), the Director of NIST, in consultation with the First Responder Network Authority and the public safety advisory committee established under section 6205(a), shall—

(1) document public safety wireless communications technical requirements;

(2) accelerate the development of the capability for communications between currently deployed public safety narrowband systems and the nationwide public safety broadband network;

(3) establish a research plan, and direct research, that addresses the wireless communications needs of public safety entities beyond what can be provided by the current generation of broadband technology;

(4) accelerate the development of mission critical voice, including device-to-device “talkaround” capability over broadband networks, public safety prioritization, authentication capabilities, and standard application programming interfaces for the nationwide public safety broadband network, if necessary and practical;

(5) accelerate the development of communications technology and equipment that can facilitate the eventual migration of public safety narrowband communications to the nationwide public safety broadband network; and

(6) convene working groups of relevant government and commercial parties to achieve the requirements in paragraphs (1) through (5).

## Subtitle D—Spectrum Auction Authority

47 USC 1451.

### SEC. 6401. DEADLINES FOR AUCTION OF CERTAIN SPECTRUM.

#### (a) CLEARING CERTAIN FEDERAL SPECTRUM.—

President.

##### (1) IN GENERAL.—The President shall—

(A) not later than 3 years after the date of the enactment of this Act, begin the process of withdrawing or modifying the assignment to a Federal Government station of the electromagnetic spectrum described in paragraph (2); and

Notification.

(B) not later than 30 days after completing the withdrawal or modification, notify the Commission that the withdrawal or modification is complete.

(2) SPECTRUM DESCRIBED.—The electromagnetic spectrum described in this paragraph is the 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz identified under paragraph (3).

Reports.

(3) IDENTIFICATION BY SECRETARY OF COMMERCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall submit to the President a report identifying 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz for reallocation from Federal use to non-Federal use.

#### (b) REALLOCATION AND AUCTION.—

(1) IN GENERAL.—Notwithstanding paragraph (15)(A) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), not later than 3 years after the date of the enactment of this Act, the Commission shall, except as provided in paragraph (4)—

(A) allocate the spectrum described in paragraph (2) for commercial use; and

(B) through a system of competitive bidding under such section, grant new initial licenses for the use of such spectrum, subject to flexible-use service rules.

(2) SPECTRUM DESCRIBED.—The spectrum described in this paragraph is the following:

(A) The frequencies between 1915 megahertz and 1920 megahertz.

(B) The frequencies between 1995 megahertz and 2000 megahertz.

(C) The frequencies described in subsection (a)(2).

(D) The frequencies between 2155 megahertz and 2180 megahertz.

(E) Fifteen megahertz of contiguous spectrum to be identified by the Commission.

(3) PROCEEDS TO COVER 110 PERCENT OF FEDERAL RELOCATION OR SHARING COSTS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of section 309(j)(16)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

(4) DETERMINATION BY COMMISSION.—If the Commission determines that the band of frequencies described in paragraph (2)(A) or the band of frequencies described in paragraph (2)(B) cannot be used without causing harmful interference to commercial mobile service licensees in the frequencies between 1930 megahertz and 1995 megahertz, the Commission may not—

(A) allocate such band for commercial use under paragraph (1)(A); or

(B) grant licenses under paragraph (1)(B) for the use of such band.

(c) AUCTION PROCEEDS.—Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking “(D), and (E),” and inserting “(D), (E), (F), and (G),”;

(2) in subparagraph (C)(i), by striking “subparagraph (E)(ii)” and inserting “subparagraphs (D)(ii), (E)(ii), (F), and (G)”;

(3) in subparagraph (D)—

(A) by striking the heading and inserting “PROCEEDS FROM REALLOCATED FEDERAL SPECTRUM.—”;

(B) by striking “Cash” and inserting the following:

“(i) IN GENERAL.—Except as provided in clause (ii), cash”; and

(C) by adding at the end the following:

“(ii) CERTAIN OTHER PROCEEDS.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), in the case of proceeds (including deposits and upfront payments from successful bidders) attributable to the auction of eligible frequencies described in paragraph (2) of section 113(g) of the National Telecommunications and Information Administration Organization Act that are required to be auctioned by section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012, such portion of such proceeds as is necessary to cover the relocation or sharing costs (as defined in paragraph (3) of such section 113(g)) of Federal entities relocated from such eligible frequencies shall be deposited in the Spectrum Relocation Fund. The remainder of such proceeds shall

be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of the Middle Class Tax Relief and Job Creation Act of 2012.”; and

(4) by adding at the end the following:

“(F) CERTAIN PROCEEDS DESIGNATED FOR PUBLIC SAFETY TRUST FUND.—Notwithstanding subparagraph (A) and except as provided in subparagraphs (B) and (D)(ii), the proceeds (including deposits and upfront payments from successful bidders) from the use of a system of competitive bidding under this subsection pursuant to section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of such Act.”.

**SEC. 6402. GENERAL AUTHORITY FOR INCENTIVE AUCTIONS.**

Section 309(j)(8) of the Communications Act of 1934, as amended by section 6401(c), is further amended by adding at the end the following:

“(G) INCENTIVE AUCTIONS.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the Commission may encourage a licensee to relinquish voluntarily some or all of its licensed spectrum usage rights in order to permit the assignment of new initial licenses subject to flexible-use service rules by sharing with such licensee a portion, based on the value of the relinquished rights as determined in the reverse auction required by clause (ii)(I), of the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection.

“(ii) LIMITATIONS.—The Commission may not enter into an agreement for a licensee to relinquish spectrum usage rights in exchange for a share of auction proceeds under clause (i) unless—

“(I) the Commission conducts a reverse auction to determine the amount of compensation that licensees would accept in return for voluntarily relinquishing spectrum usage rights; and

“(II) at least two competing licensees participate in the reverse auction.

“(iii) TREATMENT OF REVENUES.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the proceeds (including deposits and upfront payments from successful bidders) from any auction, prior to the end of fiscal year 2022, of spectrum usage rights made available under clause (i) that are not shared with licensees under such clause shall be deposited as follows:

“(I) \$1,750,000,000 of the proceeds from the incentive auction of broadcast television spectrum required by section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the TV Broadcaster Relocation Fund established by subsection (d)(1) of such section.

“(II) All other proceeds shall be deposited—

“(aa) prior to the end of fiscal year 2022, in the Public Safety Trust Fund established by section 6413(a)(1) of such Act; and

“(bb) after the end of fiscal year 2022, in the general fund of the Treasury, where such proceeds shall be dedicated for the sole purpose of deficit reduction.

“(iv) CONGRESSIONAL NOTIFICATION.—At least 3 months before any incentive auction conducted under this subparagraph, the Chairman of the Commission, in consultation with the Director of the Office of Management and Budget, shall notify the appropriate committees of Congress of the methodology for calculating the amounts that will be shared with licensees under clause (i).

“(v) DEFINITION.—In this subparagraph, the term ‘appropriate committees of Congress’ means—

“(I) the Committee on Commerce, Science, and Transportation of the Senate;

“(II) the Committee on Appropriations of the Senate;

“(III) the Committee on Energy and Commerce of the House of Representatives; and

“(IV) the Committee on Appropriations of the House of Representatives.”.

**SEC. 6403. SPECIAL REQUIREMENTS FOR INCENTIVE AUCTION OF BROADCAST TV SPECTRUM.** 47 USC 1452.

(a) **REVERSE AUCTION TO IDENTIFY INCENTIVE AMOUNT.**—

(1) **IN GENERAL.**—The Commission shall conduct a reverse auction to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights in order to make spectrum available for assignment through a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402.

Determination.

(2) **ELIGIBLE RELINQUISHMENTS.**—A relinquishment of usage rights for purposes of paragraph (1) shall include the following:

(A) Relinquishing all usage rights with respect to a particular television channel without receiving in return any usage rights with respect to another television channel.

(B) Relinquishing all usage rights with respect to an ultra high frequency television channel in return for receiving usage rights with respect to a very high frequency television channel.

(C) Relinquishing usage rights in order to share a television channel with another licensee.

(3) **CONFIDENTIALITY.**—The Commission shall take all reasonable steps necessary to protect the confidentiality of Commission-held data of a licensee participating in the reverse auction under paragraph (1), including withholding the identity of such licensee until the reassignments and reallocations (if any) under subsection (b)(1)(B) become effective, as described in subsection (f)(2).

(4) PROTECTION OF CARRIAGE RIGHTS OF LICENSEES SHARING A CHANNEL.—A broadcast television station that voluntarily relinquishes spectrum usage rights under this subsection in order to share a television channel and that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at such location if it were not sharing a channel.

(b) REORGANIZATION OF BROADCAST TV SPECTRUM.—

(1) IN GENERAL.—For purposes of making available spectrum to carry out the forward auction under subsection (c)(1), the Commission—

(A) shall evaluate the broadcast television spectrum (including spectrum made available through the reverse auction under subsection (a)(1)); and

(B) may, subject to international coordination along the border with Mexico and Canada—

(i) make such reassignments of television channels as the Commission considers appropriate; and

(ii) reallocate such portions of such spectrum as the Commission determines are available for reallocation.

(2) FACTORS FOR CONSIDERATION.—In making any reassignments or reallocations under paragraph (1)(B), the Commission shall make all reasonable efforts to preserve, as of the date of the enactment of this Act, the coverage area and population served of each broadcast television licensee, as determined using the methodology described in OET Bulletin 69 of the Office of Engineering and Technology of the Commission.

(3) NO INVOLUNTARY RELOCATION FROM UHF TO VHF.—In making any reassignments under paragraph (1)(B)(i), the Commission may not involuntarily reassign a broadcast television licensee—

(A) from an ultra high frequency television channel to a very high frequency television channel; or

(B) from a television channel between the frequencies from 174 megahertz to 216 megahertz to a television channel between the frequencies from 54 megahertz to 88 megahertz.

(4) PAYMENT OF RELOCATION COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from amounts made available under subsection (d)(2), the Commission shall reimburse costs reasonably incurred by—

(i) a broadcast television licensee that was reassigned under paragraph (1)(B)(i) from one ultra high frequency television channel to a different ultra high frequency television channel, from one very high frequency television channel to a different very high frequency television channel, or, in accordance with subsection (g)(1)(B), from a very high frequency television channel to an ultra high frequency television channel, in order for the licensee to relocate its television service from one channel to the other;



(ii) a multichannel video programming distributor in order to continue to carry the signal of a broadcast television licensee that—

(I) is described in clause (i);

(II) voluntarily relinquishes spectrum usage rights under subsection (a) with respect to an ultra high frequency television channel in return for receiving usage rights with respect to a very high frequency television channel; or

(III) voluntarily relinquishes spectrum usage rights under subsection (a) to share a television channel with another licensee; or

(iii) a channel 37 incumbent user, in order to relocate to other suitable spectrum, provided that all such users can be relocated and that the total relocation costs of such users do not exceed \$300,000,000. For the purpose of this section, the spectrum made available through relocation of channel 37 incumbent users shall be deemed as spectrum reclaimed through a reverse auction under section 6403(a).

(B) REGULATORY RELIEF.—In lieu of reimbursement for relocation costs under subparagraph (A), a broadcast television licensee may accept, and the Commission may grant as it considers appropriate, a waiver of the service rules of the Commission to permit the licensee, subject to interference protections, to make flexible use of the spectrum assigned to the licensee to provide services other than broadcast television services. Such waiver shall only remain in effect while the licensee provides at least 1 broadcast television program stream on such spectrum at no charge to the public. Waiver.

(C) LIMITATION.—The Commission may not make reimbursements under subparagraph (A) for lost revenues.

(D) DEADLINE.—The Commission shall make all reimbursements required by subparagraph (A) not later than the date that is 3 years after the completion of the forward auction under subsection (c)(1).

(5) LOW-POWER TELEVISION USAGE RIGHTS.—Nothing in this subsection shall be construed to alter the spectrum usage rights of low-power television stations.

(c) FORWARD AUCTION.—

(1) AUCTION REQUIRED.—The Commission shall conduct a forward auction in which—

(A) the Commission assigns licenses for the use of the spectrum that the Commission reallocates under subsection (b)(1)(B)(ii); and

(B) the amount of the proceeds that the Commission shares under clause (i) of section 309(j)(8)(G) of the Communications Act of 1934 with each licensee whose bid the Commission accepts in the reverse auction under subsection (a)(1) is not less than the amount of such bid.

(2) MINIMUM PROCEEDS.—

(A) IN GENERAL.—If the amount of the proceeds from the forward auction under paragraph (1) is not greater than the sum described in subparagraph (B), no licenses shall be assigned through such forward auction, no reassignments or reallocations under subsection (b)(1)(B)

shall become effective, and the Commission may not revoke any spectrum usage rights by reason of a bid that the Commission accepts in the reverse auction under subsection (a)(1).

(B) SUM DESCRIBED.—The sum described in this subparagraph is the sum of—

(i) the total amount of compensation that the Commission must pay successful bidders in the reverse auction under subsection (a)(1);

(ii) the costs of conducting such forward auction that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)); and

(iii) the estimated costs for which the Commission is required to make reimbursements under subsection (b)(4)(A).

(C) ADMINISTRATIVE COSTS.—The amount of the proceeds from the forward auction under paragraph (1) that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) shall be sufficient to cover the costs incurred by the Commission in conducting the reverse auction under subsection (a)(1), conducting the evaluation of the broadcast television spectrum under subparagraph (A) of subsection (b)(1), and making any reassignments or reallocations under subparagraph (B) of such subsection, in addition to the costs incurred by the Commission in conducting such forward auction.

(3) FACTOR FOR CONSIDERATION.—In conducting the forward auction under paragraph (1), the Commission shall consider assigning licenses that cover geographic areas of a variety of different sizes.

(d) TV BROADCASTER RELOCATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the TV Broadcaster Relocation Fund.

(2) PAYMENT OF RELOCATION COSTS.—Any amounts borrowed under paragraph (3)(A) and any amounts in the TV Broadcaster Relocation Fund that are not necessary for reimbursement of the general fund of the Treasury for such borrowed amounts shall be available to the Commission to make the payments required by subsection (b)(4)(A).

(3) BORROWING AUTHORITY.—

(A) IN GENERAL.—Beginning on the date when any reassignments or reallocations under subsection (b)(1)(B) become effective, as provided in subsection (f)(2), and ending when \$1,000,000,000 has been deposited in the TV Broadcaster Relocation Fund, the Commission may borrow from the Treasury of the United States an amount not to exceed \$1,000,000,000 to use toward the payments required by subsection (b)(4)(A).

(B) REIMBURSEMENT.—The Commission shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under subparagraph (A) as funds are deposited into the TV Broadcaster Relocation Fund.

Effective date.  
Termination  
date.

(4) TRANSFER OF UNUSED FUNDS.—If any amounts remain in the TV Broadcaster Relocation Fund after the date that is 3 years after the completion of the forward auction under subsection (c)(1), the Secretary of the Treasury shall—

(A) prior to the end of fiscal year 2022, transfer such amounts to the Public Safety Trust Fund established by section 6413(a)(1); and

(B) after the end of fiscal year 2022, transfer such amounts to the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(e) NUMERICAL LIMITATION ON AUCTIONS AND REORGANIZATION.—The Commission may not complete more than one reverse auction under subsection (a)(1) or more than one reorganization of the broadcast television spectrum under subsection (b).

(f) TIMING.—

(1) CONTEMPORANEOUS AUCTIONS AND REORGANIZATION PERMITTED.—The Commission may conduct the reverse auction under subsection (a)(1), any reassignments or reallocations under subsection (b)(1)(B), and the forward auction under subsection (c)(1) on a contemporaneous basis.

(2) EFFECTIVENESS OF REASSIGNMENTS AND REALLOCATIONS.—Notwithstanding paragraph (1), no reassignments or reallocations under subsection (b)(1)(B) shall become effective until the completion of the reverse auction under subsection (a)(1) and the forward auction under subsection (c)(1), and, to the extent practicable, all such reassignments and reallocations shall become effective simultaneously.

(3) DEADLINE.—The Commission may not conduct the reverse auction under subsection (a)(1) or the forward auction under subsection (c)(1) after the end of fiscal year 2022.

(4) LIMIT ON DISCRETION REGARDING AUCTION TIMING.—Section 309(j)(15)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(15)(A)) shall not apply in the case of an auction conducted under this section.

(g) LIMITATION ON REORGANIZATION AUTHORITY.—

(1) IN GENERAL.—During the period described in paragraph (2), the Commission may not—

(A) involuntarily modify the spectrum usage rights of a broadcast television licensee or reassign such a licensee to another television channel except—

(i) in accordance with this section; or

(ii) in the case of a violation by such licensee of the terms of its license or a specific provision of a statute administered by the Commission, or a regulation of the Commission promulgated under any such provision; or

(B) reassign a broadcast television licensee from a very high frequency television channel to an ultra high frequency television channel, unless—

(i) such a reassignment will not decrease the total amount of ultra high frequency spectrum made available for reallocation under this section; or

(ii) a request from such licensee for the reassignment was pending at the Commission on May 31, 2011.

(2) PERIOD DESCRIBED.—The period described in this paragraph is the period beginning on the date of the enactment of this Act and ending on the earliest of—

(A) the first date when the reverse auction under subsection (a)(1), the reassignments and reallocations (if any) under subsection (b)(1)(B), and the forward auction under subsection (c)(1) have been completed;

(B) the date of a determination by the Commission that the amount of the proceeds from the forward auction under subsection (c)(1) is not greater than the sum described in subsection (c)(2)(B); or

(C) September 30, 2022.

(h) PROTEST RIGHT INAPPLICABLE.—The right of a licensee to protest a proposed order of modification of its license under section 316 of the Communications Act of 1934 (47 U.S.C. 316) shall not apply in the case of a modification made under this section.

(i) COMMISSION AUTHORITY.—Nothing in subsection (b) shall be construed to—

(1) expand or contract the authority of the Commission, except as otherwise expressly provided; or

(2) prevent the implementation of the Commission’s “White Spaces” Second Report and Order and Memorandum Opinion and Order (FCC 08–260, adopted November 4, 2008) in the spectrum that remains allocated for broadcast television use after the reorganization required by such subsection.

#### **SEC. 6404. CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.**

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

“(17) CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, the Commission may not prevent a person from participating in a system of competitive bidding under this subsection if such person—

“(i) complies with all the auction procedures and other requirements to protect the auction process established by the Commission; and

“(ii) either—

“(I) meets the technical, financial, character, and citizenship qualifications that the Commission may require under section 303(l)(1), 308(b), or 310 to hold a license; or

“(II) would meet such license qualifications by means approved by the Commission prior to the grant of the license.

“(B) CLARIFICATION OF AUTHORITY.—Nothing in subparagraph (A) affects any authority the Commission has to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition.”.

#### **SEC. 6405. EXTENSION OF AUCTION AUTHORITY.**

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking “2012” and inserting “2022”.

**SEC. 6406. UNLICENSED USE IN THE 5 GHZ BAND.**

47 USC 1453.

(a) **MODIFICATION OF COMMISSION REGULATIONS TO ALLOW CERTAIN UNLICENSED USE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), not later than 1 year after the date of the enactment of this Act, the Commission shall begin a proceeding to modify part 15 of title 47, Code of Federal Regulations, to allow unlicensed U–NII devices to operate in the 5350–5470 MHz band. Deadline.

(2) **REQUIRED DETERMINATIONS.**—The Commission may make the modification described in paragraph (1) only if the Commission, in consultation with the Assistant Secretary, determines that—

(A) licensed users will be protected by technical solutions, including use of existing, modified, or new spectrum-sharing technologies and solutions, such as dynamic frequency selection; and

(B) the primary mission of Federal spectrum users in the 5350–5470 MHz band will not be compromised by the introduction of unlicensed devices.

(b) **STUDY BY NTIA.**—

(1) **IN GENERAL.**—The Assistant Secretary, in consultation with the Department of Defense and other impacted agencies, shall conduct a study evaluating known and proposed spectrum-sharing technologies and the risk to Federal users if unlicensed U–NII devices were allowed to operate in the 5350–5470 MHz band and in the 5850–5925 MHz band.

(2) **SUBMISSION.**—The Assistant Secretary shall submit to the Commission and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

Reports.  
Deadlines.

(A) not later than 8 months after the date of the enactment of this Act, a report on the portion of the study required by paragraph (1) with respect to the 5350–5470 MHz band; and

(B) not later than 18 months after the date of the enactment of this Act, a report on the portion of the study required by paragraph (1) with respect to the 5850–5925 MHz band.

(c) **DEFINITIONS.**—In this section:

(1) **5350–5470 MHZ BAND.**—The term “5350–5470 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 5350 megahertz to 5470 megahertz.

(2) **5850–5925 MHZ BAND.**—The term “5850–5925 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 5850 megahertz to 5925 megahertz.

**SEC. 6407. GUARD BANDS AND UNLICENSED USE.**

47 USC 1454.

(a) **IN GENERAL.**—Nothing in subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402, or in section 6403 shall be construed to prevent the Commission from using relinquished or other spectrum to implement band plans with guard bands.

(b) **SIZE OF GUARD BANDS.**—Such guard bands shall be no larger than is technically reasonable to prevent harmful interference between licensed services outside the guard bands.

Determination. (c) UNLICENSED USE IN GUARD BANDS.—The Commission may permit the use of such guard bands for unlicensed use.

(d) DATABASE.—Unlicensed use shall rely on a database or subsequent methodology as determined by the Commission.

(e) PROTECTIONS AGAINST HARMFUL INTERFERENCE.—The Commission may not permit any use of a guard band that the Commission determines would cause harmful interference to licensed services.

**SEC. 6408. STUDY ON RECEIVER PERFORMANCE AND SPECTRUM EFFICIENCY.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to consider efforts to ensure that each transmission system is designed and operated so that reasonable use of adjacent spectrum does not excessively impair the functioning of such system.

(b) REQUIRED CONSIDERATIONS.—In conducting the study required by subsection (a), the Comptroller General shall consider—

(1) the value of—

(A) improving receiver performance as it relates to increasing spectral efficiency;

(B) improving the operation of services that are located in adjacent spectrum; and

(C) narrowing the guard bands between adjacent spectrum use;

(2) the role of manufacturers, commercial licensees, and government users with respect to their transmission systems and the use of adjacent spectrum;

(3) the feasibility of industry self-compliance with respect to the design and operational requirements of transmission systems and the reasonable use of adjacent spectrum; and

(4) the value of action by the Commission and the Assistant Secretary to establish, by rule, technical requirements or standards for non-Federal and Federal use, respectively, with respect to the reasonable use of portions of the radio spectrum that are adjacent to each other.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) TRANSMISSION SYSTEM DEFINED.—In this section, the term “transmission system” means any telecommunications, broadcast, satellite, commercial mobile service, or other communications system that employs radio spectrum.

47 USC 1455.

**SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.**

(a) FACILITY MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

Definition.

(2) ELIGIBLE FACILITIES REQUEST.—For purposes of this subsection, the term “eligible facilities request” means any

request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

(3) APPLICABILITY OF ENVIRONMENTAL LAWS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

(b) FEDERAL EASEMENTS AND RIGHTS-OF-WAY.—

(1) GRANT.—If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, and maintain wireless service antenna structures and equipment and backhaul transmission equipment, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, an easement or right-of-way to perform such installation, construction, and maintenance.

(2) APPLICATION.—The Administrator of General Services shall develop a common form for applications for easements and rights-of-way under paragraph (1) for all executive agencies that shall be used by applicants with respect to the buildings or other property of each such agency.

(3) FEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall establish a fee for the grant of an easement or right-of-way pursuant to paragraph (1) that is based on direct cost recovery.

(B) EXCEPTIONS.—The Administrator of General Services may establish exceptions to the fee amount required under subparagraph (A)—

- (i) in consideration of the public benefit provided by a grant of an easement or right-of-way; and
- (ii) in the interest of expanding wireless and broadband coverage.

(4) USE OF FEES COLLECTED.—Any fee amounts collected by an executive agency pursuant to paragraph (3) may be made available, as provided in appropriations Acts, to such agency to cover the costs of granting the easement or right-of-way.

(c) MASTER CONTRACTS FOR WIRELESS FACILITY SITINGS.—

(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, and not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall—

Deadline.

(A) develop 1 or more master contracts that shall govern the placement of wireless service antenna structures on buildings and other property owned by the Federal Government; and

(B) in developing the master contract or contracts, standardize the treatment of the placement of wireless service antenna structures on building rooftops or facades, the placement of wireless service antenna equipment on

rooftops or inside buildings, the technology used in connection with wireless service antenna structures or equipment placed on Federal buildings and other property, and any other key issues the Administrator of General Services considers appropriate.

(2) **APPLICABILITY.**—The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Administrator of General Services decides that issues with respect to the siting of a wireless service antenna structure on a specific building or other property warrant nonstandard treatment of such building or other property.

(3) **APPLICATION.**—The Administrator of General Services shall develop a common form or set of forms for wireless service antenna structure siting applications under this subsection for all executive agencies that shall be used by applicants with respect to the buildings and other property of each such agency.

(d) **EXECUTIVE AGENCY DEFINED.**—In this section, the term “executive agency” has the meaning given such term in section 102 of title 40, United States Code.

**SEC. 6410. FUNCTIONAL RESPONSIBILITY OF NTIA TO ENSURE EFFICIENT USE OF SPECTRUM.**

Section 103(b)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(2)) is amended by adding at the end the following:

“(U) The responsibility to promote the best possible and most efficient use of electromagnetic spectrum resources across the Federal Government, subject to and consistent with the needs and missions of Federal agencies.”.

47 USC 1456.

Deadline.

**SEC. 6411. SYSTEM CERTIFICATION.**

Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall update and revise section 33.4 of OMB Circular A–11 to reflect the recommendations regarding such Circular made in the Commerce Spectrum Management Advisory Committee Incentive Subcommittee report, adopted January 11, 2011.

**SEC. 6412. DEPLOYMENT OF 11 GHZ, 18 GHZ, AND 23 GHZ MICROWAVE BANDS.**

(a) **FCC REPORT ON REJECTION RATE.**—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the rejection rate for the spectrum described in subsection (c).

(b) **GAO STUDY ON DEPLOYMENT.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to assess whether the spectrum described in subsection (c) is being deployed in such a manner that, in areas with high demand for common carrier licenses for the use of such spectrum, market forces—

(A) provide adequate incentive for the efficient use of such spectrum; and



(B) ensure that the Federal Government receives maximum revenue for such spectrum through competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(2) FACTORS FOR CONSIDERATION.—In conducting the study required by paragraph (1), the Comptroller General shall take into consideration—

(A) spectrum that is adjacent to the spectrum described in subsection (c) and that was assigned through competitive bidding under section 309(j) of the Communications Act of 1934; and

(B) the rejection rate for the spectrum described in subsection (c), current as of the time of the assessment and as projected for the future, in markets in which there is a high demand for common carrier licenses for the use of such spectrum.

(3) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study required by paragraph (1) to—

(A) the Commission; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) SPECTRUM DESCRIBED.—The spectrum described in this subsection is the portions of the electromagnetic spectrum between the frequencies from 10,700 megahertz to 11,700 megahertz, from 17,700 megahertz to 19,700 megahertz, and from 21,200 megahertz to 23,600 megahertz.

(d) REJECTION RATE DEFINED.—In this section, the term “rejection rate” means the number and percent of applications (whether made to the Commission or to a third-party coordinator) for common carrier use of spectrum that were not granted because of lack of availability of such spectrum or interference concerns of existing licensees.

(e) NO ADDITIONAL FUNDS AUTHORIZED.—Funds necessary to carry out this section shall be derived from funds otherwise authorized to be appropriated.

#### SEC. 6413. PUBLIC SAFETY TRUST FUND.

47 USC 1457.

(a) ESTABLISHMENT OF PUBLIC SAFETY TRUST FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the Public Safety Trust Fund.

(2) AVAILABILITY.—Amounts deposited in the Public Safety Trust Fund shall remain available through fiscal year 2022. Any amounts remaining in the Fund after the end of such fiscal year shall be deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(b) USE OF FUND.—As amounts are deposited in the Public Safety Trust Fund, such amounts shall be used to make the following deposits or payments in the following order of priority:

(1) REPAYMENT OF AMOUNT BORROWED FOR FIRST RESPONDER NETWORK AUTHORITY.—An amount not to exceed \$2,000,000,000 shall be available to the NTIA to reimburse the general fund of the Treasury for any amounts borrowed under section 6207.

(2) STATE AND LOCAL IMPLEMENTATION FUND.—\$135,000,000 shall be deposited in the State and Local Implementation Fund established by section 6301.

(3) BUILDOUT BY FIRST RESPONDER NETWORK AUTHORITY.—\$7,000,000,000, reduced by the amount borrowed under section 6207, shall be deposited in the Network Construction Fund established by section 6206.

(4) PUBLIC SAFETY RESEARCH.—\$100,000,000 shall be available to the Director of NIST to carry out section 6303.

(5) DEFICIT REDUCTION.—\$20,400,000,000 shall be deposited in the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction.

(6) 9–1–1, E9–1–1, AND NEXT GENERATION 9–1–1 IMPLEMENTATION GRANTS.—\$115,000,000 shall be available to the Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration to carry out the grant program under section 158 of the National Telecommunications and Information Administration Organization Act, as amended by section 6503 of this title.

(7) ADDITIONAL PUBLIC SAFETY RESEARCH.—\$200,000,000 shall be available to the Director of NIST to carry out section 6303.

(8) ADDITIONAL DEFICIT REDUCTION.—Any remaining amounts deposited in the Public Safety Trust Fund shall be deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(c) INVESTMENT.—Amounts in the Public Safety Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be credited to, and become a part of, the Fund.

**SEC. 6414. STUDY ON EMERGENCY COMMUNICATIONS BY AMATEUR RADIO AND IMPEDIMENTS TO AMATEUR RADIO COMMUNICATIONS.**

Deadline.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commission, in consultation with the Office of Emergency Communications in the Department of Homeland Security, shall—

(1) complete a study on the uses and capabilities of amateur radio service communications in emergencies and disaster relief; and

Reports.

(2) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of such study.

(b) CONTENTS.—The study required by subsection (a) shall include—

(1)(A) a review of the importance of emergency amateur radio service communications relating to disasters, severe weather, and other threats to lives and property in the United States; and

(B) recommendations for—

(i) enhancements in the voluntary deployment of amateur radio operators in disaster and emergency communications and disaster relief efforts; and

- (ii) improved integration of amateur radio operators in the planning and furtherance of initiatives of the Federal Government; and
- (2)(A) an identification of impediments to enhanced amateur radio service communications, such as the effects of unreasonable or unnecessary private land use restrictions on residential antenna installations; and
- (B) recommendations regarding the removal of such impediments.
- (c) **EXPERTISE.**—In conducting the study required by subsection (a), the Commission shall use the expertise of stakeholder entities and organizations, including the amateur radio, emergency response, and disaster communications communities.

## Subtitle E—Next Generation 9–1–1 Advancement Act of 2012

Next Generation  
9–1–1  
Advancement Act  
of 2012.

### **SEC. 6501. SHORT TITLE.**

This subtitle may be cited as the “Next Generation 9–1–1 Advancement Act of 2012”.

47 USC 1401  
note.

### **SEC. 6502. DEFINITIONS.**

47 USC 1471.

In this subtitle, the following definitions shall apply:

(1) **9–1–1 SERVICES AND E9–1–1 SERVICES.**—The terms “9–1–1 services” and “E9–1–1 services” shall have the meaning given those terms in section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), as amended by this subtitle.

(2) **MULTI-LINE TELEPHONE SYSTEM.**—The term “multi-line telephone system” or “MLTS” means a system comprised of common control units, telephone sets, control hardware and software and adjunct systems, including network and premises based systems, such as Centrex and VoIP, as well as PBX, Hybrid, and Key Telephone Systems (as classified by the Commission under part 68 of title 47, Code of Federal Regulations), and includes systems owned or leased by governmental agencies and non-profit entities, as well as for profit businesses.

(3) **OFFICE.**—The term “Office” means the 9–1–1 Implementation Coordination Office established under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), as amended by this subtitle.

### **SEC. 6503. COORDINATION OF 9–1–1 IMPLEMENTATION.**

Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended to read as follows:

#### **“SEC. 158. COORDINATION OF 9–1–1, E9–1–1, AND NEXT GENERATION 9–1–1 IMPLEMENTATION.**

“(a) **9–1–1 IMPLEMENTATION COORDINATION OFFICE.**—

“(1) **ESTABLISHMENT AND CONTINUATION.**—The Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration shall—

“(A) establish and further a program to facilitate coordination and communication between Federal, State,

and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of 9–1–1 services; and

“(B) establish a 9–1–1 Implementation Coordination Office to implement the provisions of this section.

“(2) MANAGEMENT PLAN.—

“(A) DEVELOPMENT.—The Assistant Secretary and the Administrator shall develop a management plan for the grant program established under this section, including by developing—

“(i) plans related to the organizational structure of such program; and

“(ii) funding profiles for each fiscal year of the duration of such program.

Deadline.

“(B) SUBMISSION TO CONGRESS.—Not later than 90 days after the date of enactment of the Next Generation 9–1–1 Advancement Act of 2012, the Assistant Secretary and the Administrator shall submit the management plan developed under subparagraph (A) to—

“(i) the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

“(ii) the Committees on Energy and Commerce and Appropriations of the House of Representatives.

“(3) PURPOSE OF OFFICE.—The Office shall—

“(A) take actions, in concert with coordinators designated in accordance with subsection (b)(3)(A)(ii), to improve coordination and communication with respect to the implementation of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services;

“(B) develop, collect, and disseminate information concerning practices, procedures, and technology used in the implementation of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services;

“(C) advise and assist eligible entities in the preparation of implementation plans required under subsection (b)(3)(A)(iii);

“(D) receive, review, and recommend the approval or disapproval of applications for grants under subsection (b); and

“(E) oversee the use of funds provided by such grants in fulfilling such implementation plans.

“(4) REPORTS.—The Assistant Secretary and the Administrator shall provide an annual report to Congress by the first day of October of each year on the activities of the Office to improve coordination and communication with respect to the implementation of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services.

“(b) 9–1–1, E9–1–1, AND NEXT GENERATION 9–1–1 IMPLEMENTATION GRANTS.—

“(1) MATCHING GRANTS.—The Assistant Secretary and the Administrator, acting through the Office, shall provide grants to eligible entities for—

“(A) the implementation and operation of 9–1–1 services, E9–1–1 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 9–1–1 services and applications;

“(B) the implementation of IP-enabled emergency services and applications enabled by Next Generation 9–1–1 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

“(C) training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 9–1–1 services.

“(2) MATCHING REQUIREMENT.—The Federal share of the cost of a project eligible for a grant under this section shall not exceed 60 percent.

“(3) COORDINATION REQUIRED.—In providing grants under paragraph (1), the Assistant Secretary and the Administrator shall require an eligible entity to certify in its application that—

Certification.

“(A) in the case of an eligible entity that is a State government, the entity—

“(i) has coordinated its application with the public safety answering points located within the jurisdiction of such entity;

“(ii) has designated a single officer or governmental body of the entity to serve as the coordinator of implementation of 9–1–1 services, except that such designation need not vest such coordinator with direct legal authority to implement 9–1–1 services, E9–1–1 services, or Next Generation 9–1–1 services or to manage emergency communications operations;

“(iii) has established a plan for the coordination and implementation of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services; and

“(iv) has integrated telecommunications services involved in the implementation and delivery of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services; or

“(B) in the case of an eligible entity that is not a State, the entity has complied with clauses (i), (iii), and (iv) of subparagraph (A), and the State in which it is located has complied with clause (ii) of such subparagraph.

“(4) CRITERIA.—Not later than 120 days after the date of enactment of the Next Generation 9–1–1 Advancement Act of 2012, the Assistant Secretary and the Administrator shall issue regulations, after providing the public with notice and an opportunity to comment, prescribing the criteria for selection for grants under this section. The criteria shall include performance requirements and a timeline for completion of any project to be financed by a grant under this section. The Assistant Secretary and the Administrator shall update such regulations as necessary.

Deadline.  
Regulations.  
Public comments.

“(c) DIVERSION OF 9–1–1 CHARGES.—

“(1) DESIGNATED 9–1–1 CHARGES.—For the purposes of this subsection, the term ‘designated 9–1–1 charges’ means any

Definition.

taxes, fees, or other charges imposed by a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve 9–1–1 services, E9–1–1 services, or Next Generation 9–1–1 services.

Time period.

“(2) CERTIFICATION.—Each applicant for a matching grant under this section shall certify to the Assistant Secretary and the Administrator at the time of application, and each applicant that receives such a grant shall certify to the Assistant Secretary and the Administrator annually thereafter during any period of time during which the funds from the grant are available to the applicant, that no portion of any designated 9–1–1 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented during the period beginning 180 days immediately preceding the date of the application and continuing through the period of time during which the funds from the grant are available to the applicant.

“(3) CONDITION OF GRANT.—Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time during which the funds from the grant are available to the applicant, obligates or expends designated 9–1–1 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 9–1–1 services, E9–1–1 services, or Next Generation 9–1–1 services, all of the funds from such grant shall be returned to the Office.

“(4) PENALTY FOR PROVIDING FALSE INFORMATION.—Any applicant that provides a certification under paragraph (2) knowing that the information provided in the certification was false shall—

“(A) not be eligible to receive the grant under subsection (b);

“(B) return any grant awarded under subsection (b) during the time that the certification was not valid; and

“(C) not be eligible to receive any subsequent grants under subsection (b).

“(d) FUNDING AND TERMINATION.—

“(1) IN GENERAL.—From the amounts made available to the Assistant Secretary and the Administrator under section 6413(b)(6) of the Middle Class Tax Relief and Job Creation Act of 2012, the Assistant Secretary and the Administrator are authorized to provide grants under this section through the end of fiscal year 2022. Not more than 5 percent of such amounts may be obligated or expended to cover the administrative costs of carrying out this section.

“(2) TERMINATION.—Effective on October 1, 2022, the authority provided by this section terminates and this section shall have no effect.

Applicability.

“(e) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) 9–1–1 SERVICES.—The term ‘9–1–1 services’ includes both E9–1–1 services and Next Generation 9–1–1 services.

“(2) E9-1-1 SERVICES.—The term ‘E9-1-1 services’ means both phase I and phase II enhanced 9-1-1 services, as described in section 20.18 of the Commission’s regulations (47 C.F.R. 20.18), as in effect on the date of enactment of the Next Generation 9-1-1 Advancement Act of 2012, or as subsequently revised by the Commission.

“(3) ELIGIBLE ENTITY.—

“(A) IN GENERAL.—The term ‘eligible entity’ means a State or local government or a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1))).

“(B) INSTRUMENTALITIES.—The term ‘eligible entity’ includes public authorities, boards, commissions, and similar bodies created by one or more eligible entities described in subparagraph (A) to provide 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services.

“(C) EXCEPTION.—The term ‘eligible entity’ does not include any entity that has failed to submit the most recently required certification under subsection (c) within 30 days after the date on which such certification is due.

“(4) EMERGENCY CALL.—The term ‘emergency call’ refers to any real-time communication with a public safety answering point or other emergency management or response agency, including—

“(A) through voice, text, or video and related data; and

“(B) nonhuman-initiated automatic event alerts, such as alarms, telematics, or sensor data, which may also include real-time voice, text, or video communications.

“(5) NEXT GENERATION 9-1-1 SERVICES.—The term ‘Next Generation 9-1-1 services’ means an IP-based system comprised of hardware, software, data, and operational policies and procedures that—

“(A) provides standardized interfaces from emergency call and message services to support emergency communications;

“(B) processes all types of emergency calls, including voice, data, and multimedia information;

“(C) acquires and integrates additional emergency call data useful to call routing and handling;

“(D) delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

“(E) supports data or video communications needs for coordinated incident response and management; and

“(F) provides broadband service to public safety answering points or other first responder entities.

“(6) OFFICE.—The term ‘Office’ means the 9-1-1 Implementation Coordination Office.

“(7) PUBLIC SAFETY ANSWERING POINT.—The term ‘public safety answering point’ has the meaning given the term in section 222 of the Communications Act of 1934 (47 U.S.C. 222).

“(8) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, the Northern

Mariana Islands, and any other territory or possession of the United States.”.

Deadlines. **SEC. 6504. REQUIREMENTS FOR MULTI-LINE TELEPHONE SYSTEMS.**

Reports. (a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Administrator of General Services, in conjunction with the Office, shall issue a report to Congress identifying the 9–1–1 capabilities of the multi-line telephone system in use by all Federal agencies in all Federal buildings and properties.

(b) COMMISSION ACTION.—

Notice. (1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Commission shall issue a public notice seeking comment on the feasibility of MLTS manufacturers including within all such systems manufactured or sold after a date certain, to be determined by the Commission, one or more mechanisms to provide a sufficiently precise indication of a 9–1–1 caller’s location, while avoiding the imposition of undue burdens on MLTS manufacturers, providers, and operators.

(2) SPECIFIC REQUIREMENT.—The public notice under paragraph (1) shall seek comment on the National Emergency Number Association’s “Technical Requirements Document On Model Legislation E9–1–1 for Multi-Line Telephone Systems” (NENA 06–750, Version 2).

**SEC. 6505. GAO STUDY OF STATE AND LOCAL USE OF 9–1–1 SERVICE CHARGES.**

Deadline. (a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a study of—

(1) the imposition of taxes, fees, or other charges imposed by States or political subdivisions of States that are designated or presented as dedicated to improve emergency communications services, including 9–1–1 services or enhanced 9–1–1 services, or related to emergency communications services operations or improvements; and

(2) the use of revenues derived from such taxes, fees, or charges.

(b) REPORT.—Not later than 18 months after initiating the study required by subsection (a), the Comptroller General shall prepare and submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives setting forth the findings, conclusions, and recommendations, if any, of the study, including—

(1) the identity of each State or political subdivision that imposes such taxes, fees, or other charges; and

(2) the amount of revenues obligated or expended by that State or political subdivision for any purpose other than the purposes for which such taxes, fees, or charges were designated or presented.

47 USC 1472. **SEC. 6506. PARITY OF PROTECTION FOR PROVISION OR USE OF NEXT GENERATION 9–1–1 SERVICES.**

(a) IMMUNITY.—A provider or user of Next Generation 9–1–1 services, a public safety answering point, and the officers, directors, employees, vendors, agents, and authorizing government entity



(if any) of such provider, user, or public safety answering point, shall have immunity and protection from liability under Federal and State law to the extent provided in subsection (b) with respect to—

(1) the release of subscriber information related to emergency calls or emergency services;

(2) the use or provision of 9–1–1 services, E9–1–1 services, or Next Generation 9–1–1 services; and

(3) other matters related to 9–1–1 services, E9–1–1 services, or Next Generation 9–1–1 services.

(b) **SCOPE OF IMMUNITY AND PROTECTION FROM LIABILITY.**—The scope and extent of the immunity and protection from liability afforded under subsection (a) shall be the same as that provided under section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) to wireless carriers, public safety answering points, and users of wireless 9–1–1 service (as defined in paragraphs (4), (3), and (6), respectively, of section 6 of that Act (47 U.S.C. 615b)) with respect to such release, use, and other matters.

**SEC. 6507. COMMISSION PROCEEDING ON AUTODIALING.**

47 USC 1473.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Commission shall initiate a proceeding to create a specialized Do-Not-Call registry for public safety answering points.

Deadline.

(b) **FEATURES OF THE REGISTRY.**—The Commission shall issue regulations, after providing the public with notice and an opportunity to comment, that—

Regulations.  
Notice.

(1) permit verified public safety answering point administrators or managers to register the telephone numbers of all 9–1–1 trunks and other lines used for the provision of emergency services to the public or for communications between public safety agencies;

(2) provide a process for verifying, no less frequently than once every 7 years, that registered numbers should continue to appear upon the registry;

(3) provide a process for granting and tracking access to the registry by the operators of automatic dialing equipment;

(4) protect the list of registered numbers from disclosure or dissemination by parties granted access to the registry; and

(5) prohibit the use of automatic dialing or “robocall” equipment to establish contact with registered numbers.

(c) **ENFORCEMENT.**—The Commission shall—

Penalties.  
Fines.

(1) establish monetary penalties for violations of the protective regulations established pursuant to subsection (b)(4) of not less than \$100,000 per incident nor more than \$1,000,000 per incident;

(2) establish monetary penalties for violations of the prohibition on automatically dialing registered numbers established pursuant to subsection (b)(5) of not less than \$10,000 per call nor more than \$100,000 per call; and

(3) provide for the imposition of fines under paragraphs (1) or (2) that vary depending upon whether the conduct leading to the violation was negligent, grossly negligent, reckless, or willful, and depending on whether the violation was a first or subsequent offence.

**SEC. 6508. REPORT ON COSTS FOR REQUIREMENTS AND SPECIFICATIONS OF NEXT GENERATION 9–1–1 SERVICES.**

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Office, in consultation with the Administrator of the National Highway Traffic Safety Administration, the Commission, and the Secretary of Homeland Security, shall prepare and submit a report to Congress that analyzes and determines detailed costs for specific Next Generation 9–1–1 service requirements and specifications.

(b) **PURPOSE OF REPORT.**—The purpose of the report required under subsection (a) is to serve as a resource for Congress as it considers creating a coordinated, long-term funding mechanism for the deployment and operation, accessibility, application development, equipment procurement, and training of personnel for Next Generation 9–1–1 services.

(c) **REQUIRED INCLUSIONS.**—The report required under subsection (a) shall include the following:

(1) How costs would be broken out geographically and allocated among public safety answering points, broadband service providers, and third-party providers of Next Generation 9–1–1 services.

(2) An assessment of the current state of Next Generation 9–1–1 service readiness among public safety answering points.

(3) How differences in public safety answering points' access to broadband across the United States may affect costs.

(4) A technical analysis and cost study of different delivery platforms, such as wireline, wireless, and satellite.

(5) An assessment of the architectural characteristics, feasibility, and limitations of Next Generation 9–1–1 service delivery.

(6) An analysis of the needs for Next Generation 9–1–1 services of persons with disabilities.

(7) Standards and protocols for Next Generation 9–1–1 services and for incorporating Voice over Internet Protocol and “Real-Time Text” standards.

**SEC. 6509. COMMISSION RECOMMENDATIONS FOR LEGAL AND STATUTORY FRAMEWORK FOR NEXT GENERATION 9–1–1 SERVICES.**

Deadline.  
Reports.

Not later than 1 year after the date of the enactment of this Act, the Commission, in coordination with the Secretary of Homeland Security, the Administrator of the National Highway Traffic Safety Administration, and the Office, shall prepare and submit a report to Congress that contains recommendations for the legal and statutory framework for Next Generation 9–1–1 services, consistent with recommendations in the National Broadband Plan developed by the Commission pursuant to the American Recovery and Reinvestment Act of 2009, including the following:

(1) A legal and regulatory framework for the development of Next Generation 9–1–1 services and the transition from legacy 9–1–1 to Next Generation 9–1–1 networks.

(2) Legal mechanisms to ensure efficient and accurate transmission of 9–1–1 caller information to emergency response agencies.

(3) Recommendations for removing jurisdictional barriers and inconsistent legacy regulations including—

(A) proposals that would require States to remove regulatory roadblocks to Next Generation 9–1–1 services development, while recognizing existing State authority over 9–1–1 services;

(B) eliminating outdated 9–1–1 regulations at the Federal level; and

(C) preempting inconsistent State regulations.

## **Subtitle F—Telecommunications Development Fund**

### **SEC. 6601. NO ADDITIONAL FEDERAL FUNDS.**

Section 309(j)(8)(C)(iii) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(C)(iii)) is amended to read as follows:

“(iii) the interest accrued to the account shall be deposited in the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction.”.

### **SEC. 6602. INDEPENDENCE OF THE FUND.**

Section 714 of the Communications Act of 1934 (47 U.S.C. 614) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) INDEPENDENT BOARD OF DIRECTORS.—The Fund shall have a Board of Directors consisting of 5 people with experience in areas including finance, investment banking, government banking, communications law and administrative practice, and public policy. The Board of Directors shall select annually a Chair from among the directors. A nominating committee, comprised of the Chair and 2 other directors selected by the Chair, shall appoint additional directors. The Fund’s bylaws shall regulate the other aspects of the Board of Directors, including provisions relating to meetings, quorums, committees, and other matters, all as typically contained in the bylaws of a similar private investment fund.”;

Deadline.  
Appointments.

(2) in subsection (d)—

(A) by striking “(after consultation with the Commission and the Secretary of the Treasury)”;

(B) by striking paragraph (1); and

(C) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(3) in subsection (g), by striking “subsection (d)(2)” and inserting “subsection (d)(1)”.

## **Subtitle G—Federal Spectrum Relocation**

### **SEC. 6701. RELOCATION OF AND SPECTRUM SHARING BY FEDERAL GOVERNMENT STATIONS.**

(a) IN GENERAL.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923) is amended—

(1) in subsection (g)—

(A) by striking the heading and inserting “RELOCATION OF AND SPECTRUM SHARING BY FEDERAL GOVERNMENT STATIONS.—”;

(B) by amending paragraph (1) to read as follows:

“(1) ELIGIBLE FEDERAL ENTITIES.—Any Federal entity that operates a Federal Government station authorized to use a band of eligible frequencies described in paragraph (2) and that incurs relocation or sharing costs because of planning for an auction of spectrum frequencies or the reallocation of spectrum frequencies from Federal use to exclusive non-Federal use or to shared use shall receive payment for such relocation or sharing costs from the Spectrum Relocation Fund, in accordance with this section and section 118. For purposes of this paragraph, Federal power agencies exempted under subsection (c)(4) that choose to relocate from the frequencies identified for reallocation pursuant to subsection (a) are eligible to receive payment under this paragraph.”;

(C) by amending paragraph (2)(B) to read as follows:

“(B) any other band of frequencies reallocated from Federal use to non-Federal use or to shared use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).”;

(D) by amending paragraph (3) to read as follows:

“(3) RELOCATION OR SHARING COSTS DEFINED.—

“(A) IN GENERAL.—For purposes of this section and section 118, the term ‘relocation or sharing costs’ means the costs incurred by a Federal entity in connection with the auction of spectrum frequencies previously assigned to such entity or the sharing of spectrum frequencies assigned to such entity (including the auction or a planned auction of the rights to use spectrum frequencies on a shared basis with such entity) in order to achieve comparable capability of systems as before the relocation or sharing arrangement. Such term includes, with respect to relocation or sharing, as the case may be—

“(i) the costs of any modification or replacement of equipment, spares, associated ancillary equipment, software, facilities, operating manuals, training, or compliance with regulations that are attributable to relocation or sharing;

“(ii) the costs of all engineering, equipment, software, site acquisition, and construction, as well as any legitimate and prudent transaction expense, including term-limited Federal civil servant and contractor staff necessary to carry out the relocation or sharing activities of a Federal entity, and reasonable additional costs incurred by the Federal entity that are attributable to relocation or sharing, including increased recurring costs associated with the replacement of facilities;

“(iii) the costs of research, engineering studies, economic analyses, or other expenses reasonably incurred in connection with—

“(I) calculating the estimated relocation or sharing costs that are provided to the Commission pursuant to paragraph (4)(A);

“(II) determining the technical or operational feasibility of relocation to 1 or more potential relocation bands; or

“(III) planning for or managing a relocation or sharing arrangement (including spectrum coordination with auction winners);

“(iv) the one-time costs of any modification of equipment reasonably necessary—

“(I) to accommodate non-Federal use of shared frequencies; or

“(II) in the case of eligible frequencies reallocated for exclusive non-Federal use and assigned through a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) but with respect to which a Federal entity retains primary allocation or protected status for a period of time after the completion of the competitive bidding process, to accommodate shared Federal and non-Federal use of such frequencies for such period; and

“(v) the costs associated with the accelerated replacement of systems and equipment if the acceleration is necessary to ensure the timely relocation of systems to a new frequency assignment or the timely accommodation of sharing of Federal frequencies.

“(B) COMPARABLE CAPABILITY OF SYSTEMS.—For purposes of subparagraph (A), comparable capability of systems—

“(i) may be achieved by relocating a Federal Government station to a new frequency assignment, by relocating a Federal Government station to a different geographic location, by modifying Federal Government equipment to mitigate interference or use less spectrum, in terms of bandwidth, geography, or time, and thereby permitting spectrum sharing (including sharing among relocated Federal entities and incumbents to make spectrum available for non-Federal use) or relocation, or by utilizing an alternative technology; and

“(ii) includes the acquisition of state-of-the-art replacement systems intended to meet comparable operational scope, which may include incidental increases in functionality.”;

(E) in paragraph (4)—

(i) in the heading, by striking “RELOCATIONS COSTS” and inserting “RELOCATION OR SHARING COSTS”;

(ii) by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”; and

(iii) in subparagraph (A), by inserting “or sharing” after “such relocation”;

(F) in paragraph (5)—

(i) by striking “relocation costs” and inserting “relocation or sharing costs”; and

(ii) by inserting “or sharing” after “for relocation”; and

(G) by amending paragraph (6) to read as follows:

“(6) IMPLEMENTATION OF PROCEDURES.—The NTIA shall take such actions as necessary to ensure the timely relocation

Termination. Notification.	of Federal entities’ spectrum-related operations from frequencies described in paragraph (2) to frequencies or facilities of comparable capability and to ensure the timely implementation of arrangements for the sharing of frequencies described in such paragraph. Upon a finding by the NTIA that a Federal entity has achieved comparable capability of systems, the NTIA shall terminate or limit the entity’s authorization and notify the Commission that the entity’s relocation has been completed or sharing arrangement has been implemented. The NTIA shall also terminate such entity’s authorization if the NTIA determines that the entity has unreasonably failed to comply with the timeline for relocation or sharing submitted by the Director of the Office of Management and Budget under section 118(d)(2)(C).”;
Termination. Determination.	(2) by redesignating subsections (h) and (i) as subsections (k) and (l), respectively; and (3) by inserting after subsection (g) the following: “(h) DEVELOPMENT AND PUBLICATION OF RELOCATION OR SHARING TRANSITION PLANS.—
Deadline.	“(1) DEVELOPMENT OF TRANSITION PLAN BY FEDERAL ENTITY.—Not later than 240 days before the commencement of any auction of eligible frequencies described in subsection (g)(2), a Federal entity authorized to use any such frequency shall submit to the NTIA and to the Technical Panel established by paragraph (3) a transition plan for the implementation by such entity of the relocation or sharing arrangement. The NTIA shall specify, after public input, a common format for all Federal entities to follow in preparing transition plans under this paragraph.
Public input.	“(2) CONTENTS OF TRANSITION PLAN.—The transition plan required by paragraph (1) shall include the following information: “(A) The use by the Federal entity of the eligible frequencies to be auctioned, current as of the date of the submission of the plan. “(B) The geographic location of the facilities or systems of the Federal entity that use such frequencies. “(C) The frequency bands used by such facilities or systems, described by geographic location. “(D) The steps to be taken by the Federal entity to relocate its spectrum use from such frequencies or to share such frequencies, including timelines for specific geographic locations in sufficient detail to indicate when use of such frequencies at such locations will be discontinued by the Federal entity or shared between the Federal entity and non-Federal users. “(E) The specific interactions between the eligible Federal entity and the NTIA needed to implement the transition plan. “(F) The name of the officer or employee of the Federal entity who is responsible for the relocation or sharing efforts of the entity and who is authorized to meet and negotiate with non-Federal users regarding the transition. “(G) The plans and timelines of the Federal entity for— “(i) using funds received from the Spectrum Relocation Fund established by section 118;

“(ii) procuring new equipment and additional personnel needed for relocation or sharing;

“(iii) field-testing and deploying new equipment needed for relocation or sharing; and

“(iv) hiring and relying on contract personnel, if any, needed for relocation or sharing.

“(H) Factors that could hinder fulfillment of the transition plan by the Federal entity.

“(3) TECHNICAL PANEL.—

“(A) ESTABLISHMENT.—There is established within the NTIA a panel to be known as the Technical Panel.

“(B) MEMBERSHIP.—

“(i) NUMBER AND APPOINTMENT.—The Technical Panel shall be composed of 3 members, to be appointed as follows:

“(I) One member to be appointed by the Director of the Office of Management and Budget (in this subsection referred to as ‘OMB’).

“(II) One member to be appointed by the Assistant Secretary.

“(III) One member to be appointed by the Chairman of the Commission.

“(ii) QUALIFICATIONS.—Each member of the Technical Panel shall be a radio engineer or a technical expert.

“(iii) INITIAL APPOINTMENT.—The initial members of the Technical Panel shall be appointed not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

“(iv) TERMS.—The term of a member of the Technical Panel shall be 18 months, and no individual may serve more than 1 consecutive term.

“(v) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member’s term until a successor has taken office. A vacancy shall be filled in the manner in which the original appointment was made.

“(vi) NO COMPENSATION.—The members of the Technical Panel shall not receive any compensation for service on the Technical Panel. If any such member is an employee of the agency of the official that appointed such member to the Technical Panel, compensation in the member’s capacity as such an employee shall not be considered compensation under this clause.

“(C) ADMINISTRATIVE SUPPORT.—The NTIA shall provide the Technical Panel with the administrative support services necessary to carry out its duties under this subsection and subsection (i).

“(D) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA shall, after public notice and comment and subject to approval by the Director

Deadline.

Deadline.  
Notice.  
Public comment.

of OMB, adopt regulations to govern the workings of the Technical Panel.

“(E) CERTAIN REQUIREMENTS INAPPLICABLE.—The Federal Advisory Committee Act (5 U.S.C. App.) and sections 552 and 552b of title 5, United States Code, shall not apply to the Technical Panel.

Deadline.  
Reports.

“(4) REVIEW OF PLAN BY TECHNICAL PANEL.—

“(A) IN GENERAL.—Not later than 30 days after the submission of the plan under paragraph (1), the Technical Panel shall submit to the NTIA and to the Federal entity a report on the sufficiency of the plan, including whether the plan includes the information required by paragraph (2) and an assessment of the reasonableness of the proposed timelines and estimated relocation or sharing costs, including the costs of any proposed expansion of the capabilities of a Federal system in connection with relocation or sharing.

“(B) INSUFFICIENCY OF PLAN.—If the Technical Panel finds the plan insufficient, the Federal entity shall, not later than 90 days after the submission of the report by the Technical Panel under subparagraph (A), submit to the Technical Panel a revised plan. Such revised plan shall be treated as a plan submitted under paragraph (1).

Deadline.  
Public  
information.  
Web posting.

“(5) PUBLICATION OF TRANSITION PLAN.—Not later than 120 days before the commencement of the auction described in paragraph (1), the NTIA shall make the transition plan publicly available on its website.

“(6) UPDATES OF TRANSITION PLAN.—As the Federal entity implements the transition plan, it shall periodically update the plan to reflect any changed circumstances, including changes in estimated relocation or sharing costs or the timeline for relocation or sharing. The NTIA shall make the updates available on its website.

“(7) CLASSIFIED AND OTHER SENSITIVE INFORMATION.—

“(A) CLASSIFIED INFORMATION.—If any of the information required to be included in the transition plan of a Federal entity is classified information (as defined in section 798(b) of title 18, United States Code), the entity shall—

“(i) include in the plan—

“(I) an explanation of the exclusion of any such information, which shall be as specific as possible; and

“(II) all relevant non-classified information that is available; and

“(ii) discuss as a factor under paragraph (2)(H) the extent of the classified information and the effect of such information on the implementation of the relocation or sharing arrangement.

Deadlines.

“(B) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA, in consultation with the Director of OMB and the Secretary of Defense, shall adopt regulations to ensure that the information publicly released under paragraph (5) or (6) does not contain classified information or other sensitive information.

“(i) DISPUTE RESOLUTION PROCESS.—



“(1) IN GENERAL.—If a dispute arises between a Federal entity and a non-Federal user regarding the execution, timing, or cost of the transition plan submitted by the Federal entity under subsection (h)(1), the Federal entity or the non-Federal user may request that the NTIA establish a dispute resolution board to resolve the dispute.

“(2) ESTABLISHMENT OF BOARD.—

“(A) IN GENERAL.—If the NTIA receives a request under paragraph (1), it shall establish a dispute resolution board.

“(B) MEMBERSHIP AND APPOINTMENT.—The dispute resolution board shall be composed of 3 members, as follows:

“(i) A representative of the Office of Management and Budget (in this subsection referred to as ‘OMB’), to be appointed by the Director of OMB.

“(ii) A representative of the NTIA, to be appointed by the Assistant Secretary.

“(iii) A representative of the Commission, to be appointed by the Chairman of the Commission.

“(C) CHAIR.—The representative of OMB shall be the Chair of the dispute resolution board.

“(D) VACANCIES.—Any vacancy in the dispute resolution board shall be filled in the manner in which the original appointment was made.

“(E) NO COMPENSATION.—The members of the dispute resolution board shall not receive any compensation for service on the board. If any such member is an employee of the agency of the official that appointed such member to the board, compensation in the member’s capacity as such an employee shall not be considered compensation under this subparagraph.

“(F) TERMINATION OF BOARD.—The dispute resolution board shall be terminated after it rules on the dispute that it was established to resolve and the time for appeal of its decision under paragraph (7) has expired, unless an appeal has been taken under such paragraph. If such an appeal has been taken, the board shall continue to exist until the appeal process has been exhausted and the board has completed any action required by a court hearing the appeal.

“(3) PROCEDURES.—The dispute resolution board shall meet simultaneously with representatives of the Federal entity and the non-Federal user to discuss the dispute. The dispute resolution board may require the parties to make written submissions to it.

“(4) DEADLINE FOR DECISION.—The dispute resolution board shall rule on the dispute not later than 30 days after the request was made to the NTIA under paragraph (1).

“(5) ASSISTANCE FROM TECHNICAL PANEL.—The Technical Panel established under subsection (h)(3) shall provide the dispute resolution board with such technical assistance as the board requests.

“(6) ADMINISTRATIVE SUPPORT.—The NTIA shall provide the dispute resolution board with the administrative support services necessary to carry out its duties under this subsection.

“(7) APPEALS.—A decision of the dispute resolution board may be appealed to the United States Court of Appeals for

Deadline.

the District of Columbia Circuit by filing a notice of appeal with that court not later than 30 days after the date of such decision. Each party shall bear its own costs and expenses, including attorneys’ fees, for any appeal under this paragraph.

Deadline.  
Notice.  
Public comments.

“(8) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA shall, after public notice and comment and subject to approval by OMB, adopt regulations to govern the working of any dispute resolution boards established under paragraph (2)(A) and the role of the Technical Panel in assisting any such board.

“(9) CERTAIN REQUIREMENTS INAPPLICABLE.—The Federal Advisory Committee Act (5 U.S.C. App.) and sections 552 and 552b of title 5, United States Code, shall not apply to a dispute resolution board established under paragraph (2)(A).

“(j) RELOCATION PRIORITIZED OVER SHARING.—

Determination.

“(1) IN GENERAL.—In evaluating a band of frequencies for possible reallocation for exclusive non-Federal use or shared use, the NTIA shall give priority to options involving reallocation of the band for exclusive non-Federal use and shall choose options involving shared use only when it determines, in consultation with the Director of the Office of Management and Budget, that relocation of a Federal entity from the band is not feasible because of technical or cost constraints.

“(2) NOTIFICATION OF CONGRESS WHEN SHARING CHOSEN.—If the NTIA determines under paragraph (1) that relocation of a Federal entity from the band is not feasible, the NTIA shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives of the determination, including the specific technical or cost constraints on which the determination is based.”.

47 USC 309.

(b) CONFORMING AMENDMENT.—Section 309(j) of the Communications Act of 1934 is further amended by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”.

#### SEC. 6702. SPECTRUM RELOCATION FUND.

Section 118 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928) is amended—

(1) by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”;

(2) by amending subsection (c) to read as follows:

“(c) USE OF FUNDS.—The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation or sharing costs of an eligible Federal entity incurring such costs with respect to relocation from or sharing of those frequencies.”;

(3) in subsection (d)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “or sharing” before the semicolon;

(ii) in subparagraph (B), by inserting “or sharing” before the period at the end;

(iii) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(iv) by inserting before subparagraph (B), as so redesignated, the following:

“(A) unless the eligible Federal entity has submitted a transition plan to the NTIA as required by paragraph (1) of section 113(h), the Technical Panel has found such plan sufficient under paragraph (4) of such section, and the NTIA has made available such plan on its website as required by paragraph (5) of such section;”;

(B) by striking paragraph (3); and

(C) by adding at the end the following:

“(3) TRANSFERS FOR PRE-AUCTION COSTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Director of OMB may transfer to an eligible Federal entity, at any time (including prior to a scheduled auction), such sums as may be available in the Fund to pay relocation or sharing costs related to pre-auction estimates or research, as such costs are described in section 113(g)(3)(A)(iii).

“(B) NOTIFICATION.—No funds may be transferred pursuant to subparagraph (A) unless—

“(i) the notification provided under paragraph (2)(C) includes a certification from the Director of OMB that—

“(I) funds transferred before an auction will likely allow for timely implementation of relocation or sharing, thereby increasing net expected auction proceeds by an amount not less than the time value of the amount of funds transferred; and

“(II) the auction is intended to occur not later than 5 years after transfer of funds; and

“(ii) the transition plan submitted by the eligible Federal entity under section 113(h)(1) provides—

“(I) to the fullest extent possible, for sharing and coordination of eligible frequencies with non-Federal users, including reasonable accommodation by the eligible Federal entity for the use of eligible frequencies by non-Federal users during the period that the entity is relocating its spectrum uses (in this clause referred to as the ‘transition period’);

“(II) for non-Federal users to be able to use eligible frequencies during the transition period in geographic areas where the eligible Federal entity does not use such frequencies;

“(III) that the eligible Federal entity will, during the transition period, make itself available for negotiation and discussion with non-Federal users not later than 30 days after a written request therefor; and

“(IV) that the eligible Federal entity will, during the transition period, make available to a non-Federal user with appropriate security clearances any classified information (as defined in section 798(b) of title 18, United States Code) regarding the relocation process, on a need-to-know basis, to assist the non-Federal user in the relocation process with such eligible Federal entity or other eligible Federal entities.

“(C) APPLICABILITY TO CERTAIN COSTS.—

Deadline.

“(i) IN GENERAL.—The Director of OMB may transfer under subparagraph (A) not more than \$10,000,000 for costs incurred after June 28, 2010, but before the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

“(ii) SUPPLEMENT NOT SUPPLANT.—Any amounts transferred by the Director of OMB pursuant to clause (i) shall be in addition to any amounts that the Director of OMB may transfer for costs incurred on or after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

Deadline.  
Time period.  
Notification.

“(4) REVERSION OF UNUSED FUNDS.—Any amounts in the Fund that are remaining after the payment of the relocation or sharing costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury, for the sole purpose of deficit reduction, not later than 8 years after the date of the deposit of such proceeds to the Fund, unless within 60 days in advance of the reversion of such funds, the Director of OMB, in consultation with the NTIA, notifies the congressional committees described in paragraph (2)(C) that such funds are needed to complete or to implement current or future relocation or sharing arrangements.”;

(4) in subsection (e)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking “subsection (d)(2)(A)” and inserting “subsection (d)(2)(B)”; and

(ii) in clause (ii), by striking “subsection (d)(2)(B)” and inserting “subsection (d)(2)(C)”; and

(B) in paragraph (2)—

(i) by striking “entity’s relocation” and inserting “relocation of the entity or implementation of the sharing arrangement by the entity”;

(ii) by inserting “or the implementation of such arrangement” after “such relocation”; and

(iii) by striking “subsection (d)(2)(A)” and inserting “subsection (d)(2)(B)”; and

(5) by adding at the end the following:

“(f) ADDITIONAL PAYMENTS FROM FUND.—

Appropriation  
authorization.

“(1) AMOUNTS AVAILABLE.—Notwithstanding subsections (c) through (e), after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, there are appropriated from the Fund and available to the Director of OMB for use in accordance with paragraph (2) not more than 10 percent of the amounts deposited in the Fund from auctions occurring after such date of enactment of licenses for the use of spectrum vacated by eligible Federal entities.

“(2) USE OF AMOUNTS.—

“(A) IN GENERAL.—The Director of OMB, in consultation with the NTIA, may use amounts made available under paragraph (1) to make payments to eligible Federal entities that are implementing a transition plan submitted under section 113(h)(1) in order to encourage such entities to complete the implementation more quickly, thereby encouraging timely access to the eligible frequencies that are being reallocated for exclusive non-Federal use or shared use.

“(B) CONDITIONS.—In the case of any payment by the Director of OMB under subparagraph (A)—

“(i) such payment shall be based on the market value of the eligible frequencies, the timeliness with which the eligible Federal entity clears its use of such frequencies, and the need for such frequencies in order for the entity to conduct its essential missions;

“(ii) the eligible Federal entity shall use such payment for the purposes specified in clauses (i) through (v) of section 113(g)(3)(A) to achieve comparable capability of systems affected by the reallocation of eligible frequencies from Federal use to exclusive non-Federal use or to shared use;

“(iii) such payment may not be made if the amount remaining in the Fund after such payment will be less than 10 percent of the winning bids in the auction of the spectrum with respect to which the Federal entity is incurring relocation or sharing costs; and

“(iv) such payment may not be made until 30 days after the Director of OMB has notified the congressional committees described in subsection (d)(2)(C).

Time period.  
Notification.

“(g) RESTRICTION ON USE OF FUNDS.—No amounts in the Fund on the day before the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012 may be used for any purpose except—

“(1) to pay the relocation or sharing costs incurred by eligible Federal entities in order to relocate from the frequencies the auction of which generated such amounts; or

“(2) to pay relocation or sharing costs related to pre-auction estimates or research, in accordance with subsection (d)(3).”.

#### **SEC. 6703. NATIONAL SECURITY AND OTHER SENSITIVE INFORMATION.**

Part B of title I of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) is amended by adding at the end the following:

#### **“SEC. 119. NATIONAL SECURITY AND OTHER SENSITIVE INFORMATION.**

47 USC 929.

“(a) DETERMINATION.—If the head of an Executive agency (as defined in section 105 of title 5, United States Code) determines that public disclosure of any information contained in a notification or report required by section 113 or 118 would reveal classified national security information, or other information for which there is a legal basis for nondisclosure and the public disclosure of which would be detrimental to national security, homeland security, or public safety or would jeopardize a law enforcement investigation, the head of the Executive agency shall notify the Assistant Secretary of that determination prior to the release of such information.

Notification.

“(b) INCLUSION IN ANNEX.—The head of the Executive agency shall place the information with respect to which a determination was made under subsection (a) in a separate annex to the notification or report required by section 113 or 118. The annex shall be provided to the subcommittee of primary jurisdiction of the congressional committee of primary jurisdiction in accordance with appropriate national security stipulations but shall not be disclosed to the public or provided to any unauthorized person through any means.”.

## TITLE VII—MISCELLANEOUS PROVISIONS

26 USC 6655  
note.

### SEC. 7001. REPEAL OF CERTAIN SHIFTS IN THE TIMING OF CORPORATE ESTIMATED TAX PAYMENTS.

The following provisions of law (and any modification of any such provision which is contained in any other provision of law) shall not apply with respect to any installment of corporate estimated tax:

(1) Section 201(b) of the Corporate Estimated Tax Shift Act of 2009.

(2) Section 561 of the Hiring Incentives to Restore Employment Act.

(3) Section 505 of the United States-Korea Free Trade Agreement Implementation Act.

(4) Section 603 of the United States-Colombia Trade Promotion Agreement Implementation Act.

(5) Section 502 of the United States-Panama Trade Promotion Agreement Implementation Act.

### SEC. 7002. REPEAL OF REQUIREMENT RELATING TO TIME FOR REMIT- TING CERTAIN MERCHANDISE PROCESSING FEES.

19 USC 58c note.

(a) REPEAL.—The Trade Adjustment Assistance Extension Act of 2011 (title II of Public Law 112–40; 125 Stat. 402) is amended by striking section 263.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by striking the item relating to section 263.

### SEC. 7003. TREATMENT FOR PAYGO PURPOSES.

The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

Approved February 22, 2012.

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#### LEGISLATIVE HISTORY—H.R. 3630:

HOUSE REPORTS: No. 112–399 (Comm. of Conference).

#### CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 13, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Vol. 158 (2012): Feb. 17, House and Senate agreed to conference report.



Public Law 112–97  
112th Congress

An Act

To provide the Quileute Indian Tribe Tsunami and Flood Protection, and for other purposes.

Feb. 27, 2012

[H.R. 1162]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. OLYMPIC NATIONAL PARK—QUILEUTE TRIBE.**

Washington.  
16 USC 251 note,  
1132 note.

(a) DEFINITIONS.—In this section:

(1) MAP.—The term “Map” means the map entitled “Olympic National Park and Quileute Reservation Boundary Adjustment Map”, numbered 149/80,059, and dated June 2010.

(2) PARK.—The term “Park” means the Olympic National Park, located in the State of Washington.

(3) RESERVATION.—The term “Reservation” means the Quileute Indian Reservation, located on the Olympic Peninsula in the State of Washington.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(5) TRIBE.—The term “Tribe” means the Quileute Indian Tribe in the State of Washington.

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) the Reservation is located on the western coast of the Olympic Peninsula in the State of Washington, bordered by the Pacific Ocean to the west and the Park on the north, south, and east;

(B) most of the Reservation village of La Push is located within the coastal flood plain, with the Tribe’s administrative buildings, school, elder center, and housing all located in a tsunami zone;

(C) for many decades, the Tribe and the Park have had a dispute over the Reservation boundaries along the Quillayute River;

(D) in recent years, this dispute has intensified as the Tribe has faced an urgent need for additional lands for housing, schools, and other Tribe purposes outside the tsunami and Quillayute River flood zones; and

(E) the lack of a settlement of this dispute threatens to adversely impact the public’s existing and future recreational use of several attractions in the Park that are accessed by the public’s use of Reservation lands.

(2) PURPOSES.—The purposes of this Act are—

(A) to resolve the longstanding dispute along portions of the northern boundary of the Quileute Indian Reservation;

(B) to clarify public use and access to Olympic National Park lands that are contiguous to the Reservation;

(C) to provide the Quileute Indian Tribe with approximately 275 acres of land currently located within the Park and approximately 510 acres of land along the Quillayute River, also within the Park;

(D) to adjust the wilderness boundaries to provide the Quileute Indian Tribe tsunami and flood protection; and

(E) through the land conveyance, to grant the Tribe access to land outside of tsunami and Quillayute River flood zones, and link existing Reservation land with Tribe land to the east of the Park.

(c) REDESIGNATION OF FEDERAL WILDERNESS LAND, OLYMPIC NATIONAL PARK CONVEYANCE.—

(1) REDESIGNATION OF WILDERNESS.—Certain Federal land in the Park that was designated as part of the Olympic Wilderness under title I of the Washington Park Wilderness Act of 1988 (Public Law 100-668; 102 Stat. 3961; 16 U.S.C. 1132 note) and comprises approximately 222 acres, as generally depicted on the Map is hereby no longer designated as wilderness, and is no longer a component of the National Wilderness Preservation System under the Wilderness Act (16 U.S.C. 1131 et seq.).

(2) LANDS TO BE HELD IN TRUST.—All right, title, and interest of the United States in and to the approximately 510 acres generally depicted on the Map as “Northern Lands”, and the approximately 275 acres generally depicted on the Map as “Southern Lands”, are declared to be held in trust by the United States for the benefit of the Tribe without any further action by the Secretary.

(3) BOUNDARY ADJUSTMENT; SURVEY.—The Secretary shall—

(A) adjust the boundaries of Olympic Wilderness and the Park to reflect the change in status of Federal lands under paragraph (2); and

(B) as soon as practicable after the date of enactment of this section, conduct a survey, defining the boundaries of the Reservation and Park, and of the Federal lands taken into and held in trust that are adjacent to the north and south bank of the Quillayute River as depicted on the Map as “Northern Lands”.

(4) LAW APPLICABLE TO CERTAIN LAND.—The land taken into trust under this subsection shall not be subject to any requirements for valuation, appraisal, or equalization under any Federal law.

(d) NON-FEDERAL LAND CONVEYANCE.—Upon completion and acceptance of an environmental hazard assessment, the Secretary shall take into trust for the benefit of the Tribe certain non-Federal land owned by the Tribe, consisting of approximately 184 acres, as depicted on the Map as “Eastern Lands”, such non-Federal land shall be designated as part of the Reservation.

(e) MAP REQUIREMENTS.—

(1) AVAILABILITY OF INITIAL MAP.—The Secretary shall make the Map available for public inspection in appropriate offices of the National Park Service. The Map shall also depict any non-Federal land currently owned by the Tribe which is being placed in trust under this section.



(2) REVISED MAP.—Not later than one year after the date of the land transaction in subsections (d) and (e), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and Committee on Natural Resources of the House of Representatives a revised map that depicts—

Deadline.

(A) the Federal and non-Federal land taken into trust under this section and the Second Beach Trail; and

(B) the actual boundaries of the Park as modified by the land conveyance.

(f) JURISDICTION.—The land conveyed to the Tribe by this section shall be designated as part of the Quileute Reservation and placed in the following jurisdictions:

Designation.

(1) TRUST LAND.—The same Federal, State, and Tribe jurisdiction as on all other trust lands within the Reservation, so long as the exercise of such jurisdiction does not conflict with the terms of the easement described in subsection (g) below.

(2) TRIBE JURISDICTION.—Park visitors shall remain subject to the jurisdiction of the Tribe while on the Second Beach parking lot, on those portions of the Second Beach Trail on the Reservation, and Rialto Spit, to the same extent that such visitors are subject to the Tribe's jurisdiction elsewhere on the Reservation.

(g) GRANT OF EASEMENT IN CONNECTION WITH LAND CONVEYANCE.—

(1) EASEMENT REQUIRED.—The conveyances under subsection (c)(2) shall be subject to the conditions described in this subsection.

(2) REQUIRED RIGHTS UNDER EASEMENT.—Any easement granted under this subsection must contain the following express terms:

(A) NO IMPACT ON EXISTING RIGHTS.—An easement shall not limit the Tribe's treaty rights or other existing rights.

(B) RETENTION OF RIGHTS.—The Tribe retains the right to enforce its rules against visitors for disorderly conduct, drug and alcohol use, use or possession of firearms, and other disruptive behaviors.

(C) MONITORING OF EASEMENT CONDITIONS.—The Park has the right, with prior notice to the Tribe, to access lands conveyed to the Tribe for purposes of monitoring compliance with any easement made under this subsection.

(3) EXEMPTION FOR SUBSECTION (d) LAND.—The non-Federal land owned by the Tribe and being placed into trust by the Secretary in accordance with subsection (d) shall not be included in, or subject to, any easement or condition specified in this subsection.

(4) REQUIRED TERMS AND CONDITIONS.—The following specified land areas shall be subject to the following easement conditions:

(A) CONDITIONS ON NORTHERN LAND.—Certain land that will be added to the northern boundary of the Reservation by the land conveyance, from Rialto Beach to the east line of Section 23, shall be subject to an easement, which shall contain the following requirements:

(i) The Tribe may lease or encumber the land, consistent with their status as trust lands, provided

that the Tribe expressly subjects the conveyance or authorized use to the terms of the easement.

(ii) The Tribe may place temporary, seasonal camps on the land, but shall not place or construct commercial residential, industrial, or other permanent buildings or structures.

(iii) Roads on the land on the date of enactment of this Act may be maintained or improved, but no major improvements or road construction may occur, and any road improvements, temporary camps, or other uses of these lands shall not interfere with its use as a natural wildlife corridor.

(iv) The Tribe may authorize Tribe members and third parties to engage in recreational, ceremonial, or treaty uses of the land provided that the Tribe adopts and enforces regulations permanently prohibiting the use of firearms in the Thunder Field area, and any areas south of the Quillayute River as depicted on the Map.

(v) The Tribe may exercise its sovereign right to fish and gather along the Quillayute River in the Thunder Field area.

Plans.

(vi) The Tribe may, consistent with any applicable Federal law, engage in activities reasonably related to the restoration and protection of the Quillayute River and its tributaries and streams, weed control, fish and wildlife habitat improvement, Quillayute River or streambank stabilization, and flood control. The Tribe and the Park shall conduct joint planning and coordination for Quillayute River restoration projects, including streambank stabilization and flood control.

Accessibility.

(vii) Park officials and visitors shall have access to engage in activities along and in the Quillayute River and Dickey River that are consistent with past recreational uses, and the Tribe shall allow the public to use and access the Dickey River, and Quillayute River along the north bank, regardless of future changes in the Quillayute River or Dickey River alignment.

Accessibility.

(viii) Park officials and visitors shall have access to, and shall be allowed to engage in, activities on Tribal lands at Rialto Spit that are consistent with past recreational uses, and the Tribe shall have access to Park lands at Rialto Beach so that the Tribe may access and use the jetty at Rialto Beach.

(B) CONDITIONS ON SECOND BEACH TRAIL AND ACCESS.—

Certain Quileute Reservation land along the boundary between the Park and the southern portion of the Reservation, encompassing the Second Beach trailhead, parking area, and Second Beach Trail, shall be subject to a conservation and management easement, as well as any other necessary agreements, which shall implement the following provisions:

Maintenance.

(i) The Tribe shall allow Park officials and visitors to park motor vehicles at the Trail parking area existing on the date of enactment of this Act and to access the portion of the Trail located on Tribal

lands, and the Park shall be responsible for the costs of maintaining existing parking access to the Trail.

(ii) The Tribe shall grant Park officials and visitors the right to peacefully use and maintain the portion of the Trail that is on Tribal lands, and the Park shall be responsible for maintaining the Trail and shall seek advance written approval from the Tribe before undertaking any major Trail repairs.

Maintenance.  
Approval.

(iii) The Park officials and the Tribe shall conduct joint planning and coordination regarding any proposed relocation of the Second Beach trailhead, the parking lot, or other portions of the Trail.

Plans.

(iv) The Tribe shall avoid altering the forested landscape of the Tribe-owned headlands between First and Second Beach in a manner that would adversely impact or diminish the aesthetic and natural experience of users of the Trail.

(v) The Tribe shall reserve the right to make improvements or undertake activities at the Second Beach headlands that are reasonably related to enhancing fish habitat, improving or maintaining the Tribe's hatchery program, or alterations that are reasonably related to the protection of the health and safety of Tribe members and the general public.

(vi) The Park officials, after consultation with the Tribe, may remove hazardous or fallen trees on the Tribal-owned Second Beach headlands to the extent necessary to clear or safeguard the Trail, provided that such trees are not removed from Tribal lands.

(vii) The Park officials and the Tribe shall negotiate an agreement for the design, location, construction, and maintenance of a gathering structure in the Second Beach headlands overlook for the benefit of Park visitors and the Tribe, if such a structure is proposed to be built.

Contracts.

(C) SOUTHERN LANDS EXEMPT.—All other land conveyed to the Tribe along the southern boundary of the Reservation under this section shall not be subject to any easements or conditions, and the natural conditions of such land may be altered to allow for the relocation of Tribe members and structures outside the tsunami and Quillayute River flood zones.

(D) PROTECTION OF INFRASTRUCTURE.—Nothing in this Act is intended to require the modification of the parklands and resources adjacent to the transferred Federal lands. The Tribe shall be responsible for developing its lands in a manner that reasonably protects its property and facilities from adjacent parklands by locating buildings and facilities an adequate distance from parklands to prevent damage to these facilities from such threats as hazardous trees and wildfire.

(h) EFFECT OF LAND CONVEYANCE ON CLAIMS.—

(1) CLAIMS EXTINGUISHED.—Upon the date of the land conveyances under subsections (d) and (e) and the placement of conveyed lands into trust for the benefit of the Tribe, any claims of the Tribe against the United States, the Secretary, or the Park relating to the Park's past or present ownership,

entry, use, surveys, or other activities are deemed fully satisfied and extinguished upon a formal Tribal Council resolution, including claims related to the following:

(A) LAND ALONG QUILLAYUTE RIVER.—The lands along the sections of the Quillayute River, starting east of the existing Rialto Beach parking lot to the east line of Section 22.

(B) SECOND BEACH.—The portions of the Federal or Tribal lands near Second Beach.

(C) SOUTHERN BOUNDARY PORTIONS.—Portions of the Federal or Tribal lands on the southern boundary of the Reservation.

(2) RIALTO BEACH.—Nothing in this section shall create or extinguish claims of the Tribe relating to Rialto Beach.

(i) GAMING PROHIBITION.—No land taken into trust for the benefit of the Tribe under this Act shall be considered Indian lands for the purpose of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

Approved February 27, 2012.

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LEGISLATIVE HISTORY—H.R. 1162:

HOUSE REPORTS: No. 112–387 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Feb. 6, considered and passed House.

Feb. 13, considered and passed Senate.



Public Law 112–98  
112th Congress

An Act

To correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

Mar. 8, 2012  
[H.R. 347]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Federal Restricted Buildings and Grounds Improvement Act of 2011”.

Federal  
Restricted  
Buildings and  
Grounds  
Improvement Act  
of 2011.  
18 USC 1 note.

**SEC. 2. RESTRICTED BUILDING OR GROUNDS.**

Section 1752 of title 18, United States Code, is amended to read as follows:

**“§ 1752. Restricted building or grounds**

“(a) Whoever—

“(1) knowingly enters or remains in any restricted building or grounds without lawful authority to do so;

“(2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engages in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

“(3) knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions, obstructs or impedes ingress or egress to or from any restricted building or grounds; or

“(4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds;

or attempts or conspires to do so, shall be punished as provided in subsection (b).

“(b) The punishment for a violation of subsection (a) is—

“(1) a fine under this title or imprisonment for not more than 10 years, or both, if—

“(A) the person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm; or

“(B) the offense results in significant bodily injury as defined by section 2118(e)(3); and

“(2) a fine under this title or imprisonment for not more than one year, or both, in any other case.

“(c) In this section—

Definitions.

“(1) the term ‘restricted buildings or grounds’ means any posted, cordoned off, or otherwise restricted area—

“(A) of the White House or its grounds, or the Vice President’s official residence or its grounds;

“(B) of a building or grounds where the President or other person protected by the Secret Service is or will be temporarily visiting; or

“(C) of a building or grounds so restricted in conjunction with an event designated as a special event of national significance; and

“(2) the term ‘other person protected by the Secret Service’ means any person whom the United States Secret Service is authorized to protect under section 3056 of this title or by Presidential memorandum, when such person has not declined such protection.”.

Approved March 8, 2012.

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LEGISLATIVE HISTORY—H.R. 347 (S. 1794):

HOUSE REPORTS: No. 112–9 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Feb. 28, considered and passed House.

Vol. 158 (2012): Feb. 6, considered and passed Senate, amended.  
Feb. 27, House concurred in Senate amendment.



Public Law 112–99  
112th Congress

An Act

To apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes.

Mar. 13, 2012  
[H.R. 4105]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. APPLICATION OF COUNTERVAILING DUTY PROVISIONS TO NONMARKET ECONOMY COUNTRIES.**

(a) IN GENERAL.—Section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) is amended by adding at the end the following:

“(f) APPLICABILITY TO PROCEEDINGS INVOLVING NONMARKET ECONOMY COUNTRIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the merchandise on which countervailing duties shall be imposed under subsection (a) includes a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States from a nonmarket economy country.

“(2) EXCEPTION.—A countervailing duty is not required to be imposed under subsection (a) on a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States from a nonmarket economy country if the administering authority is unable to identify and measure subsidies provided by the government of the nonmarket economy country or a public entity within the territory of the nonmarket economy country because the economy of that country is essentially comprised of a single entity.”.

(b) EFFECTIVE DATE.—Subsection (f) of section 701 of the Tariff Act of 1930, as added by subsection (a) of this section, applies to—

19 USC 1671  
note.

(1) all proceedings initiated under subtitle A of title VII of that Act (19 U.S.C. 1671 et seq.) on or after November 20, 2006;

(2) all resulting actions by U.S. Customs and Border Protection; and

(3) all civil actions, criminal proceedings, and other proceedings before a Federal court relating to proceedings referred to in paragraph (1) or actions referred to in paragraph (2).

**SEC. 2. ADJUSTMENT OF ANTIDUMPING DUTY IN CERTAIN PROCEEDINGS RELATING TO IMPORTS FROM NONMARKET ECONOMY COUNTRIES.**

(a) IN GENERAL.—Section 777A of the Tariff Act of 1930 (19 U.S.C. 1677f–1) is amended by adding at the end the following:

“(f) ADJUSTMENT OF ANTIDUMPING DUTY IN CERTAIN PROCEEDINGS RELATING TO IMPORTS FROM NONMARKET ECONOMY COUNTRIES.—

“(1) IN GENERAL.—If the administering authority determines, with respect to a class or kind of merchandise from a nonmarket economy country for which an antidumping duty is determined using normal value pursuant to section 773(c), that—

“(A) pursuant to section 701(a)(1), a countervailable subsidy (other than an export subsidy referred to in section 772(c)(1)(C)) has been provided with respect to the class or kind of merchandise,

“(B) such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and

“(C) the administering authority can reasonably estimate the extent to which the countervailable subsidy referred to in subparagraph (B), in combination with the use of normal value determined pursuant to section 773(c), has increased the weighted average dumping margin for the class or kind of merchandise, the administering authority shall, except as provided in paragraph (2), reduce the antidumping duty by the amount of the increase in the weighted average dumping margin estimated by the administering authority under subparagraph (C).

“(2) MAXIMUM REDUCTION IN ANTIDUMPING DUTY.—The administering authority may not reduce the antidumping duty applicable to a class or kind of merchandise from a nonmarket economy country under this subsection by more than the portion of the countervailing duty rate attributable to a countervailable subsidy that is provided with respect to the class or kind of merchandise and that meets the conditions described in subparagraphs (A), (B), and (C) of paragraph (1).”.

(b) EFFECTIVE DATE.—Subsection (f) of section 777A of the Tariff Act of 1930, as added by subsection (a) of this section, applies to—

(1) all investigations and reviews initiated pursuant to title VII of that Act (19 U.S.C. 1671 et seq.) on or after the date of the enactment of this Act; and

(2) subject to subsection (c) of section 129 of the Uruguay Round Agreements Act (19 U.S.C. 3538), all determinations

Applicability.  
19 USC 1677f–1  
note.



issued under subsection (b)(2) of that section on or after the date of the enactment of this Act.

Approved March 13, 2012.

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LEGISLATIVE HISTORY—H.R. 4105 (S. 2153):

CONGRESSIONAL RECORD, Vol. 158 (2012):

Mar. 6, considered and passed House.

Mar. 7, considered and passed Senate.



Public Law 112–100  
112th Congress

An Act

Mar. 14, 2012  
[S. 1134]

To authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values.

St. Croix River  
Crossing Project  
Authorization  
Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “St. Croix River Crossing Project Authorization Act”.

**SEC. 2. AUTHORIZATION OF PROJECT WITH MITIGATION MEASURES.**

Notwithstanding section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)), the head of any Federal agency or department may authorize and assist in the construction of a new extradosed bridge crossing the St. Croix River approximately 6 miles north of the I-94 crossing if the mitigation items described in paragraph 9 of the 2006 St. Croix River Crossing Project Memorandum of Understanding for Implementation of Riverway Mitigation Items, signed by the Federal Highway Administration on March 28, 2006, and by the National Park Service on March 27, 2006 (including any subsequent amendments to the Memorandum of Understanding), are included as enforceable conditions.

**SEC. 3. OFFSET.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, amounts made available for items 676, 813, 3186, 4358, and 5132 in the table contained in section 1702 of the SAFETEA-LU (119 Stat. 1288, 1380, 1423) shall be subject to the limitation on obligations for Federal-aid highways and highway safety construction programs distributed under section 120(a)(6) of title I of division C of Public Law 112–55 (23 U.S.C. 104 note; 125 Stat. 652).

(b) **RESCISSION.**—Any obligation authority made available until used to a State as a result of receipt of contract authority for the items described in subsection (a) that remains available to the State as of the date of enactment of this Act is permanently rescinded.

**SEC. 4. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the

Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Approved March 14, 2012.

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LEGISLATIVE HISTORY—S. 1134:

HOUSE REPORTS: No. 112–124 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Jan. 23, considered and passed Senate.

Feb. 29, Mar. 1, considered and passed House.



Public Law 112–101  
112th Congress

An Act

Mar. 14, 2012  
[S. 1710]

To designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JAMES M. FITZGERALD UNITED STATES COURTHOUSE.**

(a) DESIGNATION.—The United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, shall be known and designated as the “James M. Fitzgerald United States Courthouse”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the “James M. Fitzgerald United States Courthouse”.

Approved March 14, 2012.

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**LEGISLATIVE HISTORY—S. 1710:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Dec. 17, considered and passed Senate.  
Vol. 158 (2012): Mar. 5, considered and passed House.



Public Law 112–102  
112th Congress

An Act

To provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs.

Mar. 30, 2012  
[H.R. 4281]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; RECONCILIATION OF FUNDS; TABLE OF CONTENTS.**

Surface  
Transportation  
Extension Act  
of 2012.

(a) **SHORT TITLE.**—This Act may be cited as the “Surface Transportation Extension Act of 2012”.

23 USC 101 note.

(b) **RECONCILIATION OF FUNDS.**—The Secretary of Transportation shall reduce the amount apportioned or allocated for a program, project, or activity under this Act in fiscal year 2012 by amounts apportioned or allocated pursuant to the Surface Transportation Extension Act of 2011, Part II (title I of Public Law 112–30) for the period beginning on October 1, 2011, and ending on March 31, 2012.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; reconciliation of funds; table of contents.

**TITLE I—FEDERAL-AID HIGHWAYS**

Sec. 101. Extension of Federal-aid highway programs.

**TITLE II—EXTENSION OF HIGHWAY SAFETY PROGRAMS**

Sec. 201. Extension of National Highway Traffic Safety Administration highway safety programs.

Sec. 202. Extension of Federal Motor Carrier Safety Administration programs.

Sec. 203. Additional programs.

**TITLE III—PUBLIC TRANSPORTATION PROGRAMS**

Sec. 301. Allocation of funds for planning programs.

Sec. 302. Special rule for urbanized area formula grants.

Sec. 303. Allocating amounts for capital investment grants.

Sec. 304. Apportionment of formula grants for other than urbanized areas.

Sec. 305. Apportionment based on fixed guideway factors.

Sec. 306. Authorizations for public transportation.

Sec. 307. Amendments to SAFETEA–LU.

**TITLE IV—HIGHWAY TRUST FUND EXTENSION**

Sec. 401. Extension of trust fund expenditure authority.

Sec. 402. Extension of highway-related taxes.

## **TITLE I—FEDERAL-AID HIGHWAYS**

### **SEC. 101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.**

(a) IN GENERAL.—Section 111 of the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 343) is amended—

(1) by striking “the period beginning on October 1, 2011, and ending on March 31, 2012,” each place it appears and inserting “the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(2) by striking “ $\frac{1}{2}$ ” each place it appears and inserting “ $\frac{3}{4}$ ”; and

(3) in subsection (a) by striking “March 31, 2012” and inserting “June 30, 2012”.

(b) USE OF FUNDS.—Section 111(c)(3)(B)(ii) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended by striking “\$319,500,000” and inserting “\$479,250,000”.

(c) EXTENSION OF AUTHORIZATIONS UNDER TITLE V OF SAFETEA-LU.—Section 111(e)(2) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended by striking “the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(d) ADMINISTRATIVE EXPENSES.—Section 112(a) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 346) is amended by striking “\$196,427,625 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “\$294,641,438 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

## **TITLE II—EXTENSION OF HIGHWAY SAFETY PROGRAMS**

### **SEC. 201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.**

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of SAFETEA-LU (119 Stat. 1519) is amended by striking “\$235,000,000 for fiscal year 2009” and all that follows through the period at the end and inserting “\$235,000,000 for each of fiscal years 2009 through 2011, and \$176,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$54,122,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “and \$81,183,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2001(a)(3) of SAFETEA-LU (119 Stat. 1519) is amended by striking “\$25,000,000 for fiscal year 2006” and all that follows through the period at the end and inserting “\$25,000,000 for each of fiscal years 2006 through 2011, and \$18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(d) SAFETY BELT PERFORMANCE GRANTS.—Section 2001(a)(4) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and

\$24,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “and \$36,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU (119 Stat. 1519) is amended by striking “for fiscal year 2006” and all that follows through the period at the end and inserting “for each of fiscal years 2006 through 2011 and \$25,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amended by striking “\$139,000,000 for fiscal year 2009” and all that follows through the period at the end and inserting “\$139,000,000 for each of fiscal years 2009 through 2011, and \$104,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(g) NATIONAL DRIVER REGISTER.—Section 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amended by striking “and \$2,058,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “and \$3,087,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520) is amended by striking “for fiscal year 2006” and all that follows through the period at the end and inserting “for each of fiscal years 2006 through 2011 and \$21,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$7,000,000 for fiscal year 2009” and all that follows through the period at the end and inserting “\$7,000,000 for each of fiscal years 2009 through 2011, and \$5,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—Section 2001(a)(10) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$7,000,000 for fiscal year 2009” and all that follows through the period at the end and inserting “\$7,000,000 for each of fiscal years 2009 through 2011, and \$5,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(k) ADMINISTRATIVE EXPENSES.—Section 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is amended by striking “and \$12,664,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “and \$18,996,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

**SEC. 202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.**

(a) MOTOR CARRIER SAFETY GRANTS.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) \$159,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1)(H) of title 49, United States Code, is amended to read as follows:

“(H) \$183,108,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(c) GRANT PROGRAMS.—Section 4101(c) of SAFETEA–LU (119 Stat. 1715) is amended—

(1) in paragraph (1) by striking “2011 and \$15,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2011 and \$22,500,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(2) in paragraph (2) by striking “2011 and \$16,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2011 and \$24,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(3) in paragraph (3) by striking “2011 and \$2,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2011 and \$3,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(4) in paragraph (4) by striking “2011 and \$12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2011 and \$18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”; and

(5) in paragraph (5) by striking “2011 and \$1,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “2011 and \$2,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(d) HIGH-PRIORITY ACTIVITIES.—Section 31104(k)(2) of title 49, United States Code, is amended by striking “2011 and \$7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and \$11,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(e) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking “and up to \$14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “and up to \$21,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

49 USC 31100  
note.

(f) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA–LU (119 Stat. 1741) is amended by striking “2011 (and \$500,000 to the Federal Motor Carrier Safety Administration, and \$1,500,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on March 31, 2012)” and inserting “2011 (and \$750,000 to the Federal Motor Carrier Safety Administration, and \$2,250,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on June 30, 2012)”.

49 USC 31301  
note.

(g) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA–LU (119 Stat. 1744) is amended by striking “2011 and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

49 USC 31100  
note.

(h) MOTOR CARRIER SAFETY ADVISORY COMMITTEE.—Section 4144(d) of SAFETEA–LU (119 Stat. 1748) is amended by striking “March 31, 2012” and inserting “June 30, 2012”.

(i) WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.—Section 4213(d) of SAFETEA–LU (49 U.S.C. 14710 note; 119 Stat. 1759)



is amended by striking “March 31, 2012” and inserting “June 30, 2012”.

**SEC. 203. ADDITIONAL PROGRAMS.**

(a) **HAZARDOUS MATERIALS RESEARCH PROJECTS.**—Section 7131(c) of SAFETEA-LU (119 Stat. 1910) is amended by striking “2011 and \$580,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and \$870,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”.

(b) **DINGELL-JOHNSON SPORT FISH RESTORATION ACT.**—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) by striking “2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(2) in the first sentence of subsection (b)(1)(A) by striking “2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012,”.

## **TITLE III—PUBLIC TRANSPORTATION PROGRAMS**

**SEC. 301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.**

Section 5305(g) of title 49, United States Code, is amended by striking “2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012”.

**SEC. 302. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.**

Section 5307(b)(2) of title 49, United States Code, is amended—

(1) by striking the paragraph heading and inserting “SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012.—”;

(2) in subparagraph (A) by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(3) in subparagraph (E)—

(A) by striking the subparagraph heading and inserting “MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012.—”; and

(B) in the matter preceding clause (i) by striking “2011 and during the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2011 and during the period beginning on October 1, 2011, and ending on June 30, 2012”.

**SEC. 303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.**

Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking the paragraph heading and inserting “FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012.—”;

(B) in the matter preceding subparagraph (A) by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(C) in subparagraph (A)(i) by striking “2011 and \$100,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and \$150,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(2) in paragraph (6)—

(A) in subparagraph (B) by striking “2011 and \$7,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and \$11,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(B) in subparagraph (C) by striking “2011 and \$2,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and \$3,750,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(3) in paragraph (7)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking “2011 and \$5,000,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and \$7,500,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(ii) in clause (i) by striking “for each fiscal year and \$1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “for each fiscal year and \$1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(iii) in clause (ii) by striking “for each fiscal year and \$1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “for each fiscal year and \$1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(iv) in clause (iii) by striking “for each fiscal year and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(v) in clause (iv) by striking “for each fiscal year and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting

“for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(vi) in clause (v) by striking “for each fiscal year and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(vii) in clause (vi) by striking “for each fiscal year and \$500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(viii) in clause (vii) by striking “for each fiscal year and \$325,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “for each fiscal year and \$487,500 for the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(ix) in clause (viii) by striking “for each fiscal year and \$175,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “for each fiscal year and \$262,500 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(B) in subparagraph (B) by striking clause (vii) and inserting the following:

“(vii) \$10,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(C) in subparagraph (C) by striking “and during the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “and during the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(D) in subparagraph (D) by striking “and not less than \$17,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “and not less than \$26,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(E) in subparagraph (E) by striking “and \$1,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “and \$2,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

**SEC. 304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

Section 5311(c)(1)(G) of title 49, United States Code, is amended to read as follows:

“(G) \$11,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

**SEC. 305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.**

Section 5337(g) of title 49, United States Code, is amended to read as follows:

“(g) SPECIAL RULE FOR OCTOBER 1, 2011, THROUGH JUNE 30, 2012.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning on October 1, 2011, and ending on June 30, 2012, in accordance with subsection (a), except that the Secretary shall

apportion 75 percent of each dollar amount specified in subsection (a).”.

**SEC. 306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.**

(a) **FORMULA AND BUS GRANTS.**—Section 5338(b) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking subparagraph (G) and inserting the following:

“(G) \$6,270,423,750 for the period beginning on October 1, 2011, and ending on June 30, 2012.”; and

(2) in paragraph (2)—

(A) in subparagraph (A) by striking “\$113,500,000 for each of fiscal years 2009 and 2010, \$113,500,000 for fiscal year 2011, and \$56,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$113,500,000 for each of fiscal years 2009 through 2011, and \$85,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(B) in subparagraph (B) by striking “\$4,160,365,000 for each of fiscal years 2009 and 2010, \$4,160,365,000 for fiscal year 2011, and \$2,080,182,500 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$4,160,365,000 for each of fiscal years 2009 through 2011, and \$3,120,273,750 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(C) in subparagraph (C) by striking “\$51,500,000 for each of fiscal years 2009 and 2010, \$51,500,000 for fiscal year 2011, and \$25,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$51,500,000 for each of fiscal years 2009 through 2011, and \$38,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(D) in subparagraph (D) by striking “\$1,666,500,000 for each of fiscal years 2009 and 2010, \$1,666,500,000 for fiscal year 2011, and \$833,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$1,666,500,000 for each of fiscal years 2009 through 2011, and \$1,249,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(E) in subparagraph (E) by striking “\$984,000,000 for each of fiscal years 2009 and 2010, \$984,000,000 for fiscal year 2011, and \$492,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$984,000,000 for each of fiscal years 2009 through 2011, and \$738,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(F) in subparagraph (F) by striking “\$133,500,000 for each of fiscal years 2009 and 2010, \$133,500,000 for fiscal year 2011, and \$66,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$133,500,000 for each of fiscal years 2009 through 2011, and \$100,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(G) in subparagraph (G) by striking “\$465,000,000 for each of fiscal years 2009 and 2010, \$465,000,000 for fiscal year 2011, and \$232,500,000 for the period beginning on

October 1, 2011, and ending on March 31, 2012,” and inserting “\$465,000,000 for each of fiscal years 2009 through 2011, and \$348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(H) in subparagraph (H) by striking “\$164,500,000 for each of fiscal years 2009 and 2010, \$164,500,000 for fiscal year 2011, and \$82,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$164,500,000 for each of fiscal years 2009 through 2011, and \$123,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(I) in subparagraph (I) by striking “\$92,500,000 for each of fiscal years 2009 and 2010, \$92,500,000 for fiscal year 2011, and \$46,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$92,500,000 for each of fiscal years 2009 through 2011, and \$69,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(J) in subparagraph (J) by striking “\$26,900,000 for each of fiscal years 2009 and 2010, \$26,900,000 for fiscal year 2011, and \$13,450,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$26,900,000 for each of fiscal years 2009 through 2011, and \$20,175,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(K) in subparagraph (K) by striking “in fiscal year 2006” and all that follows through “March 31, 2012,” and inserting “for each of fiscal years 2006 through 2011 and \$2,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(L) in subparagraph (L) by striking “in fiscal year 2006” and all that follows through “March 31, 2012,” and inserting “for each of fiscal years 2006 through 2011 and \$18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”;

(M) in subparagraph (M) by striking “\$465,000,000 for each of fiscal years 2009 and 2010, \$465,000,000 for fiscal year 2011, and \$232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$465,000,000 for each of fiscal years 2009 through 2011, and \$348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”; and

(N) in subparagraph (N) by striking “\$8,800,000 for each of fiscal years 2009 and 2010, \$8,800,000 for fiscal year 2011, and \$4,400,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “\$8,800,000 for each of fiscal years 2009 through 2011, and \$6,600,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(b) CAPITAL INVESTMENT GRANTS.—Section 5338(c)(7) of title 49, United States Code, is amended to read as follows:

“(7) \$1,466,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking “and 2010, \$69,750,000 for fiscal year 2011,

and \$29,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “through 2011, and \$33,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(2) by striking paragraph (3) and inserting the following:  
 “(3) ADDITIONAL AUTHORIZATIONS.—

“(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for the period beginning on October 1, 2011, and ending on June 30, 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 47 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

“(B) UNIVERSITY CENTERS PROGRAM.—

“(i) OCTOBER 1, 2011, THROUGH JUNE 30, 2012.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning on October 1, 2011, and ending on June 30, 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 47 percent of the amount allocated for fiscal year 2009 under each such clause.

Determination.

“(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year.”.

(d) ADMINISTRATION.—Section 5338(e)(7) of title 49, United States Code, is amended to read as follows:

“(7) \$74,034,750 for the period beginning on October 1, 2011, and ending on June 30, 2012.”.

#### SEC. 307. AMENDMENTS TO SAFETEA-LU.

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA-LU (119 Stat. 1572) is amended by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,”.

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of SAFETEA-LU (49 U.S.C. 5309 note; 119 Stat. 1588) is amended—

(1) in subsection (c)(5) by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012”; and

(2) in the second sentence of subsection (d) by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,”.

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of SAFETEA-LU (49 U.S.C. 5310 note; 119 Stat. 1593) is amended by striking “March 31, 2012” and inserting “June 30, 2012”.

(d) OBLIGATION CEILING.—Section 3040(8) of SAFETEA-LU (119 Stat. 1639) is amended to read as follows:

“(8) \$7,843,708,500 for the period beginning on October 1, 2011, and ending on June 30, 2012, of which not more than \$6,270,423,750 shall be from the Mass Transit Account.”.

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of SAFETEA-LU (119 Stat. 1640) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(2) in subsection (c), in the matter preceding paragraph (1), by striking “2011 and the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,”.

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046(c)(2) of SAFETEA-LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended to read as follows:

“(2) for the period beginning on October 1, 2011, and ending on June 30, 2012, in amounts equal to 47 percent of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), and (8) through (25) of subsection (a).”.

## TITLE IV—HIGHWAY TRUST FUND EXTENSION

### SEC. 401. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

26 USC 9503.

(1) by striking “April 1, 2012” in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting “July 1, 2012”; and

(2) by striking “Surface Transportation Extension Act of 2011, Part II” in subsections (c)(1) and (e)(3) and inserting “Surface Transportation Extension Act of 2012”.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of such Code is amended—

(1) by striking “Surface Transportation Extension Act of 2011, Part II” each place it appears in subsection (b)(2) and inserting “Surface Transportation Extension Act of 2012”; and

(2) by striking “April 1, 2012” in subsection (d)(2) and inserting “July 1, 2012”.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of such Code is amended by striking “April 1, 2012” and inserting “July 1, 2012”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

26 USC 9503  
note.

### SEC. 402. EXTENSION OF HIGHWAY-RELATED TAXES.

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “March 31, 2012” and inserting “June 30, 2012”:

(A) Section 4041(a)(1)(C)(iii)(I).

26 USC 4041.

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking “April 1, 2012” and inserting “July 1, 2012”:

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—Each of the following provisions of such Code is amended by striking “2012” and inserting “2013”:

26 USC 4481.

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of such Code is amended—

(1) by striking “April 1, 2012” each place it appears and inserting “July 1, 2012”;

(2) by striking “September 30, 2012” each place it appears and inserting “December 31, 2012”; and

(3) by striking “July 1, 2012” and inserting “October 1, 2012”.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—Sections 4221(a) and 4483(i) of such Code are each amended by striking “April 1, 2012” and inserting “July 1, 2012”.

(e) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of such Code is amended—

(A) in subsection (b)—

(i) by striking “April 1, 2012” each place it appears in paragraphs (1) and (2) and inserting “July 1, 2012”;

(ii) by striking “APRIL 1, 2012” in the heading of paragraph (2) and inserting “JULY 1, 2012”;

(iii) by striking “March 31, 2012” in paragraph (2) and inserting “June 30, 2012”; and

(iv) by striking “January 1, 2013” in paragraph (2) and inserting “April 1, 2013”; and

(B) in subsection (c)(2), by striking “January 1, 2013” and inserting “April 1, 2013”.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking “April 1, 2012” and inserting “July 1, 2012”.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(i) by striking “April 1, 2013” each place it appears and inserting “July 1, 2013”; and

(ii) by striking “April 1, 2012” and inserting “July 1, 2012”.



(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on April 1, 2012. 16 USC 460l–11 note.

Approved March 30, 2012.

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**LEGISLATIVE HISTORY—H.R. 4281:**

**CONGRESSIONAL RECORD**, Vol. 158 (2012):

Mar. 29, considered and passed House and Senate.



Public Law 112–103  
112th Congress

An Act

Apr. 2, 2012  
[H.R. 473]

Help to Access  
Land for the  
Education of  
Scouts.

To provide for the conveyance of approximately 140 acres of land in the Ouachita National Forest in Oklahoma to the Indian Nations Council, Inc., of the Boy Scouts of America, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Help to Access Land for the Education of Scouts” or “HALE Scouts Act”.

**SEC. 2. LAND CONVEYANCE, OUACHITA NATIONAL FOREST, OKLAHOMA.**

(a) **FINDING.**—Congress finds that it is in the public interest to provide for the sale of certain federally owned land in the Ouachita National Forest in Oklahoma to the Indian Nations Council, Inc., of the Boy Scouts of America, for market value consideration.

(b) **CONVEYANCE REQUIRED.**—Subject to valid existing rights, the Secretary of Agriculture shall convey, by quitclaim deed, to the Indian Nations Council, Inc., of the Boy Scouts of America (in this section referred to as the “Council”) all right, title, and interest of the United States in and to certain National Forest System land in the Ouachita National Forest in the State of Oklahoma consisting of approximately 140 acres, depending on the final measurement of the road set back and the actual size of the affected sections, as more fully described in subsection (c). The conveyance may not include any land located within the Indian Nations National Scenic and Wildlife Area designated by section 10 of the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv–8).

(c) **COVERED LANDS.**—The National Forest System land to be conveyed under subsection (b) is depicted on the map entitled “Boy Scout Land Request—Ouachita NF”. The map shall be on file and available for public inspection in the Forest Service Regional Office in Atlanta, Georgia.

(d) **CONSIDERATION.**—As consideration for the land conveyed under subsection (b), the Council shall pay to the Secretary an amount equal to the fair market value of the land, as determined by an appraisal approved by the Secretary and done in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions and section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(e) **SURVEY AND ADMINISTRATIVE COSTS.**—The exact acreage and legal description of the land to be conveyed under subsection

(b) shall be determined by a survey satisfactory to the Secretary. The Council shall pay the reasonable costs of survey, appraisal, and any administrative analyses required by law.

(f) ACCESS.—Access to the land conveyed under subsection (b) shall be from the adjacent land of the Council or its successor. Notwithstanding section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)), the Secretary shall not be required to provide additional access to the conveyed land.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may prescribe such terms and conditions on the conveyance under subsection (b) as the Secretary considers in the public interest, including the reservation of access rights to the conveyed land for administrative purposes.

Approved April 2, 2012.

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LEGISLATIVE HISTORY—H.R. 473:

HOUSE REPORTS: No. 112–218 (Comm. on Natural Resources).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Oct. 3, considered and passed House.

Vol. 158 (2012): Mar. 15, considered and passed Senate.



Public Law 112–104  
112th Congress

An Act

Apr. 2, 2012  
[H.R. 886]

United States  
Marshals Service  
225th  
Anniversary  
Commemorative  
Coin Act.  
31 USC 5112  
note.

To require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first Federal law enforcement agency, the United States Marshals Service.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “United States Marshals Service 225th Anniversary Commemorative Coin Act”.

**SEC. 2. FINDINGS.**

The Congress hereby finds as follows:

(1) The United States Marshals, the first Federal law enforcement officers in America, were established under section 27 of the Act of Congress entitled “Chapter XX.—An Act to Establish the Judicial Courts of the United States” and enacted on September 24, 1789 (commonly referred to as the “Judiciary Act of September 24, 1789”), during the 1st Session of the 1st Congress, and signed into law by the 1st President of the United States, George Washington.

(2) George Washington had carefully considered the appointments to the Judicial Branch long before the enactment of the Judiciary Act of September 24, 1789, and nominated the first 11 United States Marshals on September 24, and the remaining two Marshals on September 25, 1789. The Senate confirmed all 13 on September 26, 1789, 2 days after the Judiciary Act was signed into law.

(3) In 1969, by order of the Department of Justice, the United States Marshals Service was created, and achieved Bureau status in 1974. The United States Marshals Service has had major significance in the history of the United States, and has directly contributed to the safety and preservation of this Nation, by serving as an instrument of civil authority used by all 3 branches of the United States Government.

(4) One of the original 13 United States Marshals, Robert Forsyth of Georgia, a 40-year-old veteran of the Revolutionary War, was the first civilian official of the United States Government, and the first of many United States Marshals and deputies, to be killed in the line of duty when he was shot on January 11, 1794, while trying to serve civil process.

(5) The United States Marshals Service Commemorative Coin will be the first commemorative coin to honor the United States Marshals Service.

(6) The United States should pay tribute to the Nation's oldest Federal law enforcement agency, the United States Marshals Service, by minting and issuing commemorative coins, as provided in this Act.

(7) A commemorative coin will bring national and international attention to the lasting legacy of this Nation's oldest Federal law enforcement agency.

(8) The proceeds from a surcharge on the sale of such commemorative coins will assist the financing of national museums and charitable organizations.

### SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—In commemoration of the 225th anniversary of the establishment of the United States Marshals Service, the Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall mint and issue the following coins:

(1) \$5 GOLD COINS.—Not more than 100,000 \$5 gold coins, which shall—

- (A) weigh 8.359 grams;
- (B) have a diameter of 0.850 inches; and
- (C) contain 90 percent gold and 10 percent alloy.

(2) \$1 SILVER COINS.—Not more than 500,000 \$1 coins, which shall—

- (A) weigh 26.73 grams;
- (B) have a diameter of 1.500 inches; and
- (C) contain 90 percent silver and 10 percent alloy.

(3) HALF DOLLAR CLAD COINS.—Not more than 750,000 half dollar coins, which shall—

- (A) weigh 11.34 grams;
- (B) have a diameter of 1.205 inches; and
- (C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31 United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

### SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the 225 years of exemplary and unparalleled achievements of the United States Marshals Service.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

- (A) a designation of the value of the coin;
- (B) an inscription of—
  - (i) the mint date “2015”; and
  - (ii) the years 1789 and 2014; and
- (C) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”; and such other inscriptions as the Secretary may determine to be appropriate for the designs of the coins.

(3) COIN IMAGES.—

(A) \$5 GOLD COINS.—

(i) **OBVERSE.**—The obverse of the \$5 coins issued under this Act shall bear an image of the United States Marshals Service Star (also known as “America’s Star”).

(ii) **REVERSE.**—The reverse of the \$5 coins issued under this Act shall bear a design emblematic of the sacrifice and service of the men and women of the United States Marshals Service who lost their lives in the line of duty and include the Marshals Service motto “Justice, Integrity, Service”.

(B) **\$1 SILVER COINS.**—

(i) **OBVERSE.**—The obverse of the \$1 coins issued under this Act shall bear an image of the United States Marshals Service Star (also known as “America’s Star”).

(ii) **REVERSE.**—The reverse of the \$1 silver coins issued under this Act shall bear an image emblematic of the United States Marshals legendary status in America’s cultural landscape. The image should depict Marshals as the lawmen of our frontiers, including their geographic, political, or cultural history, and shall include the Marshals Service motto “Justice, Integrity, Service”.

(C) **HALF DOLLAR CLAD COINS.**—

(i) **OBVERSE.**—The obverse of the half dollar clad coins issued under this Act shall bear an image emblematic of the United States Marshals Service and its history.

(ii) **REVERSE.**—The reverse of the half dollar clad coins issued under this Act shall bear an image consistent with the role that the United States Marshals played in a changing nation, as they were involved in some of the most pivotal social issues in American history. The image should show the ties that the Marshals have to the United States Constitution, with themes including—

- (I) the Whiskey Rebellion and the rule of law;
- (II) slavery and the legacy of inequality; and
- (III) the struggle between labor and capital.

(4) **REALISTIC AND HISTORICALLY ACCURATE DEPICTIONS.**—

The images for the designs of coins issued under this Act shall be selected on the basis of the realism and historical accuracy of the images and on the extent to which the images are reminiscent of the dramatic and beautiful artwork on coins of the so-called “Golden Age of Coinage” in the United States, at the beginning of the 20th Century, with the participation of such noted sculptors and medallic artists as James Earle Fraser, Augustus Saint-Gaudens, Victor David Brenner, Adolph A. Weinman, Charles E. Barber, and George T. Morgan.

(b) **SELECTION.**—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Director of the United States Marshals Service and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coin Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) **QUALITY OF COINS.**—Coins minted under this Act shall be issued in proof quality and uncirculated quality.

(b) **MINT FACILITY.**—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) **COMMENCEMENT OF ISSUANCE.**—The Secretary may issue coins, to the public, minted under this Act beginning on or after January 1, 2015, except for a limited number to be issued prior to such date to the Director of the United States Marshals Service and employees of the Service for display and presentation during the 225th Anniversary celebration.

(d) **TERMINATION OF MINTING AUTHORITY.**—No coins may be minted under this Act after December 31, 2015.

**SEC. 6. SALE OF COINS.**

(a) **SALE PRICE.**—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) **PREPAID ORDERS.**—

(1) **IN GENERAL.**—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) **DISCOUNT.**—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) **IN GENERAL.**—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of \$35 per coin for the \$5 gold coin.

(2) A surcharge of \$10 per coin for the \$1 silver coin.

(3) A surcharge of \$3 per coin for the half dollar coin.

(b) **DISTRIBUTION.**—Subject to section 5134(f) of title 31, United States Code, the Secretary shall promptly distribute all surcharges received from the sale of coins issued under this Act as follows:

(1) The first \$5,000,000 available for distribution under this section, to the U.S. Marshals Museum, Inc., also known as the United States Marshals Museum, for the preservation, maintenance, and display of artifacts and documents.

(2) Of amounts available for distribution after the payment under paragraph (1)—

(A) One third shall be distributed to the National Center for Missing & Exploited Children, to be used for finding missing children and combating child sexual exploitation.

(B) One third shall be distributed to the Federal Law Enforcement Officers Association Foundation, to be used—

(i) to provide financial assistance for—

(I) surviving family members of Federal law enforcement members killed in the line of duty;

(II) Federal law enforcement members who have become disabled; and

(III) Federal law enforcement employees and their families in select instances, such as severe trauma or financial loss, where no other source of assistance is available;

(ii) to provide scholarships to students pursuing a career in the law enforcement field; and

(iii) to provide selective grants to charitable organizations.

(C) One third shall be distributed to the National Law Enforcement Officers Memorial Fund, to support the construction of the National Law Enforcement Museum and the preservation and display of its artifacts.

(c) AUDITS.—All organizations, associations, and funds shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to this issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

#### **SEC. 8. FINANCIAL ASSURANCES.**

The Secretary shall take such actions as may be necessary to ensure that—

(1) minting and issuing coins under this Act will not result in any net cost to the United States Government;

(2) no funds, including applicable surcharges, shall be disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

Approved April 2, 2012.

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#### **LEGISLATIVE HISTORY—H.R. 886:**

##### **CONGRESSIONAL RECORD:**

Vol. 157 (2011): Dec. 13, 15, considered and passed House.

Vol. 158 (2012): Mar. 15, considered and passed Senate, amended.

Mar. 21, House concurred in Senate amendment.





Public Law 112–105  
112th Congress

An Act

To prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

Apr. 4, 2012  
[S. 2038]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Stop Trading on Congressional Knowledge Act of 2012” or the “STOCK Act”.

Stop Trading on  
Congressional  
Knowledge Act  
of 2012.  
5 USC app. 101  
note.

**SEC. 2. DEFINITIONS.**

5 USC app. 101  
note.

In this Act:

(1) **MEMBER OF CONGRESS.**—The term “Member of Congress” means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(2) **EMPLOYEE OF CONGRESS.**—The term “employee of Congress” means—

(A) any individual (other than a Member of Congress), whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives; and

(B) any other officer or employee of the legislative branch (as defined in section 109(11) of the Ethics in Government Act of 1978 (5 U.S.C. App. 109(11))).

(3) **EXECUTIVE BRANCH EMPLOYEE.**—The term “executive branch employee”—

(A) has the meaning given the term “employee” under section 2105 of title 5, United States Code; and

(B) includes—

(i) the President;

(ii) the Vice President; and

(iii) an employee of the United States Postal Service or the Postal Regulatory Commission.

(4) **JUDICIAL OFFICER.**—The term “judicial officer” has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978 (U.S.C. App. 109(10)).

(5) **JUDICIAL EMPLOYEE.**—The term “judicial employee” has the meaning given that term in section 109(8) of the Ethics in Government Act of 1978 (5 U.S.C. App. 109(8)).

(6) **SUPERVISING ETHICS OFFICE.**—The term “supervising ethics office” has the meaning given that term in section 109(18) of the Ethics in Government Act of 1978 (5 U.S.C. App. 109(18)).

5 USC app. 101  
note prec.

**SEC. 3. PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.**

Guidance.

The Select Committee on Ethics of the Senate and the Committee on Ethics of the House of Representatives shall issue interpretive guidance of the relevant rules of each chamber, including rules on conflicts of interest and gifts, clarifying that a Member of Congress and an employee of Congress may not use nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities as a means for making a private profit.

**SEC. 4. PROHIBITION OF INSIDER TRADING.**

15 USC 78j note.

(a) **AFFIRMATION OF NONEXEMPTION.**—Members of Congress and employees of Congress are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(b) **DUTY.**—

15 USC 78u–1  
note.

(1) **PURPOSE.**—The purpose of the amendment made by this subsection is to affirm a duty arising from a relationship of trust and confidence owed by each Member of Congress and each employee of Congress.

(2) **AMENDMENT.**—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1) is amended by adding at the end the following:

“(g) **DUTY OF MEMBERS AND EMPLOYEES OF CONGRESS.**—

“(1) **IN GENERAL.**—Subject to the rule of construction under section 10 of the STOCK Act and solely for purposes of the insider trading prohibitions arising under this Act, including section 10(b) and Rule 10b–5 thereunder, each Member of Congress or employee of Congress owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities.

“(2) **DEFINITIONS.**—In this subsection—

“(A) the term ‘Member of Congress’ means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico; and

“(B) the term ‘employee of Congress’ means—

“(i) any individual (other than a Member of Congress), whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives; and

“(ii) any other officer or employee of the legislative branch (as defined in section 109(11) of the Ethics in Government Act of 1978 (5 U.S.C. App. 109(11))).

“(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.”.

**SEC. 5. CONFORMING CHANGES TO THE COMMODITY EXCHANGE ACT.**

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended—

(1) in paragraph (3), in the matter preceding subparagraph

(A)—

(A) by inserting “or any Member of Congress or employee of Congress (as such terms are defined under section 2 of the STOCK Act) or any judicial officer or judicial employee (as such terms are defined, respectively, under section 2 of the STOCK Act)” after “Federal Government” the first place it appears;

(B) by inserting “Member, officer,” after “position of the”; and

(C) by inserting “or by Congress or by the judiciary” before “in a manner”; and

(2) in paragraph (4)—

(A) in subparagraph (A), in the matter preceding clause

(i)—

(i) by inserting “or any Member of Congress or employee of Congress or any judicial officer or judicial employee” after “Federal Government” the first place it appears;

(ii) by inserting “Member, officer,” after “position of the”; and

(iii) by inserting “or by Congress or by the judiciary” before “in a manner”;

(B) in subparagraph (B), in the matter preceding clause (i), by inserting “or any Member of Congress or employee of Congress or any judicial officer or judicial employee” after “Federal Government”; and

(C) in subparagraph (C)—

(i) in the matter preceding clause (i), by inserting “or by Congress or by the judiciary”—

(I) before “that may affect”; and

(II) before “in a manner”; and

(ii) in clause (iii), by inserting “to Congress, any Member of Congress, any employee of Congress, any judicial officer, or any judicial employee,” after “Federal Government,”.

**SEC. 6. PROMPT REPORTING OF FINANCIAL TRANSACTIONS.**

(a) **REPORTING REQUIREMENT.**—Section 103 of the Ethics in Government Act of 1978 (5 U.S.C. App. 103) is amended by adding at the end the following subsection:

“(1) Not later than 30 days after receiving notification of any transaction required to be reported under section 102(a)(5)(B), but in no case later than 45 days after such transaction, the following persons, if required to file a report under any subsection of section 101, subject to any waivers and exclusions, shall file a report of the transaction:

“(1) The President.

“(2) The Vice President.

“(3) Each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which

the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification.

“(4) Each employee appointed pursuant to section 3105 of title 5, United States Code.

“(5) Any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public’s confidence in the integrity of the Government.

“(6) The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Regulatory Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule.

“(7) The Director of the Office of Government Ethics and each designated agency ethics official.

“(8) Any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President.

“(9) A Member of Congress, as defined under section 109(12).

“(10) An officer or employee of the Congress, as defined under section 109(13).”.

Applicability.  
5 USC app. 103  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to transactions occurring on or after the date that is 90 days after the date of enactment of this Act.

## **SEC. 7. REPORT ON POLITICAL INTELLIGENCE ACTIVITIES.**

(a) **REPORT.**—

(1) **IN GENERAL.**—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Congressional Research Service, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform and the Committee on the Judiciary of the House of Representatives a report on the role of political intelligence in the financial markets.

(2) **CONTENTS.**—The report required by this section shall include a discussion of—

(A) what is known about the prevalence of the sale of political intelligence and the extent to which investors rely on such information;

(B) what is known about the effect that the sale of political intelligence may have on the financial markets;

(C) the extent to which information which is being sold would be considered nonpublic information;

(D) the legal and ethical issues that may be raised by the sale of political intelligence;

(E) any benefits from imposing disclosure requirements on those who engage in political intelligence activities; and

(F) any legal and practical issues that may be raised by the imposition of disclosure requirements on those who engage in political intelligence activities.

(b) **DEFINITION.**—For purposes of this section, the term “political intelligence” shall mean information that is—

(1) derived by a person from direct communications with an executive branch employee, a Member of Congress, or an employee of Congress; and

(2) provided in exchange for financial compensation to a client who intends, and who is known to intend, to use the information to inform investment decisions.

**SEC. 8. PUBLIC FILING AND DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.**

(a) **PUBLIC, ONLINE DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.**—

5 USC app. 105 note.

(1) **IN GENERAL.**—Not later than August 31, 2012, or 90 days after the date of enactment of this Act, whichever is later, the Secretary of the Senate and the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, shall ensure that financial disclosure forms filed by Members of Congress, candidates for Congress, and employees of Congress in calendar year 2012 and in subsequent years pursuant to title I of the Ethics in Government Act of 1978 are made available to the public on the respective official websites of the Senate and the House of Representatives not later than 30 days after such forms are filed.

Deadlines.  
Web posting.

(2) **EXTENSIONS.**—Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(3) **REPORTING TRANSACTIONS.**—In the case of a transaction disclosure required by section 103(l) of the Ethics in Government Act of 1978, as added by this Act, such disclosure shall be filed not later than the date required by that section. Notices of extension for transaction disclosure shall be made available electronically under this subsection along with its related disclosure.

(4) **EXPIRATION.**—The requirements of this subsection shall expire upon implementation of the public disclosure system established under subsection (b).

(b) **ELECTRONIC FILING AND ONLINE PUBLIC AVAILABILITY OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS, OFFICERS OF THE HOUSE AND SENATE, AND CONGRESSIONAL STAFF.**—

5 USC 105 note.

(1) **IN GENERAL.**—Subject to paragraph (6) and not later than 18 months after the date of enactment of this Act, the Secretary of the Senate and the Sergeant at Arms of the Senate and the Clerk of the House of Representatives shall develop systems to enable—

Deadline.

(A) electronic filing of reports received by them pursuant to section 103(h)(1)(A) of title I of the Ethics in Government Act of 1978; and

(B) public access to financial disclosure reports filed by Members of Congress, candidates for Congress, and employees of Congress, as well as reports of a transaction disclosure required by section 103(l) of the Ethics in Government Act of 1978, as added by this Act, notices of extensions, amendments, and blind trusts, pursuant to title I of the Ethics in Government Act of 1978, through databases that—

(i) are maintained on the official websites of the House of Representatives and the Senate; and

(ii) allow the public to search, sort, and download data contained in the reports.

(2) LOGIN.—No login shall be required to search or sort the data contained in the reports made available by this subsection. A login protocol with the name of the user shall be utilized by a person downloading data contained in the reports. For purposes of filings under this section, section 105(b)(2) of the Ethics in Government Act of 1978 does not apply.

(3) PUBLIC AVAILABILITY.—Pursuant to section 105(b)(1) of the Ethics in Government Act of 1978, electronic availability on the official websites of the Senate and the House of Representatives under this subsection shall be deemed to have met the public availability requirement.

(4) FILERS COVERED.—Individuals required under the Ethics in Government Act of 1978 or the Senate Rules to file financial disclosure reports with the Secretary of the Senate or the Clerk of the House of Representatives shall file reports electronically using the systems developed by the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives.

(5) EXTENSIONS.—Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(6) ADDITIONAL TIME.—The requirements of this subsection may be implemented after the date provided in paragraph (1) if the Secretary of the Senate or the Clerk of the House of Representatives identifies in writing to relevant congressional committees the additional time needed for such implementation.

(c) RECORDKEEPING.—Section 105(d) of the Ethics in Government Act of 1978 (5 U.S.C. App. 105(d)) is amended to read as follows:

Time periods.

“(d)(1) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be.

“(2) Such report shall be made available to the public—

“(A) in the case of a Member of Congress until a date that is 6 years from the date the individual ceases to be a Member of Congress; and

“(B) in the case of all other reports filed pursuant to this title, for a period of 6 years after receipt of the report.

“(3) After the relevant time period identified under paragraph (2), the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation or inquiry.”.

#### SEC. 9. OTHER FEDERAL OFFICIALS.

##### (a) PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.—

Guidance.  
5 USC app. 101  
note prec.

(1) EXECUTIVE BRANCH EMPLOYEES.—The Office of Government Ethics shall issue such interpretive guidance of the relevant Federal ethics statutes and regulations, including the Standards of Ethical Conduct for executive branch employees, related to use of nonpublic information, as necessary to clarify that no executive branch employee may use nonpublic information derived from such person’s position as an executive branch employee or gained from the performance of such person’s official responsibilities as a means for making a private profit.

(2) JUDICIAL OFFICERS.—The Judicial Conference of the United States shall issue such interpretive guidance of the relevant ethics rules applicable to Federal judges, including the Code of Conduct for United States Judges, as necessary to clarify that no judicial officer may use nonpublic information derived from such person’s position as a judicial officer or gained from the performance of such person’s official responsibilities as a means for making a private profit.

(3) JUDICIAL EMPLOYEES.—The Judicial Conference of the United States shall issue such interpretive guidance of the relevant ethics rules applicable to judicial employees as necessary to clarify that no judicial employee may use nonpublic information derived from such person’s position as a judicial employee or gained from the performance of such person’s official responsibilities as a means for making a private profit.

##### (b) APPLICATION OF INSIDER TRADING LAWS.—

(1) AFFIRMATION OF NON-EXEMPTION.—Executive branch employees, judicial officers, and judicial employees are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

15 USC 78j note.

##### (2) DUTY.—

(A) PURPOSE.—The purpose of the amendment made by this paragraph is to affirm a duty arising from a relationship of trust and confidence owed by each executive branch employee, judicial officer, and judicial employee.

15 USC 78u–1  
note.

(B) AMENDMENT.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1), as amended by this Act, is amended by adding at the end the following:

##### “(h) DUTY OF OTHER FEDERAL OFFICIALS.—

“(1) IN GENERAL.—Subject to the rule of construction under section 10 of the STOCK Act and solely for purposes of the insider trading prohibitions arising under this Act, including

section 10(b), and Rule 10b–5 thereunder, each executive branch employee, each judicial officer, and each judicial employee owes a duty arising from a relationship of trust and confidence to the United States Government and the citizens of the United States with respect to material, nonpublic information derived from such person’s position as an executive branch employee, judicial officer, or judicial employee or gained from the performance of such person’s official responsibilities.

“(2) DEFINITIONS.—In this subsection—

“(A) the term ‘executive branch employee’—

“(i) has the meaning given the term ‘employee’ under section 2105 of title 5, United States Code;

“(ii) includes—

“(I) the President;

“(II) the Vice President; and

“(III) an employee of the United States Postal Service or the Postal Regulatory Commission;

“(B) the term ‘judicial employee’ has the meaning given that term in section 109(8) of the Ethics in Government Act of 1978 (5 U.S.C. App. 109(8)); and

“(C) the term ‘judicial officer’ has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978 (5 U.S.C. App. 109(10)).

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.”.

5 USC app. 101  
note.

#### **SEC. 10. RULE OF CONSTRUCTION.**

Nothing in this Act, the amendments made by this Act, or the interpretive guidance to be issued pursuant to sections 3 and 9 of this Act, shall be construed to—

(1) impair or limit the construction of the antifraud provisions of the securities laws or the Commodity Exchange Act or the authority of the Securities and Exchange Commission or the Commodity Futures Trading Commission under those provisions;

(2) be in derogation of the obligations, duties, and functions of a Member of Congress, an employee of Congress, an executive branch employee, a judicial officer, or a judicial employee, arising from such person’s official position; or

(3) be in derogation of existing laws, regulations, or ethical obligations governing Members of Congress, employees of Congress, executive branch employees, judicial officers, or judicial employees.

5 USC app. 105  
note.

#### **SEC. 11. EXECUTIVE BRANCH REPORTING.**

(a) EXECUTIVE BRANCH REPORTING.—

(1) IN GENERAL.—Not later than August 31, 2012, or 90 days after the date of enactment of this Act, whichever is later, the President shall ensure that financial disclosure forms filed pursuant to title I of the Ethics in Government Act of 1978 (5 U.S.C. App. 101 et seq.), in calendar year 2012 and in subsequent years, by executive branch employees specified in section 101 of that Act are made available to the public on the official websites of the respective executive branch agencies not later than 30 days after such forms are filed.

President.  
Public  
information.  
Web posting.



(2) EXTENSIONS.—Notices of extension for financial disclosure shall be made available electronically along with the related disclosure.

(3) REPORTING TRANSACTIONS.—In the case of a transaction disclosure required by section 103(l) of the Ethics in Government Act of 1978, as added by this Act, such disclosure shall be filed not later than the date required by that section. Notices of extension for transaction disclosure shall be made available electronically under this subsection along with its related disclosure.

Public  
information.

(4) EXPIRATION.—The requirements of this subsection shall expire upon implementation of the public disclosure system established under subsection (b).

(b) ELECTRONIC FILING AND ONLINE PUBLIC AVAILABILITY OF FINANCIAL DISCLOSURE FORMS OF CERTAIN EXECUTIVE BRANCH EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (6), and not later than 18 months after the date of enactment of this Act, the President, acting through the Director of the Office of Government Ethics, shall develop systems to enable—

Deadline.  
President.

(A) electronic filing of reports required by section 103 of the Ethics in Government Act of 1978 (5 U.S.C. App. 103), other than subsection (h) of such section; and

(B) public access to financial disclosure reports filed by executive branch employees required to file under section 101 of that Act (5 U.S.C. App. 101), as well as reports of a transaction disclosure required by section 103(l) of that Act, as added by this Act, notices of extensions, amendments, and blind trusts, pursuant to title I of that Act, through databases that—

(i) are maintained on the official website of the Office of Government Ethics; and

(ii) allow the public to search, sort, and download data contained in the reports.

(2) LOGIN.—No login shall be required to search or sort the data contained in the reports made available by this subsection. A login protocol with the name of the user shall be utilized by a person downloading data contained in the reports. For purposes of filings under this section, section 105(b)(2) of the Ethics in Government Act of 1978 (5 U.S.C. App. 105(b)(2)) does not apply.

(3) PUBLIC AVAILABILITY.—Pursuant to section 105(b)(1) of the Ethics in Government Act of 1978 (5 U.S.C. App. 105(b)(1)), electronic availability on the official website of the Office of Government Ethics under this subsection shall be deemed to have met the public availability requirement.

(4) FILERS COVERED.—Executive branch employees required under title I of the Ethics in Government Act of 1978 to file financial disclosure reports shall file the reports electronically with their supervising ethics office.

(5) EXTENSIONS.—Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(6) ADDITIONAL TIME.—The requirements of this subsection may be implemented after the date provided in paragraph (1) if the Director of the Office of Government Ethics, after consultation with the Clerk of the House of Representatives

and Secretary of the Senate, identifies in writing to relevant congressional committees the additional time needed for such implementation.

**SEC. 12. PARTICIPATION IN INITIAL PUBLIC OFFERINGS.**

Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1), as amended by this Act, is further amended by adding at the end the following:

“(i) **PARTICIPATION IN INITIAL PUBLIC OFFERINGS.**—An individual described in section 101(f) of the Ethics in Government Act of 1978 may not purchase securities that are the subject of an initial public offering (within the meaning given such term in section 12(f)(1)(G)(i)) in any manner other than is available to members of the public generally.”.

**SEC. 13. REQUIRING MORTGAGE DISCLOSURE.**

(a) **REQUIRING DISCLOSURE.**—Section 102(a)(4)(A) of the Ethics in Government Act of 1978 (5 U.S.C. App. 102(a)(4)(A)) is amended by striking “spouse; and” and inserting the following: “spouse, except that this exception shall not apply to a reporting individual—

“(i) described in paragraph (1), (2), or (9) of section 101(f);

“(ii) described in section 101(b) who has been nominated for appointment as an officer or employee in the executive branch described in subsection (f) of such section, other than—

“(I) an individual appointed to a position—

“(aa) as a Foreign Service Officer below the rank of ambassador; or

“(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or

“(II) a special government employee, as defined under section 202 of title 18, United States Code; or

“(iii) described in section 101(f) who is in a position in the executive branch the appointment to which is made by the President and requires advice and consent of the Senate, other than—

“(I) an individual appointed to a position—

“(aa) as a Foreign Service Officer below the rank of ambassador; or

“(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or

“(II) a special government employee, as defined under section 202 of title 18, United States Code; and”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to reports which are required to be filed under section 101 of the Ethics in Government Act of 1978 on or after the date of the enactment of this Act.

Applicability.  
5 USC app. 102  
note.

5 USC app. 103  
note.

**SEC. 14. TRANSACTION REPORTING REQUIREMENTS.**

The transaction reporting requirements established by section 103(l) of the Ethics in Government Act of 1978, as added by section

6 of this Act, shall not be construed to apply to a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

- (1)(A) the fund is publicly traded; or
- (B) the assets of the fund are widely diversified; and
- (2) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

**SEC. 15. APPLICATION TO OTHER ELECTED OFFICIALS AND CRIMINAL OFFENSES.**

(a) APPLICATION TO OTHER ELECTED OFFICIALS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332(o)(2)(A) of title 5, United States Code, is amended—

(A) in clause (i), by inserting “, the President, the Vice President, or an elected official of a State or local government” after “Member”; and

(B) in clause (ii), by inserting “, the President, the Vice President, or an elected official of a State or local government” after “Member”.

(2) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8411(l)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A), by inserting “, the President, the Vice President, or an elected official of a State or local government” after “Member”; and

(B) in subparagraph (B), by inserting “, the President, the Vice President, or an elected official of a State or local government” after “Member”.

(b) CRIMINAL OFFENSES.—Section 8332(o)(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking clause (iii) and inserting the following:

“(iii) The offense—

“(I) is committed after the date of enactment of this subsection and—

“(aa) is described under subparagraph (B)(i), (iv), (xvi), (xix), (xxiii), (xxiv), or (xxvi); or

“(bb) is described under subparagraph (B)(xxix), (xxx), or (xxxi), but only with respect to an offense described under subparagraph (B)(i), (iv), (xvi), (xix), (xxiii), (xxiv), or (xxvi); or

“(II) is committed after the date of enactment of the STOCK Act and—

“(aa) is described under subparagraph (B)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvii), (xviii), (xx), (xxi), (xxii), (xxv), (xxvii), or (xxviii); or

“(bb) is described under subparagraph (B)(xxix), (xxx), or (xxxi), but only with respect to an offense described under subparagraph (B)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvii), (xviii), (xx), (xxi), (xxii), (xxv), (xxvii), or (xxviii).”; and

(2) by striking subparagraph (B) and inserting the following:

“(B) An offense described in this subparagraph is only the following, and only to the extent that the offense is a felony:

“(i) An offense under section 201 of title 18 (relating to bribery of public officials and witnesses).

“(ii) An offense under section 203 of title 18 (relating to compensation to Member of Congress, officers, and others in matters affecting the Government).

“(iii) An offense under section 204 of title 18 (relating to practice in the United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit by Member of Congress).

“(iv) An offense under section 219 of title 18 (relating to officers and employees acting as agents of foreign principals).

“(v) An offense under section 286 of title 18 (relating to conspiracy to defraud the Government with respect to claims).

“(vi) An offense under section 287 of title 18 (relating to false, fictitious or fraudulent claims).

“(vii) An offense under section 597 of title 18 (relating to expenditures to influence voting).

“(viii) An offense under section 599 of title 18 (relating to promise of appointment by candidate).

“(ix) An offense under section 602 of title 18 (relating to solicitation of political contributions).

“(x) An offense under section 606 of title 18 (relating to intimidation to secure political contributions).

“(xi) An offense under section 607 of title 18 (relating to place of solicitation).

“(xii) An offense under section 641 of title 18 (relating to public money, property or records).

“(xiii) An offense under section 666 of title 18 (relating to theft or bribery concerning programs receiving Federal funds).

“(xiv) An offense under section 1001 of title 18 (relating to statements or entries generally).

“(xv) An offense under section 1341 of title 18 (relating to frauds and swindles, including as part of a scheme to deprive citizens of honest services thereby).

“(xvi) An offense under section 1343 of title 18 (relating to fraud by wire, radio, or television, including as part of a scheme to deprive citizens of honest services thereby).

“(xvii) An offense under section 1503 of title 18 (relating to influencing or injuring officer or juror).

“(xviii) An offense under section 1505 of title 18 (relating to obstruction of proceedings before departments, agencies, and committees).

“(xix) An offense under section 1512 of title 18 (relating to tampering with a witness, victim, or an informant).

“(xx) An offense under section 1951 of title 18 (relating to interference with commerce by threats of violence).

“(xxi) An offense under section 1952 of title 18 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises).

“(xxii) An offense under section 1956 of title 18 (relating to laundering of monetary instruments).

“(xxiii) An offense under section 1957 of title 18 (relating to engaging in monetary transactions in property derived from specified unlawful activity).

“(xxiv) An offense under chapter 96 of title 18 (relating to racketeer influenced and corrupt organizations).

“(xxv) An offense under section 7201 of the Internal Revenue Code of 1986 (relating to attempt to evade or defeat tax).

“(xxvi) An offense under section 104(a) of the Foreign Corrupt Practices Act of 1977 (relating to prohibited foreign trade practices by domestic concerns).

“(xxvii) An offense under section 10(b) of the Securities Exchange Act of 1934 (relating to fraud, manipulation, or insider trading of securities).

“(xxviii) An offense under section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) (relating to fraud, manipulation, or insider trading of commodities).

“(xxix) An offense under section 371 of title 18 (relating to conspiracy to commit offense or to defraud United States), to the extent of any conspiracy to commit an act which constitutes—

“(I) an offense under clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xix), (xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), or (xxviii); or

“(II) an offense under section 207 of title 18 (relating to restrictions on former officers, employees, and elected officials of the executive and legislative branches).

“(xxx) Perjury committed under section 1621 of title 18 in falsely denying the commission of an act which constitutes—

“(I) an offense under clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xix), (xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), or (xxviii); or

“(II) an offense under clause (xxix), to the extent provided in such clause.

“(xxxi) Subornation of perjury committed under section 1622 of title 18 in connection with the false denial or false testimony of another individual as specified in clause (xxx).”.

**SEC. 16. LIMITATION ON BONUSES TO EXECUTIVES OF FANNIE MAE AND FREDDIE MAC.**

12 USC 4518a.

Notwithstanding any other provision in law, senior executives at the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are prohibited from receiving bonuses during any period of conservatorship for those entities on or after the date of enactment of this Act.

Effective date.

**SEC. 17. POST-EMPLOYMENT NEGOTIATION RESTRICTIONS.**

5 USC app. 101 note.

(a) **RESTRICTION EXTENDED TO EXECUTIVE AND JUDICIAL BRANCHES.**—Notwithstanding any other provision of law, an individual required to file a financial disclosure report under section 101 of the Ethics in Government Act of 1978 (5 U.S.C. App. 101) may not directly negotiate or have any agreement of future employment or compensation unless such individual, within 3 business days after the commencement of such negotiation or agreement of future employment or compensation, files with the individual’s supervising ethics office a statement, signed by such individual, regarding such negotiations or agreement, including the name of the private entity or entities involved in such negotiations or agreement, and the date such negotiations or agreement commenced.

Time period.

(b) **RECUSAL.**—An individual filing a statement under subsection (a) shall recuse himself or herself whenever there is a

Notification.

conflict of interest, or appearance of a conflict of interest, for such individual with respect to the subject matter of the statement, and shall notify the individual's supervising ethics office of such recusal. An individual making such recusal shall, upon such recusal, submit to the supervising ethics office the statement under subsection (a) with respect to which the recusal was made.

**SEC. 18. WRONGFULLY INFLUENCING PRIVATE ENTITIES EMPLOYMENT DECISIONS BY LEGISLATIVE AND EXECUTIVE BRANCH OFFICERS AND EMPLOYEES.**

(a) IN GENERAL.—Section 227 of title 18, United States Code, is amended—

(1) in the heading of such section, by inserting after “**Congress**” the following: “**or an officer or employee of the legislative or executive branch**”;

(2) by striking “Whoever” and inserting “(a) Whoever”;

(3) by striking “a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress or an employee of either House of Congress” and inserting “a covered government person”; and

(4) by adding at the end the following:

“(b) In this section, the term ‘covered government person’ means—

“(1) a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress;

“(2) an employee of either House of Congress; or

“(3) the President, Vice President, an employee of the United States Postal Service or the Postal Regulatory Commission, or any other executive branch employee (as such term is defined under section 2105 of title 5, United States Code).”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 11 of title 18, United States Code, is amended by amending the item relating to section 227 to read as follows:

“227. Wrongfully influencing a private entity's employment decisions by a Member of Congress or an officer or employee of the legislative or executive branch.”.

**SEC. 19. MISCELLANEOUS CONFORMING AMENDMENTS.**

(a) REPEAL OF TRANSMISSION OF COPIES OF MEMBER AND CANDIDATE REPORTS TO STATE ELECTION OFFICIALS UPON ADOPTION OF NEW SYSTEMS.—Section 103(i) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(i)) is amended—

(1) by striking “(i)” and inserting “(i)(1)”; and

(2) by adding at the end the following new paragraph:

“(2) The requirements of paragraph (1) do not apply to any report filed under this title which is filed electronically and for which there is online public access, in accordance with the systems developed by the Secretary and Sergeant at Arms of the Senate and the Clerk of the House of Representatives under section 8(b) of the Stop Trading on Congressional Knowledge Act of 2012.”.

(b) PERIOD OF RETENTION OF FINANCIAL DISCLOSURE STATEMENTS OF MEMBERS OF THE HOUSE.—

(1) IN GENERAL.—Section 304(c) of the Honest Leadership and Open Government Act of 2007 (2 U.S.C. 104e(c)) is amended by striking the period at the end and inserting the following: “; or, in the case of reports filed under section 103(h)(1) of the Ethics in Government Act of 1978, until the expiration

of the 6-year period which begins on the date the individual is no longer a Member of Congress.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to any report which is filed on or after the date on which the systems developed by the Secretary and Sergeant at Arms of the Senate and the Clerk of the House of Representatives under section 8(b) first take effect.

Applicability.  
2 USC 104e note.

Approved April 4, 2012.

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LEGISLATIVE HISTORY—S. 2038:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Jan. 31, Feb. 1, 2, considered and passed Senate.

Feb. 9, considered and passed House, amended.

Mar. 20, 22, House considered and concurred in Senate amendment.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2012):

Apr. 4, Presidential remarks.



Public Law 112–106  
112th Congress

An Act

Apr. 5, 2012  
[H.R. 3606]

To increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies.

Jumpstart Our  
Business  
Startups Act.  
15 USC 78a note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Jumpstart Our Business Startups Act”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

**TITLE I—REOPENING AMERICAN CAPITAL MARKETS TO EMERGING GROWTH COMPANIES**

- Sec. 101. Definitions.
- Sec. 102. Disclosure obligations.
- Sec. 103. Internal controls audit.
- Sec. 104. Auditing standards.
- Sec. 105. Availability of information about emerging growth companies.
- Sec. 106. Other matters.
- Sec. 107. Opt-in right for emerging growth companies.
- Sec. 108. Review of Regulation S-K.

**TITLE II—ACCESS TO CAPITAL FOR JOB CREATORS**

- Sec. 201. Modification of exemption.

**TITLE III—CROWDFUNDING**

- Sec. 301. Short title.
- Sec. 302. Crowdfunding exemption.
- Sec. 303. Exclusion of crowdfunding investors from shareholder cap.
- Sec. 304. Funding portal regulation.
- Sec. 305. Relationship with State law.

**TITLE IV—SMALL COMPANY CAPITAL FORMATION**

- Sec. 401. Authority to exempt certain securities.
- Sec. 402. Study on the impact of State Blue Sky laws on Regulation A offerings.

**TITLE V—PRIVATE COMPANY FLEXIBILITY AND GROWTH**

- Sec. 501. Threshold for registration.
- Sec. 502. Employees.
- Sec. 503. Commission rulemaking.
- Sec. 504. Commission study of enforcement authority under Rule 12g5–1.

**TITLE VI—CAPITAL EXPANSION**

- Sec. 601. Shareholder threshold for registration.
- Sec. 602. Rulemaking.

**TITLE VII—OUTREACH ON CHANGES TO THE LAW**

- Sec. 701. Outreach by the Commission.



## **TITLE I—REOPENING AMERICAN CAPITAL MARKETS TO EMERGING GROWTH COMPANIES**

### **SEC. 101. DEFINITIONS.**

(a) SECURITIES ACT OF 1933.—Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)) is amended by adding at the end the following:

“(19) The term ‘emerging growth company’ means an issuer that had total annual gross revenues of less than \$1,000,000,000 (as such amount is indexed for inflation every 5 years by the Commission to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, setting the threshold to the nearest 1,000,000) during its most recently completed fiscal year. An issuer that is an emerging growth company as of the first day of that fiscal year shall continue to be deemed an emerging growth company until the earliest of—

“(A) the last day of the fiscal year of the issuer during which it had total annual gross revenues of \$1,000,000,000 (as such amount is indexed for inflation every 5 years by the Commission to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, setting the threshold to the nearest 1,000,000) or more;

“(B) the last day of the fiscal year of the issuer following the fifth anniversary of the date of the first sale of common equity securities of the issuer pursuant to an effective registration statement under this title;

“(C) the date on which such issuer has, during the previous 3-year period, issued more than \$1,000,000,000 in non-convertible debt; or

“(D) the date on which such issuer is deemed to be a ‘large accelerated filer’, as defined in section 240.12b–2 of title 17, Code of Federal Regulations, or any successor thereto.”.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) by redesignating paragraph (77), as added by section 941(a) of the Investor Protection and Securities Reform Act of 2010 (Public Law 111–203, 124 Stat. 1890), as paragraph (79); and

(2) by adding at the end the following:

“(80) EMERGING GROWTH COMPANY.—The term ‘emerging growth company’ means an issuer that had total annual gross revenues of less than \$1,000,000,000 (as such amount is indexed for inflation every 5 years by the Commission to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, setting the threshold to the nearest 1,000,000) during its most recently completed fiscal year. An issuer that is an emerging growth company as of the first day of that fiscal year shall continue to be deemed an emerging growth company until the earliest of—

“(A) the last day of the fiscal year of the issuer during which it had total annual gross revenues of \$1,000,000,000 (as such amount is indexed for inflation every 5 years by the Commission to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, setting the threshold to the nearest 1,000,000) or more;

“(B) the last day of the fiscal year of the issuer following the fifth anniversary of the date of the first sale of common equity securities of the issuer pursuant to an effective registration statement under the Securities Act of 1933;

“(C) the date on which such issuer has, during the previous 3-year period, issued more than \$1,000,000,000 in non-convertible debt; or

“(D) the date on which such issuer is deemed to be a ‘large accelerated filer’, as defined in section 240.12b–2 of title 17, Code of Federal Regulations, or any successor thereto.”.

Applicability.  
15 USC 78c note.

(c) OTHER DEFINITIONS.—As used in this title, the following definitions shall apply:

(1) COMMISSION.—The term “Commission” means the Securities and Exchange Commission.

(2) INITIAL PUBLIC OFFERING DATE.—The term “initial public offering date” means the date of the first sale of common equity securities of an issuer pursuant to an effective registration statement under the Securities Act of 1933.

15 USC 77b note.

(d) EFFECTIVE DATE.—Notwithstanding section 2(a)(19) of the Securities Act of 1933 and section 3(a)(80) of the Securities Exchange Act of 1934, an issuer shall not be an emerging growth company for purposes of such Acts if the first sale of common equity securities of such issuer pursuant to an effective registration statement under the Securities Act of 1933 occurred on or before December 8, 2011.

#### SEC. 102. DISCLOSURE OBLIGATIONS.

(a) EXECUTIVE COMPENSATION.—

(1) EXEMPTION.—Section 14A(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78n–1(e)) is amended—

(A) by striking “The Commission may” and inserting the following:

“(1) IN GENERAL.—The Commission may”;

(B) by striking “an issuer” and inserting “any other issuer”; and

(C) by adding at the end the following:

“(2) TREATMENT OF EMERGING GROWTH COMPANIES.—

“(A) IN GENERAL.—An emerging growth company shall be exempt from the requirements of subsections (a) and (b).

Time period.

“(B) COMPLIANCE AFTER TERMINATION OF EMERGING GROWTH COMPANY TREATMENT.—An issuer that was an emerging growth company but is no longer an emerging growth company shall include the first separate resolution described under subsection (a)(1) not later than the end of—

“(i) in the case of an issuer that was an emerging growth company for less than 2 years after the date

of first sale of common equity securities of the issuer pursuant to an effective registration statement under the Securities Act of 1933, the 3-year period beginning on such date; and

“(ii) in the case of any other issuer, the 1-year period beginning on the date the issuer is no longer an emerging growth company.”.

(2) PROXIES.—Section 14(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(i)) is amended by inserting “, for any issuer other than an emerging growth company,” after “including”.

(3) COMPENSATION DISCLOSURES.—Section 953(b)(1) of the Investor Protection and Securities Reform Act of 2010 (Public Law 111–203; 124 Stat. 1904) is amended by inserting “, other than an emerging growth company, as that term is defined in section 3(a) of the Securities Exchange Act of 1934,” after “require each issuer”.

15 USC 78l note.

(b) FINANCIAL DISCLOSURES AND ACCOUNTING PRONOUNCEMENTS.—

(1) SECURITIES ACT OF 1933.—Section 7(a) of the Securities Act of 1933 (15 U.S.C. 77g(a)) is amended—

(A) by striking “(a) The registration” and inserting the following:

“(a) INFORMATION REQUIRED IN REGISTRATION STATEMENT.—

“(1) IN GENERAL.—The registration”; and

(B) by adding at the end the following:

“(2) TREATMENT OF EMERGING GROWTH COMPANIES.—An emerging growth company—

“(A) need not present more than 2 years of audited financial statements in order for the registration statement of such emerging growth company with respect to an initial public offering of its common equity securities to be effective, and in any other registration statement to be filed with the Commission, an emerging growth company need not present selected financial data in accordance with section 229.301 of title 17, Code of Federal Regulations, for any period prior to the earliest audited period presented in connection with its initial public offering; and

“(B) may not be required to comply with any new or revised financial accounting standard until such date that a company that is not an issuer (as defined under section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a))) is required to comply with such new or revised accounting standard, if such standard applies to companies that are not issuers.”.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a)) is amended by adding at the end the following: “In any registration statement, periodic report, or other reports to be filed with the Commission, an emerging growth company need not present selected financial data in accordance with section 229.301 of title 17, Code of Federal Regulations, for any period prior to the earliest audited period presented in connection with its first registration statement that became effective under this Act or the Securities Act of 1933 and, with respect to any such statement or reports, an emerging growth company may not be required to comply with any new or revised financial

accounting standard until such date that a company that is not an issuer (as defined under section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a))) is required to comply with such new or revised accounting standard, if such standard applies to companies that are not issuers.”.

15 USC 77g note.

(c) OTHER DISCLOSURES.—An emerging growth company may comply with section 229.303(a) of title 17, Code of Federal Regulations, or any successor thereto, by providing information required by such section with respect to the financial statements of the emerging growth company for each period presented pursuant to section 7(a) of the Securities Act of 1933 (15 U.S.C. 77g(a)). An emerging growth company may comply with section 229.402 of title 17, Code of Federal Regulations, or any successor thereto, by disclosing the same information as any issuer with a market value of outstanding voting and nonvoting common equity held by non-affiliates of less than \$75,000,000.

#### **SEC. 103. INTERNAL CONTROLS AUDIT.**

Section 404(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262(b)) is amended by inserting “, other than an issuer that is an emerging growth company (as defined in section 3 of the Securities Exchange Act of 1934),” before “shall attest to”.

#### **SEC. 104. AUDITING STANDARDS.**

Section 103(a)(3) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7213(a)(3)) is amended by adding at the end the following:

“(C) TRANSITION PERIOD FOR EMERGING GROWTH COMPANIES.—Any rules of the Board requiring mandatory audit firm rotation or a supplement to the auditor’s report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer (auditor discussion and analysis) shall not apply to an audit of an emerging growth company, as defined in section 3 of the Securities Exchange Act of 1934. Any additional rules adopted by the Board after the date of enactment of this subparagraph shall not apply to an audit of any emerging growth company, unless the Commission determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.”.

Determination.

#### **SEC. 105. AVAILABILITY OF INFORMATION ABOUT EMERGING GROWTH COMPANIES.**

(a) PROVISION OF RESEARCH.—Section 2(a)(3) of the Securities Act of 1933 (15 U.S.C. 77b(a)(3)) is amended by adding at the end the following: “The publication or distribution by a broker or dealer of a research report about an emerging growth company that is the subject of a proposed public offering of the common equity securities of such emerging growth company pursuant to a registration statement that the issuer proposes to file, or has filed, or that is effective shall be deemed for purposes of paragraph (10) of this subsection and section 5(c) not to constitute an offer for sale or offer to sell a security, even if the broker or dealer is participating or will participate in the registered offering of the securities of the issuer. As used in this paragraph, the term ‘research report’ means a written, electronic, or oral communication

Definition.

that includes information, opinions, or recommendations with respect to securities of an issuer or an analysis of a security or an issuer, whether or not it provides information reasonably sufficient upon which to base an investment decision.”.

(b) SECURITIES ANALYST COMMUNICATIONS.—Section 15D of the Securities Exchange Act of 1934 (15 U.S.C. 78o–6) is amended—

- (1) by redesignating subsection (c) as subsection (d); and
- (2) by inserting after subsection (b) the following:

“(c) LIMITATION.—Notwithstanding subsection (a) or any other provision of law, neither the Commission nor any national securities association registered under section 15A may adopt or maintain any rule or regulation in connection with an initial public offering of the common equity of an emerging growth company—

“(1) restricting, based on functional role, which associated persons of a broker, dealer, or member of a national securities association, may arrange for communications between a securities analyst and a potential investor; or

“(2) restricting a securities analyst from participating in any communications with the management of an emerging growth company that is also attended by any other associated person of a broker, dealer, or member of a national securities association whose functional role is other than as a securities analyst.”.

(c) EXPANDING PERMISSIBLE COMMUNICATIONS.—Section 5 of the Securities Act of 1933 (15 U.S.C. 77e) is amended—

- (1) by redesignating subsection (d) as subsection (e); and
- (2) by inserting after subsection (c) the following:

“(d) LIMITATION.—Notwithstanding any other provision of this section, an emerging growth company or any person authorized to act on behalf of an emerging growth company may engage in oral or written communications with potential investors that are qualified institutional buyers or institutions that are accredited investors, as such terms are respectively defined in section 230.144A and section 230.501(a) of title 17, Code of Federal Regulations, or any successor thereto, to determine whether such investors might have an interest in a contemplated securities offering, either prior to or following the date of filing of a registration statement with respect to such securities with the Commission, subject to the requirement of subsection (b)(2).”.

(d) POST OFFERING COMMUNICATIONS.—Neither the Commission nor any national securities association registered under section 15A of the Securities Exchange Act of 1934 may adopt or maintain any rule or regulation prohibiting any broker, dealer, or member of a national securities association from publishing or distributing any research report or making a public appearance, with respect to the securities of an emerging growth company, either—

(1) within any prescribed period of time following the initial public offering date of the emerging growth company; or

(2) within any prescribed period of time prior to the expiration date of any agreement between the broker, dealer, or member of a national securities association and the emerging growth company or its shareholders that restricts or prohibits the sale of securities held by the emerging growth company or its shareholders after the initial public offering date.

15 USC 78o–6  
note.

**SEC. 106. OTHER MATTERS.**

(a) **DRAFT REGISTRATION STATEMENTS.**—Section 6 of the Securities Act of 1933 (15 U.S.C. 77f) is amended by adding at the end the following:

“(e) **EMERGING GROWTH COMPANIES.**—

“(1) **IN GENERAL.**—Any emerging growth company, prior to its initial public offering date, may confidentially submit to the Commission a draft registration statement, for confidential nonpublic review by the staff of the Commission prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed with the Commission not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in section 230.433(h)(4) of title 17, Code of Federal Regulations, or any successor thereto.

“(2) **CONFIDENTIALITY.**—Notwithstanding any other provision of this title, the Commission shall not be compelled to disclose any information provided to or obtained by the Commission pursuant to this subsection. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. Information described in or obtained pursuant to this subsection shall be deemed to constitute confidential information for purposes of section 24(b)(2) of the Securities Exchange Act of 1934.”

(b) **TICK SIZE.**—Section 11A(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)) is amended by adding at the end the following new paragraph:

“(6) **TICK SIZE.**—

“(A) **STUDY AND REPORT.**—The Commission shall conduct a study examining the transition to trading and quoting securities in one penny increments, also known as decimalization. The study shall examine the impact that decimalization has had on the number of initial public offerings since its implementation relative to the period before its implementation. The study shall also examine the impact that this change has had on liquidity for small and middle capitalization company securities and whether there is sufficient economic incentive to support trading operations in these securities in penny increments. Not later than 90 days after the date of enactment of this paragraph, the Commission shall submit to Congress a report on the findings of the study.

“(B) **DESIGNATION.**—If the Commission determines that the securities of emerging growth companies should be quoted and traded using a minimum increment of greater than \$0.01, the Commission may, by rule not later than 180 days after the date of enactment of this paragraph, designate a minimum increment for the securities of emerging growth companies that is greater than \$0.01 but less than \$0.10 for use in all quoting and trading of securities in any exchange or other execution venue.”

Public  
information.  
Deadline.

Determination.  
Deadline.

15 USC 78c note.

**SEC. 107. OPT-IN RIGHT FOR EMERGING GROWTH COMPANIES.**

(a) **IN GENERAL.**—With respect to an exemption provided to emerging growth companies under this title, or an amendment made by this title, an emerging growth company may choose to

forgo such exemption and instead comply with the requirements that apply to an issuer that is not an emerging growth company.

(b) SPECIAL RULE.—Notwithstanding subsection (a), with respect to the extension of time to comply with new or revised financial accounting standards provided under section 7(a)(2)(B) of the Securities Act of 1933 and section 13(a) of the Securities Exchange Act of 1934, as added by section 102(b), if an emerging growth company chooses to comply with such standards to the same extent that a non-emerging growth company is required to comply with such standards, the emerging growth company—

(1) must make such choice at the time the company is first required to file a registration statement, periodic report, or other report with the Commission under section 13 of the Securities Exchange Act of 1934 and notify the Securities and Exchange Commission of such choice;

Notification.

(2) may not select some standards to comply with in such manner and not others, but must comply with all such standards to the same extent that a non-emerging growth company is required to comply with such standards; and

(3) must continue to comply with such standards to the same extent that a non-emerging growth company is required to comply with such standards for as long as the company remains an emerging growth company.

#### SEC. 108. REVIEW OF REGULATION S-K.

(a) REVIEW.—The Securities and Exchange Commission shall conduct a review of its Regulation S-K (17 CFR 229.10 et seq.) to—

(1) comprehensively analyze the current registration requirements of such regulation; and

(2) determine how such requirements can be updated to modernize and simplify the registration process and reduce the costs and other burdens associated with these requirements for issuers who are emerging growth companies.

(b) REPORT.—Not later than 180 days after the date of enactment of this title, the Commission shall transmit to Congress a report of the review conducted under subsection (a). The report shall include the specific recommendations of the Commission on how to streamline the registration process in order to make it more efficient and less burdensome for the Commission and for prospective issuers who are emerging growth companies.

## TITLE II—ACCESS TO CAPITAL FOR JOB CREATORS

#### SEC. 201. MODIFICATION OF EXEMPTION.

(a) MODIFICATION OF RULES.—

(1) Not later than 90 days after the date of the enactment of this Act, the Securities and Exchange Commission shall revise its rules issued in section 230.506 of title 17, Code of Federal Regulations, to provide that the prohibition against general solicitation or general advertising contained in section 230.502(c) of such title shall not apply to offers and sales of securities made pursuant to section 230.506, provided that all purchasers of the securities are accredited investors. Such rules shall require the issuer to take reasonable steps to verify

15 USC 77d note.  
Deadlines.

that purchasers of the securities are accredited investors, using such methods as determined by the Commission. Section 230.506 of title 17, Code of Federal Regulations, as revised pursuant to this section, shall continue to be treated as a regulation issued under section 4(2) of the Securities Act of 1933 (15 U.S.C. 77d(2)).

(2) Not later than 90 days after the date of enactment of this Act, the Securities and Exchange Commission shall revise subsection (d)(1) of section 230.144A of title 17, Code of Federal Regulations, to provide that securities sold under such revised exemption may be offered to persons other than qualified institutional buyers, including by means of general solicitation or general advertising, provided that securities are sold only to persons that the seller and any person acting on behalf of the seller reasonably believe is a qualified institutional buyer.

(b) CONSISTENCY IN INTERPRETATION.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended—

(1) by striking “The provisions of section 5” and inserting “(a) The provisions of section 5”; and

(2) by adding at the end the following:

“(b) Offers and sales exempt under section 230.506 of title 17, Code of Federal Regulations (as revised pursuant to section 201 of the Jumpstart Our Business Startups Act) shall not be deemed public offerings under the Federal securities laws as a result of general advertising or general solicitation.”

(c) EXPLANATION OF EXEMPTION.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended—

(1) by striking “The provisions of section 5” and inserting

“(a) The provisions of section 5”; and

(2) by adding at the end the following:

“(b)(1) With respect to securities offered and sold in compliance with Rule 506 of Regulation D under this Act, no person who meets the conditions set forth in paragraph (2) shall be subject to registration as a broker or dealer pursuant to section 15(a)(1) of this title, solely because—

“(A) that person maintains a platform or mechanism that permits the offer, sale, purchase, or negotiation of or with respect to securities, or permits general solicitations, general advertisements, or similar or related activities by issuers of such securities, whether online, in person, or through any other means;

“(B) that person or any person associated with that person co-invests in such securities; or

“(C) that person or any person associated with that person provides ancillary services with respect to such securities.

Applicability.

“(2) The exemption provided in paragraph (1) shall apply to any person described in such paragraph if—

“(A) such person and each person associated with that person receives no compensation in connection with the purchase or sale of such security;

“(B) such person and each person associated with that person does not have possession of customer funds or securities in connection with the purchase or sale of such security; and

“(C) such person is not subject to a statutory disqualification as defined in section 3(a)(39) of this title and does not



have any person associated with that person subject to such a statutory disqualification.

“(3) For the purposes of this subsection, the term ‘ancillary services’ means—

“(A) the provision of due diligence services, in connection with the offer, sale, purchase, or negotiation of such security, so long as such services do not include, for separate compensation, investment advice or recommendations to issuers or investors; and

“(B) the provision of standardized documents to the issuers and investors, so long as such person or entity does not negotiate the terms of the issuance for and on behalf of third parties and issuers are not required to use the standardized documents as a condition of using the service.”.

Definition.

## TITLE III—CROWDFUNDING

### SEC. 301. SHORT TITLE.

This title may be cited as the “Capital Raising Online While Deterring Fraud and Unethical Non-Disclosure Act of 2012” or the “CROWDFUND Act”.

Capital Raising  
Online While  
Deterring Fraud  
and Unethical  
Non-Disclosure  
Act of 2012.  
15 USC 77a note.

### SEC. 302. CROWDFUNDING EXEMPTION.

(a) SECURITIES ACT OF 1933.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end the following:

“(6) transactions involving the offer or sale of securities by an issuer (including all entities controlled by or under common control with the issuer), provided that—

“(A) the aggregate amount sold to all investors by the issuer, including any amount sold in reliance on the exemption provided under this paragraph during the 12-month period preceding the date of such transaction, is not more than \$1,000,000;

“(B) the aggregate amount sold to any investor by an issuer, including any amount sold in reliance on the exemption provided under this paragraph during the 12-month period preceding the date of such transaction, does not exceed—

“(i) the greater of \$2,000 or 5 percent of the annual income or net worth of such investor, as applicable, if either the annual income or the net worth of the investor is less than \$100,000; and

“(ii) 10 percent of the annual income or net worth of such investor, as applicable, not to exceed a maximum aggregate amount sold of \$100,000, if either the annual income or net worth of the investor is equal to or more than \$100,000;

“(C) the transaction is conducted through a broker or funding portal that complies with the requirements of section 4A(a); and

“(D) the issuer complies with the requirements of section 4A(b).”.

(b) REQUIREMENTS TO QUALIFY FOR CROWDFUNDING EXEMPTION.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 4 the following:

15 USC 77d–1.     **“SEC. 4A. REQUIREMENTS WITH RESPECT TO CERTAIN SMALL TRANS-ACTIONS.**

Regulations.

“(a) **REQUIREMENTS ON INTERMEDIARIES.**—A person acting as an intermediary in a transaction involving the offer or sale of securities for the account of others pursuant to section 4(6) shall—

“(1) register with the Commission as—

“(A) a broker; or

“(B) a funding portal (as defined in section 3(a)(80) of the Securities Exchange Act of 1934);

“(2) register with any applicable self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934);

“(3) provide such disclosures, including disclosures related to risks and other investor education materials, as the Commission shall, by rule, determine appropriate;

“(4) ensure that each investor—

“(A) reviews investor-education information, in accordance with standards established by the Commission, by rule;

“(B) positively affirms that the investor understands that the investor is risking the loss of the entire investment, and that the investor could bear such a loss; and

“(C) answers questions demonstrating—

“(i) an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers;

“(ii) an understanding of the risk of illiquidity; and

“(iii) an understanding of such other matters as the Commission determines appropriate, by rule;

“(5) take such measures to reduce the risk of fraud with respect to such transactions, as established by the Commission, by rule, including obtaining a background and securities enforcement regulatory history check on each officer, director, and person holding more than 20 percent of the outstanding equity of every issuer whose securities are offered by such person;

Deadline.

“(6) not later than 21 days prior to the first day on which securities are sold to any investor (or such other period as the Commission may establish), make available to the Commission and to potential investors any information provided by the issuer pursuant to subsection (b);

“(7) ensure that all offering proceeds are only provided to the issuer when the aggregate capital raised from all investors is equal to or greater than a target offering amount, and allow all investors to cancel their commitments to invest, as the Commission shall, by rule, determine appropriate;

Time period.

“(8) make such efforts as the Commission determines appropriate, by rule, to ensure that no investor in a 12-month period has purchased securities offered pursuant to section 4(6) that, in the aggregate, from all issuers, exceed the investment limits set forth in section 4(6)(B);

Confidentiality.

“(9) take such steps to protect the privacy of information collected from investors as the Commission shall, by rule, determine appropriate;

“(10) not compensate promoters, finders, or lead generators for providing the broker or funding portal with the personal identifying information of any potential investor;

“(11) prohibit its directors, officers, or partners (or any person occupying a similar status or performing a similar function) from having any financial interest in an issuer using its services; and

“(12) meet such other requirements as the Commission may, by rule, prescribe, for the protection of investors and in the public interest.

“(b) REQUIREMENTS FOR ISSUERS.—For purposes of section 4(6), an issuer who offers or sells securities shall—

“(1) file with the Commission and provide to investors and the relevant broker or funding portal, and make available to potential investors—

“(A) the name, legal status, physical address, and website address of the issuer;

“(B) the names of the directors and officers (and any persons occupying a similar status or performing a similar function), and each person holding more than 20 percent of the shares of the issuer;

“(C) a description of the business of the issuer and the anticipated business plan of the issuer;

“(D) a description of the financial condition of the issuer, including, for offerings that, together with all other offerings of the issuer under section 4(6) within the preceding 12-month period, have, in the aggregate, target offering amounts of—

Time period.

“(i) \$100,000 or less—

“(I) the income tax returns filed by the issuer for the most recently completed year (if any); and

“(II) financial statements of the issuer, which shall be certified by the principal executive officer of the issuer to be true and complete in all material respects;

“(ii) more than \$100,000, but not more than \$500,000, financial statements reviewed by a public accountant who is independent of the issuer, using professional standards and procedures for such review or standards and procedures established by the Commission, by rule, for such purpose; and

“(iii) more than \$500,000 (or such other amount as the Commission may establish, by rule), audited financial statements;

“(E) a description of the stated purpose and intended use of the proceeds of the offering sought by the issuer with respect to the target offering amount;

“(F) the target offering amount, the deadline to reach the target offering amount, and regular updates regarding the progress of the issuer in meeting the target offering amount;

“(G) the price to the public of the securities or the method for determining the price, provided that, prior to sale, each investor shall be provided in writing the final price and all required disclosures, with a reasonable opportunity to rescind the commitment to purchase the securities;

“(H) a description of the ownership and capital structure of the issuer, including—

“(i) terms of the securities of the issuer being offered and each other class of security of the issuer, including how such terms may be modified, and a summary of the differences between such securities, including how the rights of the securities being offered may be materially limited, diluted, or qualified by the rights of any other class of security of the issuer;

“(ii) a description of how the exercise of the rights held by the principal shareholders of the issuer could negatively impact the purchasers of the securities being offered;

“(iii) the name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer;

“(iv) how the securities being offered are being valued, and examples of methods for how such securities may be valued by the issuer in the future, including during subsequent corporate actions; and

“(v) the risks to purchasers of the securities relating to minority ownership in the issuer, the risks associated with corporate actions, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties; and

“(I) such other information as the Commission may, by rule, prescribe, for the protection of investors and in the public interest;

“(2) not advertise the terms of the offering, except for notices which direct investors to the funding portal or broker;

“(3) not compensate or commit to compensate, directly or indirectly, any person to promote its offerings through communication channels provided by a broker or funding portal, without taking such steps as the Commission shall, by rule, require to ensure that such person clearly discloses the receipt, past or prospective, of such compensation, upon each instance of such promotional communication;

“(4) not less than annually, file with the Commission and provide to investors reports of the results of operations and financial statements of the issuer, as the Commission shall, by rule, determine appropriate, subject to such exceptions and termination dates as the Commission may establish, by rule; and

“(5) comply with such other requirements as the Commission may, by rule, prescribe, for the protection of investors and in the public interest.

“(c) LIABILITY FOR MATERIAL MISSTATEMENTS AND OMISSIONS.—

“(1) ACTIONS AUTHORIZED.—

“(A) IN GENERAL.—Subject to paragraph (2), a person who purchases a security in a transaction exempted by the provisions of section 4(6) may bring an action against an issuer described in paragraph (2), either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if such person no longer owns the security.

Deadline.  
Reports.

“(B) LIABILITY.—An action brought under this paragraph shall be subject to the provisions of section 12(b) and section 13, as if the liability were created under section 12(a)(2).

“(2) APPLICABILITY.—An issuer shall be liable in an action under paragraph (1), if the issuer—

“(A) by the use of any means or instruments of transportation or communication in interstate commerce or of the mails, by any means of any written or oral communication, in the offering or sale of a security in a transaction exempted by the provisions of section 4(6), makes an untrue statement of a material fact or omits to state a material fact required to be stated or necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading, provided that the purchaser did not know of such untruth or omission; and

“(B) does not sustain the burden of proof that such issuer did not know, and in the exercise of reasonable care could not have known, of such untruth or omission.

“(3) DEFINITION.—As used in this subsection, the term ‘issuer’ includes any person who is a director or partner of the issuer, and the principal executive officer or officers, principal financial officer, and controller or principal accounting officer of the issuer (and any person occupying a similar status or performing a similar function) that offers or sells a security in a transaction exempted by the provisions of section 4(6), and any person who offers or sells the security in such offering.

“(d) INFORMATION AVAILABLE TO STATES.—The Commission shall make, or shall cause to be made by the relevant broker or funding portal, the information described in subsection (b) and such other information as the Commission, by rule, determines appropriate, available to the securities commission (or any agency or office performing like functions) of each State and territory of the United States and the District of Columbia.

“(e) RESTRICTIONS ON SALES.—Securities issued pursuant to a transaction described in section 4(6)—

“(1) may not be transferred by the purchaser of such securities during the 1-year period beginning on the date of purchase, unless such securities are transferred—

“(A) to the issuer of the securities;

“(B) to an accredited investor;

“(C) as part of an offering registered with the Commission; or

“(D) to a member of the family of the purchaser or the equivalent, or in connection with the death or divorce of the purchaser or other similar circumstance, in the discretion of the Commission; and

“(2) shall be subject to such other limitations as the Commission shall, by rule, establish.

“(f) APPLICABILITY.—Section 4(6) shall not apply to transactions involving the offer or sale of securities by any issuer that—

“(1) is not organized under and subject to the laws of a State or territory of the United States or the District of Columbia;

Time period.

“(2) is subject to the requirement to file reports pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934;

“(3) is an investment company, as defined in section 3 of the Investment Company Act of 1940, or is excluded from the definition of investment company by section 3(b) or section 3(c) of that Act; or

“(4) the Commission, by rule or regulation, determines appropriate.

“(g) RULE OF CONSTRUCTION.—Nothing in this section or section 4(6) shall be construed as preventing an issuer from raising capital through methods not described under section 4(6).

“(h) CERTAIN CALCULATIONS.—

“(1) DOLLAR AMOUNTS.—Dollar amounts in section 4(6) and subsection (b) of this section shall be adjusted by the Commission not less frequently than once every 5 years, by notice published in the Federal Register to reflect any change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

“(2) INCOME AND NET WORTH.—The income and net worth of a natural person under section 4(6)(B) shall be calculated in accordance with any rules of the Commission under this title regarding the calculation of the income and net worth, respectively, of an accredited investor.”.

Time period.  
Notice.  
Federal Register,  
publication.

Deadline.  
15 USC 77d note.

Consultation.

15 USC 77d note.  
Deadline.

(c) RULEMAKING.—Not later than 270 days after the date of enactment of this Act, the Securities and Exchange Commission (in this title referred to as the “Commission”) shall issue such rules as the Commission determines may be necessary or appropriate for the protection of investors to carry out sections 4(6) and section 4A of the Securities Act of 1933, as added by this title. In carrying out this section, the Commission shall consult with any securities commission (or any agency or office performing like functions) of the States, any territory of the United States, and the District of Columbia, which seeks to consult with the Commission, and with any applicable national securities association.

(d) DISQUALIFICATION.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Commission shall, by rule, establish disqualification provisions under which—

(A) an issuer shall not be eligible to offer securities pursuant to section 4(6) of the Securities Act of 1933, as added by this title; and

(B) a broker or funding portal shall not be eligible to effect or participate in transactions pursuant to that section 4(6).

(2) INCLUSIONS.—Disqualification provisions required by this subsection shall—

(A) be substantially similar to the provisions of section 230.262 of title 17, Code of Federal Regulations (or any successor thereto); and

(B) disqualify any offering or sale of securities by a person that—

(i) is subject to a final order of a State securities commission (or an agency or officer of a State performing like functions), a State authority that supervises or examines banks, savings associations, or credit unions, a State insurance commission (or an agency

or officer of a State performing like functions), an appropriate Federal banking agency, or the National Credit Union Administration, that—

(I) bars the person from—

(aa) association with an entity regulated by such commission, authority, agency, or officer;

(bb) engaging in the business of securities, insurance, or banking; or

(cc) engaging in savings association or credit union activities; or

(II) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct within the 10-year period ending on the date of the filing of the offer or sale; or

(ii) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.

**SEC. 303. EXCLUSION OF CROWDFUNDING INVESTORS FROM SHAREHOLDER CAP.**

(a) EXEMPTION.—Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)) is amended by adding at the end the following:

“(6) EXCLUSION FOR PERSONS HOLDING CERTAIN SECURITIES.—The Commission shall, by rule, exempt, conditionally or unconditionally, securities acquired pursuant to an offering made under section 4(6) of the Securities Act of 1933 from the provisions of this subsection.”.

Regulations.

(b) RULEMAKING.—The Commission shall issue a rule to carry out section 12(g)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c), as added by this section, not later than 270 days after the date of enactment of this Act.

15 USC 78l note.

**SEC. 304. FUNDING PORTAL REGULATION.**

(a) EXEMPTION.—

(1) IN GENERAL.—Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following:

“(h) LIMITED EXEMPTION FOR FUNDING PORTALS.—

“(1) IN GENERAL.—The Commission shall, by rule, exempt, conditionally or unconditionally, a registered funding portal from the requirement to register as a broker or dealer under section 15(a)(1), provided that such funding portal—

“(A) remains subject to the examination, enforcement, and other rulemaking authority of the Commission;

“(B) is a member of a national securities association registered under section 15A; and

“(C) is subject to such other requirements under this title as the Commission determines appropriate under such rule.

“(2) NATIONAL SECURITIES ASSOCIATION MEMBERSHIP.—For purposes of sections 15(b)(8) and 15A, the term ‘broker or dealer’ includes a funding portal and the term ‘registered broker or dealer’ includes a registered funding portal, except to the extent that the Commission, by rule, determines otherwise,

Definition.

provided that a national securities association shall only examine for and enforce against a registered funding portal rules of such national securities association written specifically for registered funding portals.”.

Deadline.  
15 USC 78c note.

(2) RULEMAKING.—The Commission shall issue a rule to carry out section 3(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78c), as added by this subsection, not later than 270 days after the date of enactment of this Act.

(b) DEFINITION.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

“(80) FUNDING PORTAL.—The term ‘funding portal’ means any person acting as an intermediary in a transaction involving the offer or sale of securities for the account of others, solely pursuant to section 4(6) of the Securities Act of 1933 (15 U.S.C. 77d(6)), that does not—

“(A) offer investment advice or recommendations;

“(B) solicit purchases, sales, or offers to buy the securities offered or displayed on its website or portal;

“(C) compensate employees, agents, or other persons for such solicitation or based on the sale of securities displayed or referenced on its website or portal;

“(D) hold, manage, possess, or otherwise handle investor funds or securities; or

“(E) engage in such other activities as the Commission, by rule, determines appropriate.”.

#### SEC. 305. RELATIONSHIP WITH STATE LAW.

(a) IN GENERAL.—Section 18(b)(4) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following:

“(C) section 4(6);”.

(b) CLARIFICATION OF THE PRESERVATION OF STATE ENFORCEMENT AUTHORITY.—

15 USC 77r note.

(1) IN GENERAL.—The amendments made by subsection (a) relate solely to State registration, documentation, and offering requirements, as described under section 18(a) of Securities Act of 1933 (15 U.S.C. 77r(a)), and shall have no impact or limitation on other State authority to take enforcement action with regard to an issuer, funding portal, or any other person or entity using the exemption from registration provided by section 4(6) of that Act.

(2) CLARIFICATION OF STATE JURISDICTION OVER UNLAWFUL CONDUCT OF FUNDING PORTALS AND ISSUERS.—Section 18(c)(1) of the Securities Act of 1933 (15 U.S.C. 77r(c)(1)) is amended by striking “with respect to fraud or deceit, or unlawful conduct by a broker or dealer, in connection with securities or securities transactions.” and inserting the following: “, in connection with securities or securities transactions

“(A) with respect to—

“(i) fraud or deceit; or

“(ii) unlawful conduct by a broker or dealer; and

“(B) in connection to a transaction described under section 4(6), with respect to—

“(i) fraud or deceit; or



“(ii) unlawful conduct by a broker, dealer, funding portal, or issuer.”.

(c) NOTICE FILINGS PERMITTED.—Section 18(c)(2) of the Securities Act of 1933 (15 U.S.C. 77r(c)(2)) is amended by adding at the end the following:

“(F) FEES NOT PERMITTED ON CROWDFUNDED SECURITIES.—Notwithstanding subparagraphs (A), (B), and (C), no filing or fee may be required with respect to any security that is a covered security pursuant to subsection (b)(4)(B), or will be such a covered security upon completion of the transaction, except for the securities commission (or any agency or office performing like functions) of the State of the principal place of business of the issuer, or any State in which purchasers of 50 percent or greater of the aggregate amount of the issue are residents, provided that for purposes of this subparagraph, the term ‘State’ includes the District of Columbia and the territories of the United States.”.

Definition.

(d) FUNDING PORTALS.—

(1) STATE EXEMPTIONS AND OVERSIGHT.—Section 15(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(i)) is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following:

“(2) FUNDING PORTALS.—

“(A) LIMITATION ON STATE LAWS.—Except as provided in subparagraph (B), no State or political subdivision thereof may enforce any law, rule, regulation, or other administrative action against a registered funding portal with respect to its business as such.

“(B) EXAMINATION AND ENFORCEMENT AUTHORITY.—Subparagraph (A) does not apply with respect to the examination and enforcement of any law, rule, regulation, or administrative action of a State or political subdivision thereof in which the principal place of business of a registered funding portal is located, provided that such law, rule, regulation, or administrative action is not in addition to or different from the requirements for registered funding portals established by the Commission.

“(C) DEFINITION.—For purposes of this paragraph, the term ‘State’ includes the District of Columbia and the territories of the United States.”.

(2) STATE FRAUD AUTHORITY.—Section 18(c)(1) of the Securities Act of 1933 (15 U.S.C. 77r(c)(1)) is amended by striking “or dealer” and inserting “, dealer, or funding portal”.

## TITLE IV—SMALL COMPANY CAPITAL FORMATION

### SEC. 401. AUTHORITY TO EXEMPT CERTAIN SECURITIES.

(a) IN GENERAL.—Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended—

(1) by striking “(b) The Commission” and inserting the following:

“(b) ADDITIONAL EXEMPTIONS.—

	“(1) SMALL ISSUES EXEMPTIVE AUTHORITY.—The Commission”; and
	(2) by adding at the end the following:
Regulations.	“(2) ADDITIONAL ISSUES.—The Commission shall by rule or regulation add a class of securities to the securities exempted pursuant to this section in accordance with the following terms and conditions:
Time period.	“(A) The aggregate offering amount of all securities offered and sold within the prior 12-month period in reliance on the exemption added in accordance with this paragraph shall not exceed \$50,000,000.
	“(B) The securities may be offered and sold publicly.
	“(C) The securities shall not be restricted securities within the meaning of the Federal securities laws and the regulations promulgated thereunder.
Applicability.	“(D) The civil liability provision in section 12(a)(2) shall apply to any person offering or selling such securities.
	“(E) The issuer may solicit interest in the offering prior to filing any offering statement, on such terms and conditions as the Commission may prescribe in the public interest or for the protection of investors.
Records.	“(F) The Commission shall require the issuer to file audited financial statements with the Commission annually.
	“(G) Such other terms, conditions, or requirements as the Commission may determine necessary in the public interest and for the protection of investors, which may include—
	“(i) a requirement that the issuer prepare and electronically file with the Commission and distribute to prospective investors an offering statement, and any related documents, in such form and with such content as prescribed by the Commission, including audited financial statements, a description of the issuer’s business operations, its financial condition, its corporate governance principles, its use of investor funds, and other appropriate matters; and
	“(ii) disqualification provisions under which the exemption shall not be available to the issuer or its predecessors, affiliates, officers, directors, underwriters, or other related persons, which shall be substantially similar to the disqualification provisions contained in the regulations adopted in accordance with section 926 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 77d note).
	“(3) LIMITATION.—Only the following types of securities may be exempted under a rule or regulation adopted pursuant to paragraph (2): equity securities, debt securities, and debt securities convertible or exchangeable to equity interests, including any guarantees of such securities.
	“(4) PERIODIC DISCLOSURES.—Upon such terms and conditions as the Commission determines necessary in the public interest and for the protection of investors, the Commission by rule or regulation may require an issuer of a class of securities exempted under paragraph (2) to make available to investors and file with the Commission periodic disclosures regarding the issuer, its business operations, its financial condition, its

corporate governance principles, its use of investor funds, and other appropriate matters, and also may provide for the suspension and termination of such a requirement with respect to that issuer.

“(5) ADJUSTMENT.—Not later than 2 years after the date of enactment of the Small Company Capital Formation Act of 2011 and every 2 years thereafter, the Commission shall review the offering amount limitation described in paragraph (2)(A) and shall increase such amount as the Commission determines appropriate. If the Commission determines not to increase such amount, it shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its reasons for not increasing the amount.”.

Deadlines.  
Review.

(b) TREATMENT AS COVERED SECURITIES FOR PURPOSES OF NSMIA.—Section 18(b)(4) of the Securities Act of 1933 (as amended by section 303) (15 U.S.C. 77r(b)(4)) is further amended by inserting after subparagraph (C) (as added by such section) the following:

“(D) a rule or regulation adopted pursuant to section 3(b)(2) and such security is—

“(i) offered or sold on a national securities exchange; or

“(ii) offered or sold to a qualified purchaser, as defined by the Commission pursuant to paragraph (3) with respect to that purchase or sale;”.

(c) CONFORMING AMENDMENT.—Section 4(5) of the Securities Act of 1933 is amended by striking “section 3(b)” and inserting “section 3(b)(1)”.

15 USC 77d.

#### **SEC. 402. STUDY ON THE IMPACT OF STATE BLUE SKY LAWS ON REGULATION A OFFERINGS.**

The Comptroller General shall conduct a study on the impact of State laws regulating securities offerings, or “Blue Sky laws”, on offerings made under Regulation A (17 CFR 230.251 et seq.). The Comptroller General shall transmit a report on the findings of the study to the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than 3 months after the date of enactment of this Act.

Reports.  
Deadline.

## **TITLE V—PRIVATE COMPANY FLEXIBILITY AND GROWTH**

#### **SEC. 501. THRESHOLD FOR REGISTRATION.**

Section 12(g)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)(A)) is amended to read as follows:

“(A) within 120 days after the last day of its first fiscal year ended on which the issuer has total assets exceeding \$10,000,000 and a class of equity security (other than an exempted security) held of record by either—

Time period.

“(i) 2,000 persons, or

“(ii) 500 persons who are not accredited investors (as such term is defined by the Commission), and”.

**SEC. 502. EMPLOYEES.**

Section 12(g)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(5)), as amended by section 302, is amended in subparagraph (A) by adding at the end the following: “For purposes of determining whether an issuer is required to register a security with the Commission pursuant to paragraph (1), the definition of ‘held of record’ shall not include securities held by persons who received the securities pursuant to an employee compensation plan in transactions exempted from the registration requirements of section 5 of the Securities Act of 1933.”.

15 USC 78l note.

**SEC. 503. COMMISSION RULEMAKING.**

The Securities and Exchange Commission shall revise the definition of “held of record” pursuant to section 12(g)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(5)) to implement the amendment made by section 502. The Commission shall also adopt safe harbor provisions that issuers can follow when determining whether holders of their securities received the securities pursuant to an employee compensation plan in transactions that were exempt from the registration requirements of section 5 of the Securities Act of 1933.

**SEC. 504. COMMISSION STUDY OF ENFORCEMENT AUTHORITY UNDER RULE 12G5–1.**

Deadline.  
Recommendations.

The Securities and Exchange Commission shall examine its authority to enforce Rule 12g5–1 to determine if new enforcement tools are needed to enforce the anti-evasion provision contained in subsection (b)(3) of the rule, and shall, not later than 120 days after the date of enactment of this Act transmit its recommendations to Congress.

**TITLE VI—CAPITAL EXPANSION****SEC. 601. SHAREHOLDER THRESHOLD FOR REGISTRATION.**

(a) AMENDMENTS TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)) is further amended—

(1) in paragraph (1), by amending subparagraph (B) to read as follows:

Deadline.

“(B) in the case of an issuer that is a bank or a bank holding company, as such term is defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), not later than 120 days after the last day of its first fiscal year ended after the effective date of this subsection, on which the issuer has total assets exceeding \$10,000,000 and a class of equity security (other than an exempted security) held of record by 2,000 or more persons,”; and

(2) in paragraph (4), by striking “three hundred” and inserting “300 persons, or, in the case of a bank or a bank holding company, as such term is defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), 1,200 persons”.

(b) AMENDMENTS TO SECTION 15 OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) is amended, in the third sentence, by striking “three hundred” and inserting “300 persons, or, in the case of bank or a bank holding company, as such term is defined

in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), 1,200 persons”.

**SEC. 602. RULEMAKING.**

Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall issue final regulations to implement this title and the amendments made by this title.

Deadline.  
15 USC 78l note.

## **TITLE VII—OUTREACH ON CHANGES TO THE LAW**

**SEC. 701. OUTREACH BY THE COMMISSION.**

The Securities and Exchange Commission shall provide online information and conduct outreach to inform small and medium sized businesses, women owned businesses, veteran owned businesses, and minority owned businesses of the changes made by this Act.

Web posting.  
Small business.  
Women.  
Veterans.  
Minorities.  
15 USC 78d note.

Approved April 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 3606:**

HOUSE REPORTS: No. 112–406 and Pt. 2 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Mar. 7, 8, considered and passed House.

Mar. 15, 19–22, considered and passed Senate, amended.

Mar. 27, House concurred in Senate amendment.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2012):

Apr. 5, Presidential remarks.



Public Law 112–107  
112th Congress

An Act

May 15, 2012  
[H.R. 298]

To designate the facility of the United States Postal Service located at 500 East Whitestone Boulevard in Cedar Park, Texas, as the “Army Specialist Matthew Troy Morris Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ARMY SPECIALIST MATTHEW TROY MORRIS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 500 East Whitestone Boulevard in Cedar Park, Texas, shall be known and designated as the “Army Specialist Matthew Troy Morris Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Army Specialist Matthew Troy Morris Post Office Building”.

Approved May 15, 2012.

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LEGISLATIVE HISTORY—H.R. 298:

CONGRESSIONAL RECORD:

Vol. 157 (2011): Nov. 14, considered and passed House.

Vol. 158 (2012): Apr. 26, considered and passed Senate.



Public Law 112–108  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 115 4th Avenue Southwest in Ardmore, Oklahoma, as the “Specialist Micheal E. Phillips Post Office”.

May 15, 2012  
[H.R. 1423]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SPECIALIST MICHEAL E. PHILLIPS POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 115 4th Avenue Southwest in Ardmore, Oklahoma, shall be known and designated as the “Specialist Micheal E. Phillips Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Specialist Micheal E. Phillips Post Office”.

Approved May 15, 2012.

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**LEGISLATIVE HISTORY—H.R. 1423:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): May 2, considered and passed House.

Vol. 158 (2012): Apr. 26, considered and passed Senate.



Public Law 112–109  
112th Congress

An Act

May 15, 2012  
[H.R. 2079]

To designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the “John J. Cook Post Office”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JOHN J. COOK POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, shall be known and designated as the “John J. Cook Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “John J. Cook Post Office”.

Approved May 15, 2012.

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**LEGISLATIVE HISTORY—H.R. 2079:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Feb. 14, 15, considered and passed House.

Apr. 26, considered and passed Senate.





Public Law 112–110  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 801 West Eastport Street in Iuka, Mississippi, as the “Sergeant Jason W. Vaughn Post Office”.

May 15, 2012  
[H.R. 2213]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SERGEANT JASON W. VAUGHN POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 801 West Eastport Street in Iuka, Mississippi, shall be known and designated as the “Sergeant Jason W. Vaughn Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Sergeant Jason W. Vaughn Post Office”.

Approved May 15, 2012.

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**LEGISLATIVE HISTORY—H.R. 2213:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): July 28, 29, considered and passed House.  
Vol. 158 (2012): Apr. 26, considered and passed Senate.



Public Law 112–111  
112th Congress

An Act

May 15, 2012  
[H.R. 2244]

To designate the facility of the United States Postal Service located at 67 Castle Street in Geneva, New York, as the “Corporal Steven Blaine Riccione Post Office”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CORPORAL STEVEN BLAINE RICCIONE POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 67 Castle Street in Geneva, New York, shall be known and designated as the “Corporal Steven Blaine Riccione Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Corporal Steven Blaine Riccione Post Office”.

Approved May 15, 2012.

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**LEGISLATIVE HISTORY—H.R. 2244:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): July 28, 29, considered and passed House.  
Vol. 158 (2012): Apr. 26, considered and passed Senate.



Public Law 112–112  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 122 North Holderrieth Boulevard in Tomball, Texas, as the “Tomball Veterans Post Office”.

May 15, 2012  
[H.R. 2660]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TOMBALL VETERANS POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 122 North Holderrieth Boulevard in Tomball, Texas, shall be known and designated as the “Tomball Veterans Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Tomball Veterans Post Office”.

Approved May 15, 2012.

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**LEGISLATIVE HISTORY—H.R. 2660:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Nov. 14, 16, considered and passed House.  
Vol. 158 (2012): Apr. 26, considered and passed Senate.



Public Law 112–113  
112th Congress

An Act

May 15, 2012  
[H.R. 2668]

Brian A. Terry  
Memorial Act.

To designate the station of the United States Border Patrol located at 2136 South Naco Highway in Bisbee, Arizona, as the “Brian A. Terry Border Patrol Station”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Brian A. Terry Memorial Act”.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) A native of Flat Rock, Michigan, Agent Brian A. Terry served his country proudly with the United States Marine Corps and continued his service as a police officer with the cities of Ecorse and Lincoln Park, Michigan, prior to joining the United States Border Patrol.

(2) Agent Terry was a member of the 699th Session of the Border Patrol Academy assigned to the Naco Border Patrol Station within the Tucson Sector.

(3) On December 14, 2010, Border Patrol Agent Brian A. Terry was conducting a Border Patrol Tactical unit (BORTAC) operation in the area of “Peck Wells”.

(4) At 11:15 p.m., near Rio Rico, Arizona, and about 15 miles north of Nogales, Arizona, Agent Terry and his team spotted a group of individuals approaching their position.

(5) Shortly thereafter, an encounter ensued and gunfire was exchanged that left Agent Terry mortally wounded.

(6) Agent Terry succumbed to his injuries on December 15, 2010.

(7) Agent Terry is survived by his mother, father, step-mother, stepfather, brother, and two sisters.

**SEC. 3. DESIGNATION.**

The station of the United States Border Patrol located at 2136 South Naco Highway in Bisbee, Arizona, shall be known and designated as the “Brian A. Terry Border Patrol Station”.

**SEC. 4. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the station referred to

in section 1 shall be deemed to be a reference to the “Brian A. Terry Border Patrol Station”.

Approved May 15, 2012.

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LEGISLATIVE HISTORY—H.R. 2668:

HOUSE REPORTS: No. 112–326 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 12, 14, considered and passed House.

Vol. 158 (2012): May 8, considered and passed Senate.



Public Law 112–114  
112th Congress

An Act

May 15, 2012  
[H.R. 2767]

To designate the facility of the United States Postal Service located at 8 West Silver Street in Westfield, Massachusetts, as the “William T. Trant Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WILLIAM T. TRANT POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 8 West Silver Street in Westfield, Massachusetts, shall be known and designated as the “William T. Trant Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “William T. Trant Post Office Building”.

Approved May 15, 2012.

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**LEGISLATIVE HISTORY—H.R. 2767:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Dec. 12, 13, considered and passed House.  
Vol. 158 (2012): Apr. 26, considered and passed Senate.



Public Law 112–115  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 260 California Drive in Yountville, California, as the “Private First Class Alejandro R. Ruiz Post Office Building”.

May 15, 2012  
[H.R. 3004]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PRIVATE FIRST CLASS ALEJANDRO R. RUIZ POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 260 California Drive in Yountville, California, shall be known and designated as the “Private First Class Alejandro R. Ruiz Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Private First Class Alejandro R. Ruiz Post Office Building”.

Approved May 15, 2012.

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**LEGISLATIVE HISTORY—H.R. 3004:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Nov. 14, 16, considered and passed House.  
Vol. 158 (2012): Apr. 26, considered and passed Senate.



Public Law 112–116  
112th Congress

An Act

May 15, 2012  
[H.R. 3246]

To designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the “Specialist Peter J. Navarro Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SPECIALIST PETER J. NAVARRO POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, shall be known and designated as the “Specialist Peter J. Navarro Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Specialist Peter J. Navarro Post Office Building”.

Approved May 15, 2012.

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LEGISLATIVE HISTORY—H.R. 3246:

CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 12, 13, considered and passed House.  
Vol. 158 (2012): Apr. 26, considered and passed Senate.





Public Law 112–117  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the “Lance Corporal Matthew P. Pathenos Post Office Building”.

May 15, 2012  
[H.R. 3247]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LANCE CORPORAL MATTHEW P. PATHENOS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, shall be known and designated as the “Lance Corporal Matthew P. Pathenos Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lance Corporal Matthew P. Pathenos Post Office Building”.

Approved May 15, 2012.

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LEGISLATIVE HISTORY—H.R. 3247:

CONGRESSIONAL RECORD, Vol. 158 (2012):  
Feb. 14, 15, considered and passed House.  
Apr. 26, considered and passed Senate.



Public Law 112–118  
112th Congress

An Act

May 15, 2012  
[H.R. 3248]

To designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the “Lance Corporal Drew W. Weaver Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LANCE CORPORAL DREW W. WEAVER POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, shall be known and designated as the “Lance Corporal Drew W. Weaver Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lance Corporal Drew W. Weaver Post Office Building”.

Approved May 15, 2012.

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LEGISLATIVE HISTORY—H.R. 3248:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Feb. 14, 15, considered and passed House.

Apr. 26, considered and passed Senate.



Public Law 112–119  
112th Congress

An Act

To authorize the Administrator of General Services to convey a parcel of real property in Tracy, California, to the City of Tracy.

May 15, 2012  
[S. 1302]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONVEYANCE OF PARCEL, TRACY, CALIFORNIA.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of General Services.

(2) CITY.—The term “City” means the city of Tracy, California.

(3) PARCEL.—

(A) IN GENERAL.—The term “Parcel” means the approximately 150 acres conveyed to the City for educational or recreational purposes pursuant to section 140 of division C of Public Law 105–277 (112 Stat. 2681–599; 113 Stat. 104; 118 Stat. 335).

(B) EXCLUSIONS.—The term “Parcel” does not include the approximately 50 acres conveyed to the City for economic development, in which the United States retains no reversionary interest, pursuant to section 140 of division C of Public Law 105–277 (112 Stat. 2681–599; 113 Stat. 104; 118 Stat. 335).

(b) CONVEYANCE.—

(1) IN GENERAL.—Notwithstanding subsections (c) through (f) of section 140 of division C of Public Law 105–277 (112 Stat. 2681–599; 113 Stat. 104; 118 Stat. 335) and subject to subsection (c), the Administrator may offer to enter into a binding agreement with the City, as soon as practicable, but not later than 180 days after the date of enactment of this Act, under which the Administrator may convey to the City, through a deed of release or other appropriate instrument, any reversionary interest retained by the United States in the Parcel, and all other terms, conditions, reservations, and restrictions imposed, in connection with the conveyance of the Parcel. Deadline.

(2) SURVEY.—For purposes of paragraph (1), the exact acreage and legal description of the Parcel shall be determined by a survey that is satisfactory to the Administrator.

(c) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (b), the City shall pay to the Administrator an amount not less than the appraised fair market value of the Parcel, as determined by the Administrator pursuant to an

Determination.  
Payment.

appraisal conducted by a licensed, independent appraiser, based on the highest and best use of the Parcel, as determined by the Administrator.

(2) TREATMENT.—The determination of the Administrator under paragraph (1) regarding the fair market value of the Parcel shall be final.

(d) COST OF CONVEYANCE.—The City shall be responsible for reimbursing the Administrator for the costs associated with implementing this section, including the costs of each applicable appraisal and survey.

(e) PROCEEDS.—

(1) DEPOSIT.—The net proceeds from the conveyance under this section shall be deposited in the Federal Buildings Fund established by section 592(a) of title 40, United States Code.

(2) EXPENDITURE.—The amounts deposited in the Federal Buildings Fund under paragraph (1) shall be available to the Administrator, in amounts specified in appropriations Acts, for expenditure for any lawful purpose consistent with the authority of the Administrator.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may establish such additional terms and conditions in connection with the conveyance under subsection (b) as the Administrator considers to be appropriate to protect the interests of the United States.

(g) NO EFFECT ON COMPLIANCE WITH ENVIRONMENTAL LAWS.—Nothing in this Act or any amendment made by this Act affects or limits the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

Approved May 15, 2012.

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LEGISLATIVE HISTORY—S. 1302:

SENATE REPORTS: No. 112–40 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Aug. 2, considered and passed Senate.

Vol. 158 (2012): May 7, considered and passed House.



Public Law 112–120  
112th Congress

An Act

To modify the Department of Defense Program Guidance relating to the award of Post-Deployment/Mobilization Respite Absence administrative absence days to members of the reserve components to exempt any member whose qualified mobilization commenced before October 1, 2011, and continued on or after that date, from the changes to the program guidance that took effect on that date.

May 25, 2012

[H.R. 4045]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TREATMENT OF PROGRAM GUIDANCE RELATING TO THE  
AWARD OF POST-DEPLOYMENT/MOBILIZATION RESPITE  
ABSENCE ADMINISTRATIVE ABSENCE DAYS TO MEM-  
BERS AND FORMER MEMBERS OF THE RESERVE  
COMPONENTS UNDER DOD INSTRUCTION 1327.06.**

(a) **DISCRETION OF THE SECRETARY OF DEFENSE.**—The Secretary of Defense may determine that the changes made by the Secretary to the Program Guidance relating to the award of Post-Deployment/Mobilization Respite Absence program administrative absence days or other benefits described in subsection (b) to members and former members of the reserve components under DOD Instruction 1327.06 effective as of October 1, 2011, shall not apply to a member of a reserve component, or former member of a reserve component, whose qualified mobilization (as described in such program guidance) commenced before October 1, 2011, and continued on or after that date until the date the mobilization is terminated.

(b) **AUTHORIZED BENEFITS.**—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may provide a member or former member of the Armed Forces described in subsection (a) with one of the following benefits:

(1) In the case of an individual who is a former member of the Armed Forces at the time of the provision of benefits under this section, payment of an amount not to exceed \$200 for each day the individual would have qualified for a day of administrative absence had the changes made to the Program Guidance described in subsection (a) not applied to the individual, as authorized by such subsection.

(2) In the case of a member of the Armed Forces on active duty at the time of the provision of benefits under this section, either one day of administrative absence or payment of an amount not to exceed \$200, as selected by the member, for each day the member would have qualified for a day of administrative absence had the changes made to the Program Guidance described in subsection (a) not applied to the member, as authorized by such subsection.

(3) In the case of a member of the Armed Forces serving in the Selected Reserve, Inactive National Guard, or Individual Ready Reserve at the time of the provision of benefits under this section, either one day of administrative absence to be retained for future use or payment of an amount not to exceed \$200, as selected by the member, for each day the member would have qualified for a day of administrative absence had the changes made to the Program Guidance described in subsection (a) not applied to the member, as authorized by such subsection.

(c) EXCLUSION OF CERTAIN FORMER MEMBERS.—An individual who is a former member of the Armed Forces is not eligible under this section for the benefits specified in subsection (b)(1) if the individual was discharged or released from the Armed Forces under other than honorable conditions.

(d) FORM OF PAYMENT.—The payments authorized by subsection (b) may be paid in a lump sum or installments, at the election of the Secretary concerned.

(e) RELATION TO OTHER PAY AND LEAVE.—The benefits provided to a member or former member of the Armed Forces under this section are in addition to any other pay, absence, or leave provided by law.

(f) DEFINITIONS.—In this section:

(1) The term “Post-Deployment/Mobilization Respite Absence program” means the program of the Secretary concerned to provide days of administrative absence not chargeable against available leave to certain deployed or mobilized members of the Armed Forces in order to assist such members in reintegrating into civilian life after deployment or mobilization.

(2) The term “Secretary concerned” has the meaning given that term in section 101(5) of title 37, United States Code.

(g) COMMENCEMENT AND DURATION OF AUTHORITY.—

(1) COMMENCEMENT.—The authority to provide days of administrative absence under paragraphs (2) and (3) of subsection (b) begins on the date of the enactment of this Act and the authority to make cash payments under such subsection begins, subject to subsection (h), on October 1, 2012.

(2) EXPIRATION.—The authority to provide benefits under this section expires on October 1, 2014.

(3) EFFECT OF EXPIRATION.—The expiration date specified in paragraph (2) shall not affect the use, after that date, of any day of administrative absence provided to a member of the Armed Forces under subsection (b) before that date or the payment, after that date, of any payment selected by a member or former member of the Armed Forces under such subsection before that date.

(h) CASH PAYMENTS SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—No cash payment may be made under subsection (b) unless the funds to be used to make the payments are available pursuant to an appropriations Act enacted after the date of enactment of this Act.

(i) FUNDING OFFSET.—The Secretary of Defense shall transfer \$4,000,000 from the unobligated balances of the Pentagon Reservation Maintenance Revolving Fund established under section 2674(e)

of title 10, United States Code, to the Miscellaneous Receipts Fund  
of the United States Treasury.

Approved May 25, 2012.

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LEGISLATIVE HISTORY—H.R. 4045:

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 15, considered and passed House.

May 17, considered and passed Senate.



Public Law 112–121  
112th Congress

An Act

May 25, 2012  
[H.R. 4967]

To prevent the termination of the temporary office of bankruptcy judges in certain judicial districts.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Temporary  
Bankruptcy  
Judgeships  
Extension Act of  
2012.  
28 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Temporary Bankruptcy Judgeships Extension Act of 2012”.

28 USC 152 note.

**SEC. 2. EXTENSION OF TEMPORARY OFFICE OF BANKRUPTCY JUDGES IN CERTAIN JUDICIAL DISTRICTS.**

(a) TEMPORARY OFFICE OF BANKRUPTCY JUDGES AUTHORIZED BY PUBLIC LAW 109–8.—

(1) EXTENSIONS.—The temporary office of bankruptcy judges authorized for the following districts by section 1223(b) of Public Law 109–8 (28 U.S.C. 152 note) are extended until the applicable vacancy specified in paragraph (2) in the office of a bankruptcy judge for the respective district occurs:

- (A) The central district of California.
- (B) The eastern district of California.
- (C) The district of Delaware.
- (D) The southern district of Florida.
- (E) The southern district of Georgia.
- (F) The district of Maryland.
- (G) The eastern district of Michigan.
- (H) The district of New Jersey.
- (I) The northern district of New York.
- (J) The eastern district of North Carolina.
- (K) The eastern district of Pennsylvania.
- (L) The middle district of Pennsylvania.
- (M) The district of Puerto Rico.
- (N) The district of South Carolina.
- (O) The western district of Tennessee.
- (P) The eastern district of Virginia.
- (Q) The district of Nevada.

(2) VACANCIES.—

(A) SINGLE VACANCIES.—Except as provided in subparagraphs (B), (C), (D), and (E), the 1st vacancy in the office of a bankruptcy judge for each district specified in paragraph (1)—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,



shall not be filled.

(B) CENTRAL DISTRICT OF CALIFORNIA.—The 1st, 2d, and 3d vacancies in the office of a bankruptcy judge for the central district of California—

(i) occurring 5 years or more after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of a bankruptcy judge for the district of Delaware—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of a bankruptcy judge for the southern district of Florida—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of a bankruptcy judge for the district of Maryland—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(3) APPLICABILITY OF OTHER PROVISIONS.—Except as provided in paragraphs (1) and (2), all other provisions of section 1223(b) of Public Law 109–8 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in paragraph (1).

(b) TEMPORARY OFFICE OF BANKRUPTCY JUDGES EXTENDED BY PUBLIC LAW 109–8.—

(1) EXTENSIONS.—The temporary office of bankruptcy judges authorized by section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) and extended by section 1223(c) of Public Law 109–8 (28 U.S.C. 152 note) for the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee are extended until the applicable vacancy specified in paragraph (2) in the office of a bankruptcy judge for the respective district occurs.

(2) VACANCIES.—

(A) DISTRICT OF DELAWARE.—The 5th vacancy in the office of a bankruptcy judge for the district of Delaware—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(B) DISTRICT OF PUERTO RICO.—The 2d vacancy in the office of a bankruptcy judge for the district of Puerto Rico—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(C) EASTERN DISTRICT OF TENNESSEE.—The 1st vacancy in the office of a bankruptcy judge for the eastern district of Tennessee—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(3) APPLICABILITY OF OTHER PROVISIONS.—Except as provided in paragraphs (1) and (2), all other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) and section 1223(c) of Public Law 109–8 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in paragraph (1).

(c) TEMPORARY OFFICE OF THE BANKRUPTCY JUDGE AUTHORIZED BY PUBLIC LAW 102–361 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.—

(1) EXTENSION.—The temporary office of the bankruptcy judge authorized by section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) for the middle district of North Carolina is extended until the vacancy specified in paragraph (2) occurs.

(2) VACANCY.—The 1st vacancy in the office of a bankruptcy judge for the middle district of North Carolina—

(A) occurring more than 5 years after the date of the enactment of this Act, and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(3) APPLICABILITY OF OTHER PROVISIONS.—Except as provided in paragraphs (1) and (2), all other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of the bankruptcy judge referred to in paragraph (1).

### SEC. 3. BANKRUPTCY FILING FEE INCREASE.

(a) BANKRUPTCY FILING FEES.—Section 1930(a)(3) of title 28, United States Code, is amended by striking “\$1,000” and inserting “\$1,167”.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b)(2) of title 28, United States Code, is amended by striking “55” and inserting “48.89”.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking “25” and inserting “33.33”.

(d) PAYGO OFFSET EXPENDITURE LIMITATION.—\$42 of the incremental amounts collected by reason of the enactment of subsection (a) shall be deposited in a special fund in the Treasury to be established after the date of enactment of this Act. Such amounts

shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the date of enactment of this Act.

(e) **EFFECTIVE DATE.**—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

28 USC 589a  
note.

**SEC. 4. SUBSEQUENT REAUTHORIZATION.**

Prior to further reauthorization of any judgeship authorized by this Act, the Committee on the Judiciary of the Senate and House of Representatives shall conduct a review of the bankruptcy judgeships authorized by this Act to determine the need, if any, for continued reauthorization of each judgeship, to evaluate any changes in all bankruptcy case filings and their effect, if any, on filing fee revenue, and to require the Administrative Office of the Courts to submit a report to the Committee on the Judiciary of the Senate and House of Representatives on bankruptcy case workload, bankruptcy judgeship costs, and filing fee revenue.

Review.  
Reports.  
28 USC 152 note.

Approved May 25, 2012.

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**LEGISLATIVE HISTORY—H.R. 4967 (S. 1821):**

**CONGRESSIONAL RECORD**, Vol. 158 (2012):

May 9, considered and passed House.

May 10, considered and passed Senate.



Public Law 112–122  
112th Congress

An Act

May 30, 2012  
[H.R. 2072]

Export-Import  
Bank  
Reauthorization  
Act of 2012.  
12 USC 635 note.

To reauthorize the Export-Import Bank of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Export-Import Bank Reauthorization Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Extension of authority.
- Sec. 3. Limitations on outstanding loans, guarantees, and insurance.
- Sec. 4. Export-Import Bank exposure limit business plan.
- Sec. 5. Study by the Comptroller General on the role of the Bank in the world economy and the Bank’s risk management.
- Sec. 6. Monitoring of default rates on Bank financing; reports on default rates; safety and soundness review.
- Sec. 7. Improvement and clarification of due diligence standards for lender partners.
- Sec. 8. Non-subordination requirement.
- Sec. 9. Notice and comment for Bank transactions exceeding \$100,000,000.
- Sec. 10. Categorization of purpose of loans and long-term guarantees in annual report.
- Sec. 11. Negotiations to end export credit financing.
- Sec. 12. Publication of guidelines for economic impact analyses and documentation of such analyses.
- Sec. 13. Report on implementation of recommendations of the Government Accountability Office.
- Sec. 14. Examination of Bank support for small business.
- Sec. 15. Review and report on domestic content policy.
- Sec. 16. Improvement of method for calculating the effects of Bank financing on job creation and maintenance in the United States.
- Sec. 17. Periodic audits of Bank transactions.
- Sec. 18. Prohibitions on financing for certain persons involved in sanctionable activities with respect to Iran.
- Sec. 19. Use of portion of Bank surplus to update information technology systems.
- Sec. 20. Modifications relating to the advisory committee.
- Sec. 21. Financing for goods manufactured in the United States used in global textile and apparel supply chains.
- Sec. 22. Technical correction.
- Sec. 23. Sub-Saharan Africa Advisory Committee.
- Sec. 24. Dual use exports.
- Sec. 25. Effective date.

**SEC. 2. EXTENSION OF AUTHORITY.**

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking “2011” and inserting “2014”.

**SEC. 3. LIMITATIONS ON OUTSTANDING LOANS, GUARANTEES, AND INSURANCE.**

Section 6(a)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(2)) is amended—

- (1) in subparagraph (D), by striking “and”;
- (2) in subparagraph (E), by striking the comma at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) during fiscal year 2012 and each succeeding fiscal year, \$120,000,000,000, except that—

Applicability.  
Reports.

“(i) the applicable amount for each of fiscal years 2013 and 2014 shall be \$130,000,000,000 if—

“(I) the Bank has submitted a report as required by section 4(a) of the Export-Import Bank Reauthorization Act of 2012; and

“(II) the rate calculated under section 8(g)(1) of this Act is less than 2 percent for the quarter ending with the beginning of the fiscal year, or for any quarter in the fiscal year; and

“(ii) notwithstanding clause (i), the applicable amount for fiscal year 2014 shall be \$140,000,000,000 if—

“(I) the rate calculated under section 8(g)(1) of this Act is less than 2 percent for the quarter ending with the beginning of the fiscal year, or for any quarter in the fiscal year;

“(II) the Bank has submitted a report as required by subsection (b) of section 5 of the Export-Import Bank Reauthorization Act of 2012, except that the preceding provisions of this subclause shall not apply if the Comptroller General has not submitted the report required by subsection (a) of such section 5 on or before July 1, 2013; and

“(III) the Secretary of the Treasury has submitted the reports required by section 11(b) of the Export-Import Bank Reauthorization Act of 2012.”.

#### SEC. 4. EXPORT-IMPORT BANK EXPOSURE LIMIT BUSINESS PLAN.

Reports.

(a) IN GENERAL.—Not later than September 30, 2012, the Export-Import Bank of the United States shall submit to the Congress and the Comptroller General a written report that contains the following:

(1) A business plan that—

(A) includes an estimate by the Bank of the appropriate exposure limits of the Bank for 2012, 2013, and 2014;

(B) justifies the estimate; and

(C) estimates any anticipated growth of the Bank for 2012, 2013, and 2014—

(i) by industry sector;

(ii) by whether the products involved are short-term loans, medium-term loans, long-term loans, insurance, medium-term guarantees, or long-term guarantees; and

(iii) by key market.

(2) An analysis of the potential for increased or decreased risk of loss to the Bank as a result of the estimated exposure limit, including an analysis of increased or decreased risks associated with changes in the composition of Bank exposure, by industry sector, by product offered, and by key market.

(3) An analysis of the ability of the Bank to meet its small business and sub-Saharan Africa mandates and comply with its carbon policy mandate under the proposed exposure limit, and an analysis of any increased or decreased risk of loss associated with meeting or complying with the mandates under the proposed exposure limit.

(4) An analysis of the adequacy of the resources of the Bank to effectively process, approve, and monitor authorizations, including the conducting of required economic impact analysis, under the proposed exposure limit.

(b) GAO REVIEW OF REPORT AND BUSINESS PLAN.—Not later than June 1, 2013, the Comptroller General shall submit to the Congress a written analysis of the report and business plan submitted under subsection (a), which shall include such recommendations with respect to the report and business plan as the Comptroller General deems appropriate.

**SEC. 5. STUDY BY THE COMPTROLLER GENERAL ON THE ROLE OF THE BANK IN THE WORLD ECONOMY AND THE BANK'S RISK MANAGEMENT.**

Deadline.  
Reports.

(a) IN GENERAL.—Within 10 months after the date of the enactment of this Act, the Comptroller General of the United States shall complete and submit to the Export-Import Bank of the United States, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report which—

(1) evaluates—

(A) the history of the rate of growth of the Bank, and its causes, with specific consideration given to—

(i) the capital market conditions for export financing;

(ii) increased competition from foreign export credit agencies;

(iii) the rate of growth of the Bank from 2008 to the present;

(B) the effectiveness of the Bank's risk management, including—

(i) potential for losses from each of the products offered by the Bank; and

(ii) the overall risk of the Bank's portfolio, taking into account—

(I) market risk;

(II) credit risk;

(III) political risk;

(IV) industry-concentration risk;

(V) geographic-concentration risk;

(VI) obligor-concentration risk; and

(VII) foreign-currency risk;

(C) the Bank's use of historical default and recovery rates to calculate future program costs, taking into consideration cost estimates determined under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and whether discount rates applied to cost estimates should reflect the risks described in subparagraph (B);

(D) the fees charged by the Bank for the products the Bank offers, whether the Bank's fees properly reflect the risks described in subparagraph (B), and how the fees

are affected by United States participation in international agreements; and

(E) whether the Bank's loan loss reserves policy is sufficient to cover the risks described in subparagraph (B); and

(2) makes appropriate recommendations with respect to the matters so evaluated.

(b) **RECOMMENDATIONS AND REPORT BY THE BANK.**—Not later than 120 days after the Bank receives the report, the Bank shall submit to the Congress a report on the implementation of recommendations included in the report so received. If the Bank does not adopt the recommendations, the Bank shall include in its report an explanation of why the Bank has not done so.

**SEC. 6. MONITORING OF DEFAULT RATES ON BANK FINANCING; REPORTS ON DEFAULT RATES; SAFETY AND SOUNDNESS REVIEW.**

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g) is amended by adding at the end the following:

“(g) **MONITORING OF DEFAULT RATES ON BANK FINANCING; REPORTS ON DEFAULT RATES; SAFETY AND SOUNDNESS REVIEW.**—

“(1) **MONITORING OF DEFAULT RATES.**—Not less frequently than quarterly, the Bank shall calculate the rate at which the entities to which the Bank has provided short-, medium-, or long-term financing are in default on a payment obligation under the financing, by dividing the total amount of the required payments that are overdue by the total amount of the financing involved.

“(2) **ADDITIONAL CALCULATION BY TYPE OF PRODUCT, BY KEY MARKET, AND BY INDUSTRY SECTOR; REPORT TO CONGRESS.**—In addition, the Bank shall, not less frequently than quarterly—

“(A) calculate the rate of default—

“(i) with respect to whether the products involved are short-term loans, medium-term loans, long-term loans, insurance, medium-term guarantees, or long-term guarantees;

“(ii) with respect to each key market involved; and

“(iii) with respect to each industry sector involved; and

“(B) submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on each such rate and any information the Bank deems relevant.

“(3) **REPORT ON CAUSES OF DEFAULT RATE; PLAN TO REDUCE DEFAULT RATE.**—Within 45 days after a rate calculated under paragraph (1) equals or exceeds 2 percent, the Bank shall submit to the Congress a written report that explains the circumstances that have caused the default rate to be at least 2 percent, and includes a plan to reduce the default rate to less than 2 percent.

“(4) **PLAN CONTENTS.**—The plan referred to in paragraph (3) shall—

“(A) provide a detailed explanation of the processes and controls by which the Bank monitors and tracks outstanding loans;

“(B) detail specific planned actions, including a time frame for completing the actions, to reduce the default rate described in paragraph (1) to less than 2 percent.

“(5) MONTHLY REPORTS REQUIRED WHILE DEFAULT RATE IS AT LEAST 2 PERCENT.—For so long as the default rate calculated under paragraph (1) is at least 2 percent, the Bank shall submit monthly reports to the Congress describing the specific actions taken during such period to reduce the default rate.

Time period.

“(6) SAFETY AND SOUNDNESS REVIEW.—If the default rate calculated under paragraph (1) remains above 2 percent for a period of 6 months, the Secretary of the Treasury shall provide for an independent third party to—

Determination.

“(A) conduct a review of the loan programs and funds of the Bank, which shall determine—

“(i) the financial safety and soundness of the programs and funds; and

“(ii) the extent of loan loss reserves and capital adequacy of the programs and funds; and

“(B) submit to the Secretary, within 60 days after the end of the 6-month period, a report that—

“(i) describes the methodology and standards used to conduct the review required by subparagraph (A);

“(ii) sets forth the results and findings of the review, including the extent of loan loss reserves and capital adequacy of the programs and funds of the Bank; and

“(iii) includes recommendations regarding restoring the reserves and capital to maintain the programs and funds in a safe and sound condition.”.

#### **SEC. 7. IMPROVEMENT AND CLARIFICATION OF DUE DILIGENCE STANDARDS FOR LENDER PARTNERS.**

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

“(i) DUE DILIGENCE STANDARDS FOR LENDER PARTNERS.—The Bank shall set due diligence standards for its lender partners and participants, which should be applied across all programs consistently. To minimize or prevent fraudulent activity, the Bank should require all delegated lenders to implement ‘Know your customer practices’.”.

#### **SEC. 8. NON-SUBORDINATION REQUIREMENT.**

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635), as amended by section 7 of this Act, is amended by adding at the end the following:

Contracts.

“(j) NON-SUBORDINATION REQUIREMENT.—In entering into financing contracts, the Bank shall seek a creditor status which is not subordinate to that of all other creditors, in order to reduce the risk to, and enhance recoveries for, the Bank.”.

#### **SEC. 9. NOTICE AND COMMENT FOR BANK TRANSACTIONS EXCEEDING \$100,000,000.**

(a) IN GENERAL.—Section 3(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)) is amended by adding at the end the following:

“(10) NOTICE AND COMMENT REQUIREMENTS.—

“(A) IN GENERAL.—Before any meeting of the Board for final consideration of a long-term transaction the value



of which exceeds \$100,000,000, and concurrent with any statement required to be submitted under section 2(b)(3) with respect to the transaction, the Bank shall provide a notice and comment period.

“(B) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether the value of a proposed transaction exceeds the financial threshold set forth in subparagraph (A), the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all long-term loans and guarantees, approved by the Bank in the preceding 12-month period, that involved the same foreign entity and substantially the same product to be produced.

Time period.

“(C) SPECIFIC REQUIREMENTS.—

“(i) IN GENERAL.—The Bank shall—

“(I) publish in the Federal Register a notice of the application proposing the transaction;

Federal Register, publication.

“(II) provide a period of not less than 25 days for the submission to the Bank of comments on the application; and

Time period.

“(III) notify the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives of the application, and seek comments on the application from the Department of Commerce and the Office of Management and Budget.

“(ii) CONTENT OF NOTICE.—The notice published under clause (i)(I) with respect to an application for a loan or financial guarantee shall include appropriate information about—

“(I) a brief non-proprietary description of the purposes of the transaction and the anticipated use of any item being exported, including, to the extent the Bank is reasonably aware, whether the item may be used to produce exports or provide services in competition with the exportation of goods or the provision of services by a United States industry;

“(II) the identities of the obligor, principal supplier, and guarantor; and

“(III) a description, such as type or model number, of any item with respect to which Bank financing is being sought, but only to the extent the description does not disclose any information that is confidential or proprietary business information, that would violate the Trade Secrets Act, or that would jeopardize jobs in the United States by supplying information which competitors could use to compete with companies in the United States.

“(D) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

“(i) IN GENERAL.—If a material change is made to an application to which this paragraph applies, after a notice with respect to the application is published under subparagraph (C)(i)(I), the Bank shall publish

Federal Register, publication.

in the Federal Register a revised notice of the application and provide for an additional comment period as provided in subparagraph (C)(i)(II).

“(ii) MATERIAL CHANGE DEFINED.—In clause (i), the term ‘material change’, with respect to an application for a loan or guarantee, includes an increase of at least 25 percent in the amount of a loan or guarantee requested in the application.

“(E) REQUIREMENT TO ADDRESS VIEWS OF COMMENTERS.—Before taking final action on an application to which this paragraph applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments on the application pursuant to this paragraph.

Deadlines.

“(F) PUBLICATION OF CONCLUSIONS.—Within 30 days after a final decision of the Board of Directors with respect to an application to which this paragraph applies, the Bank shall provide to a commenter on the application or the decision who makes a request therefor, a non-confidential summary of the facts found and conclusions reached in any detailed analysis or similar study with respect to the loan or guarantee that is the subject of the application, that was submitted to the Board of Directors. Such summary should be sent within 30 days of the receipt of the written request or date of the final decision of the Board of Directors, whichever is later.

“(G) RULE OF INTERPRETATION.—The obligations imposed by this paragraph shall not be interpreted to create, modify, or preclude any legal right of action.”.

12 USC 635a  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of the enactment of this Act.

#### **SEC. 10. CATEGORIZATION OF PURPOSE OF LOANS AND LONG-TERM GUARANTEES IN ANNUAL REPORT.**

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g), as amended by section 6 of this Act, is amended by adding at the end the following:

“(h) CATEGORIZATION OF PURPOSE OF LOANS AND LONG-TERM GUARANTEES.—In the annual report of the Bank under subsection (a), the Bank shall categorize each loan and long-term guarantee made by the Bank in the fiscal year covered by the report, and according to the following purposes:

“(1) ‘To assume commercial or political risk that exporter or private financial institutions are unwilling or unable to undertake’.

“(2) ‘To overcome maturity or other limitations in private sector export financing’.

“(3) ‘To meet competition from a foreign, officially sponsored, export credit competition’.

“(4) ‘Not identified’, and the reason why the purpose is not identified.”.

12 USC 635a–5.

#### **SEC. 11. NEGOTIATIONS TO END EXPORT CREDIT FINANCING.**

(a) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the “Secretary”) shall initiate and pursue negotiations—

(1) with other major exporting countries, including members of the Organisation for Economic Co-operation and Development (OECD) and non-OECD members, to substantially reduce, with the ultimate goal of eliminating, subsidized export financing programs and other forms of export subsidies; and

(2) with all countries that finance air carrier aircraft with funds from a state-sponsored entity, to substantially reduce, with the ultimate goal of eliminating, aircraft export credit financing for all aircraft covered by the 2007 Sector Understanding on Export Credits for Civil Aircraft (in this section referred to as the “ASU”), including any modification thereof, and all of the following types of aircraft:

(A) Heavy aircraft that are capable of a takeoff weight of 300,000 pounds or more, whether or not operating at such a weight during a particular phase of flight.

(B) Large aircraft that are capable of a takeoff weight of more than 41,000 pounds, and have a maximum certificated takeoff weight of not more than 300,000 pounds.

(C) Small aircraft that have a maximum certificated takeoff weight of 41,000 pounds or less.

(b) ANNUAL REPORTS ON PROGRESS OF NEGOTIATIONS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

Certifications.

(1) a report on the progress of any negotiations described in subsection (a)(1), until the Secretary certifies in writing to the committees that all countries that support subsidized export financing programs have agreed to end the support; and

(2) a report on the progress of any negotiations described in subsection (a)(2), including the progress of any negotiations with respect to each classification of aircraft set forth in subsection (a)(2), until the Secretary certifies in writing to the committees that all countries that support subsidized export financing programs have agreed to end the support of aircraft covered by the ASU.

## SEC. 12. PUBLICATION OF GUIDELINES FOR ECONOMIC IMPACT ANALYSES AND DOCUMENTATION OF SUCH ANALYSES.

(a) PUBLICATION OF GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall develop and make publicly available methodological guidelines to be used by the Bank in conducting economic impact analyses or similar studies under section 2(e) of the Export-Import Bank Act of 1945. In developing the guidelines, the Bank shall take into consideration any relevant guidance from the Office of Management and Budget.

Deadline.  
Public  
information.  
12 USC 635 note.

(b) MAINTENANCE OF DOCUMENTATION.—Section 2(e)(7) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(7)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following:

“(E) MAINTENANCE OF DOCUMENTATION.—The Bank shall maintain documentation relating to economic impact

analyses and similar studies conducted under this subsection in a manner consistent with the Standards for Internal Control of the Federal Government issued by the Comptroller General of the United States.”.

**SEC. 13. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE GOVERNMENT ACCOUNTABILITY OFFICE.**

Not later than 180 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the implementation or rejection by the Bank of the recommendations contained in the report of the Government Accountability Office entitled “Export-Import Bank: Improvements Needed in Assessment of Economic Impact”, dated September 12, 2007 (GAO–07–1071), that includes—

- (1) a detailed description of the progress made in implementing each such recommendation; and
- (2) for any such recommendation that has not yet been implemented, an explanation of the reasons the recommendation has not been implemented.

**SEC. 14. EXAMINATION OF BANK SUPPORT FOR SMALL BUSINESS.**

Deadline.  
Reports.

Within 180 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall examine and report to Congress on its current programs, products, and policies with respect to the implementation of its export credit insurance program, delegated lending authority, and direct loans, and any other programs, products, and policies established to support exports from small businesses in the United States, and determine the extent to which those policies adequately meet the needs of the small businesses in obtaining Bank financing to support the maintenance or creation of jobs in the United States through exports, consistent with the requirement that the Bank obtain a reasonable assurance of repayment.

**SEC. 15. REVIEW AND REPORT ON DOMESTIC CONTENT POLICY.**

(a) **IN GENERAL.**—The Export-Import Bank of the United States shall conduct a review of its domestic content policy for medium- and long-term transactions. The review shall examine and evaluate the effectiveness of the Bank’s policy—

- (1) in maintaining and creating jobs in the United States; and
- (2) in contributing to a stronger national economy through the export of goods and services.

(b) **FACTORS TO CONSIDER.**—In conducting the review under subsection (a), the Bank shall consider the following:

- (1) Whether the domestic content policy accurately captures the costs of United States production of goods and services, including the direct and indirect costs of manufacturing costs, parts, components, materials and supplies, research, planning engineering, design, development, production, return on investment, marketing and other business costs and the effect of such policy on the maintenance and creation of jobs in the United States.

- (2) The ability of the Bank to provide financing that is competitive with the financing provided by foreign export credit agencies and the impact that such financing has in enabling

companies with operations in the United States to contribute to a stronger United States economy by increasing employment through the export of goods and services.

(3) The effects of the domestic content policy on the manufacturing and service workforce of the United States.

(4) Any recommendations the members of the Bank's Advisory Committee have regarding the Bank's domestic content policy.

(5) The effect that changes to the Bank's domestic content requirements would have in providing companies an incentive to create and maintain operations in the United States and to increase jobs in the United States.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Bank shall submit a report on the results of the review conducted under this section to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

**SEC. 16. IMPROVEMENT OF METHOD FOR CALCULATING THE EFFECTS OF BANK FINANCING ON JOB CREATION AND MAINTENANCE IN THE UNITED STATES.**

12 USC 635a–2  
note.

(a) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the process and methodology used by the Export-Import Bank of the United States (in this section referred to as the “Bank”) to calculate the effects of the provision of financing by the Bank on the creation and maintenance of employment in the United States, determine and assess the basis on which the Bank has so used the methodology, and make any recommendations the Comptroller General deems appropriate.

(b) REPORT.—Within 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Congress and the Bank the results of the study required by subsection (a).

(c) IMPLEMENTATION OF RECOMMENDATIONS.—If the report submitted pursuant to subsection (b) includes recommendations, the Bank may establish a more accurate methodology of the kind described in subsection (a) based on the recommendations.

**SEC. 17. PERIODIC AUDITS OF BANK TRANSACTIONS.**

12 USC 635a–6.

(a) IN GENERAL.—Within 2 years after the date of the enactment of this Act, and periodically (but not less frequently than every 4 years) thereafter, the Comptroller General of the United States shall conduct an audit of the loan and guarantee transactions of the Export-Import Bank of the United States to determine the compliance of the Bank with the underwriting guidelines, lending policies, due diligence procedures, and content guidelines of the Bank.

Deadline.  
Determination.

(b) REVIEW OF FRAUD CONTROLS.—The Comptroller General of the United States shall review the adequacy of the design and effectiveness of the controls used by the Export-Import Bank of the United States to prevent, detect, and investigate fraudulent applications for loans and guarantees, including by auditing a sample of Bank transactions, and submit to the Congress a written report which contains such recommendations with respect to the controls as the Comptroller General deems appropriate.

Reports.

12 USC 635 note. **SEC. 18. PROHIBITIONS ON FINANCING FOR CERTAIN PERSONS INVOLVED IN SANCTIONABLE ACTIVITIES WITH RESPECT TO IRAN.**

(a) **PROHIBITION ON FINANCING FOR PERSONS THAT ENGAGE IN CERTAIN SANCTIONABLE ACTIVITIES.—**

Effective date.

(1) **IN GENERAL.**—Beginning on the date that is 180 days after the date of the enactment of this Act, the Board of Directors of the Export-Import Bank of the United States may not approve any transaction that is subject to approval by the Board with respect to the provision by the Bank of any guarantee, insurance, or extension of credit, or the participation by the Bank in any extension of credit, to a person in connection with the exportation of any good or service unless the person makes the certification described in paragraph (2).

(2) **CERTIFICATION DESCRIBED.**—The certification described in this paragraph is a certification by a person—

(A) that neither the person nor any other person owned or controlled by the person—

(i) engages in any activity described in section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) for which the person may be subject to sanctions under that Act;

(ii) exports sensitive technology, as defined in section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8515), to Iran; or

(iii) engages in any activity prohibited by part 560 of title 31, Code of Federal Regulations (commonly known as the “Iranian Transactions Regulations”), unless the activity is disclosed to the Office of Foreign Assets Control of the Department of the Treasury when the activity is discovered; or

(B) if the person or any other person owned or controlled by the person has engaged in an activity described in subparagraph (A), that—

President.

(i) in the case of an activity described in subparagraph (A)(i)—

(I) the President has waived the imposition of sanctions with respect to the person that engaged in that activity pursuant to section 4(c), 6(b)(5), or 9(c) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note);

(II)(aa) the President has invoked the special rule described in section 4(e)(3) of that Act with respect to the person that engaged in that activity; or

(bb)(AA) the person that engaged in that activity determines, based on its best knowledge and belief, that the person meets the criteria described in subparagraph (A) of such section 4(e)(3) and has provided to the President the assurances described in subparagraph (B) of that section; and

(BB) the Secretary of State has issued an advisory opinion to that person that the person meets such criteria and has provided to the President those assurances; or

(III) the President has determined that the criteria have been met for the exception provided for under section 5(a)(3)(C) of the Iran Sanctions Act of 1996 to apply with respect to the person that engaged in that activity; or

(ii) in the case of an activity described in subparagraph (A)(ii), the President has waived, pursuant to section 401(b)(1) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(b)(1)), the application of the prohibition under section 106(a) of that Act (22 U.S.C. 8515(a)) with respect to that person.

(b) PROHIBITION ON FINANCING.—Beginning on the date that is 180 days after the date of the enactment of this Act, the Board of Directors of the Export-Import Bank of the United States may not approve any transaction that is subject to approval by the Board with respect to the provision by the Bank of any guarantee, insurance, or extension of credit, or the participation by the Bank in any extension of credit, in connection with a financing in which a person that is a borrower or controlling sponsor, or a person that is owned or controlled by such borrower or controlling sponsor, is subject to sanctions under section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note). Deadline.

(c) ADVISORY OPINIONS.—

(1) AUTHORITY.—The Secretary of State is authorized to issue advisory opinions described in subsection (a)(2)(B)(i)(II).

(2) NOTICE TO CONGRESS.—If the Secretary issues an advisory opinion pursuant to paragraph (1), the Secretary shall notify the appropriate congressional committees of the opinion not later than 30 days after issuing the opinion. Deadline.

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES; PERSON.—The terms “appropriate congressional committees” and “person” have the meanings given those terms in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(2) CONTROLLING SPONSOR.—The term “controlling sponsor” means a person providing controlling direct private equity investment (excluding investments made through publicly held investment funds, publicly held securities, public offerings, or similar public market vehicles) in connection with a financing.

#### SEC. 19. USE OF PORTION OF BANK SURPLUS TO UPDATE INFORMATION TECHNOLOGY SYSTEMS.

Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is amended by adding at the end the following:

“(j) AUTHORITY TO USE PORTION OF BANK SURPLUS TO UPDATE INFORMATION TECHNOLOGY SYSTEMS.—

“(1) IN GENERAL.—Subject to paragraphs (3) and (4), the Bank may use an amount equal to 1.25 percent of the surplus of the Bank during fiscal years 2012, 2013, and 2014 to—

“(A) seek to remedy any of the operational weakness and risk management vulnerabilities of the Bank which are the result of the information technology system of the Bank;

“(B) remedy data fragmentation, enhance information flow throughout the Bank, and manage data across the Bank; and

“(C) enhance the operational capacity and risk management capabilities of the Bank to better enable the Bank to increase exports and grow jobs while protecting the taxpayer.

Definition.

“(2) SURPLUS.—In paragraph (1), the term ‘surplus’ means the amount (if any) by which—

“(A) the sum of the interest and fees collected by the Bank; exceeds

“(B) the sum of—

“(I) the funds set aside to cover expected losses on transactions financed by the Bank; and

“(ii) the costs incurred to cover the administrative expenses of the Bank.

“(3) LIMITATION.—The aggregate of the amounts used in accordance with paragraph (1) for fiscal years 2012, 2013, and 2014 shall not exceed \$20,000,000.

“(4) SUBJECT TO APPROPRIATIONS.—The authority provided by paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriations Acts.”.

#### **SEC. 20. MODIFICATIONS RELATING TO THE ADVISORY COMMITTEE.**

(a) REPRESENTATION OF THE TEXTILE INDUSTRY.—Section 3(d)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(1)(B)) is amended by striking “and State government” inserting “State government, and the textile industry”.

(b) ACCESS TO BANK PRODUCTS BY THE TEXTILE INDUSTRY.—

(1) CONSIDERATION BY ADVISORY COMMITTEE.—Section 3(d) of such Act (12 U.S.C. 635a(d)) is amended by adding at the end the following:

“(5) In carrying out paragraph (4), the Advisory Committee shall consider ways to promote the financing of Bank transactions for the textile industry, consistent with the requirement that the Bank obtain a reasonable assurance of repayment, and determine ways to—

“(A) increase Bank support for the exports of textile components or inputs made in the United States; and

“(B) support the maintenance, promotion and expansion of jobs in the United States that are critical to the manufacture of textile components and inputs.”.

(2) ANNUAL REPORT TO CONGRESS ON ADVISORY COMMITTEE DETERMINATIONS.—Section 8 of such Act (12 U.S.C. 635g), as amended by sections 6 and 10 of this Act, is amended by adding at the end the following:

Reports.

“(i) ACCESS TO BANK PRODUCTS BY THE TEXTILE INDUSTRY.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a report on the determinations made by the Advisory Committee under section 3(d)(5) in the year covered by the report.”.

#### **SEC. 21. FINANCING FOR GOODS MANUFACTURED IN THE UNITED STATES USED IN GLOBAL TEXTILE AND APPAREL SUPPLY CHAINS.**

Study.

(a) ANALYSIS OF TEXTILE INDUSTRY USE OF BANK PRODUCTS.—The Export-Import Bank of the United States (in this section



referred to as the “Bank”) shall conduct a study of the extent to which the products offered by the Bank are available and used by manufacturers in the United States that export goods manufactured in the United States used as components in global textile and apparel supply chains. In conducting the study, the Bank shall examine the following:

(1) Impediments to use of Bank products by such firms.

(2) The number of jobs in the United States that are supported by the export of such component parts and the degree to which access to financing will increase exports.

(3) Specific proposals for how the Bank, using its authority and products, could provide the financing, including through risk-sharing with other export credit agencies and other third parties.

(4) Ways in which the Bank can take into account the full global textile and apparel supply chain—in particular, the ultimate purchase, and ultimate United States-based purchaser, of the finished good, that would result from the supply chain—in making credit and risk determinations and the creditworthiness of the ultimate purchaser.

(5) Proposals for new products the Bank could offer to provide the financing, including—

(A) the extent to which the Bank is authorized to offer new products;

(B) the extent to which the Bank would need additional authority to offer the new products; and

(C) specific proposals for changes in law that would enable the Bank to provide such financing in compliance with the credit and risk standards of the Bank.

(b) REPORT.—Within 180 days after the date of the enactment of this Act, the Bank shall submit to the Congress a report that contains the results of the study required by subsection (a).

(c) ANNUAL REPORTS.—Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g), as amended by sections 6, 10, and 20(b)(2) of this Act, is amended by adding at the end the following:

“(j) TEXTILE AND APPAREL SUPPLY CHAIN FINANCING.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a description of the success of the Bank in providing effective and reasonably priced financing to the United States textile and apparel industry for exports of goods manufactured in the United States that are used as components in global textile and apparel supply chains in the year covered by the report, and steps the Bank has taken to increase the use of Bank products by such firms.”.

## SEC. 22. TECHNICAL CORRECTION.

Section 2(b)(2)(B)(ii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)(B)(ii)) is amended by striking subclauses (I), (IV), and (VII) and by redesignating subclauses (II), (III), (V), (VI), (VIII), and (IX) as subclauses (I) through (VI), respectively.

## SEC. 23. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.

Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking “2011” and inserting “2014”.

**SEC. 24. DUAL USE EXPORTS.**

Section 4 of Public Law 109–438 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking “2011” and inserting “2014”.

12 USC 635 note.

**SEC. 25. EFFECTIVE DATE.**

Except as provided in section 9(b), this Act and the amendments made by this Act shall take effect on the earlier of June 1, 2012, or the date of the enactment of this Act.

Approved May 30, 2012.

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**LEGISLATIVE HISTORY—H.R. 2072:**

HOUSE REPORTS: No. 112–201 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 9, considered and passed House.

May 15, considered and passed Senate.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2012):

May 30, Presidential remarks.



Public Law 112–123  
112th Congress

An Act

To extend the National Flood Insurance Program, and for other purposes.

May 31, 2012

[H.R. 5740]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF THE NATIONAL FLOOD INSURANCE PROGRAM.**

(a) **PROGRAM EXTENSION.**—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking “the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012” and inserting “July 31, 2012”.

(b) **FINANCING.**—Section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amended by striking “the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012” and inserting “July 31, 2012”.

**SEC. 2. EXCLUSION OF VACATION HOMES AND SECOND HOMES FROM RECEIVING SUBSIDIZED PREMIUM RATES.**

(a) **IN GENERAL.**—Section 1307(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)(2)) is amended by inserting before “; and” the following: “, except that the Administrator shall not estimate rates under this paragraph for any residential property which is not the primary residence of an individual”.

(b) **PHASE-OUT OF SUBSIDIZED PREMIUM RATES.**—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended—

(1) by striking “under this title for any properties within any single” and inserting the following: “under this title for—  
“(1) any properties within any single”; and

(2) by striking the period at the end and inserting the following: “; and

“(2) any residential properties which are not the primary residence of an individual, as described in section 1307(a)(2), shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (1).”.

(c) **EFFECTIVE DATE.**—The first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual under section 1308(e)(2) of the National Flood Insurance Act of 1968, as added by this Act, shall take effect on July 1, 2012, and the chargeable risk premium rates

42 USC 4015  
note.

for such properties shall be increased by 25 percent each year thereafter, as provided in such section 1308(e)(2).

**SEC. 3. COMPLIANCE WITH PAYGO.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Approved May 31, 2012.

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**LEGISLATIVE HISTORY—H.R. 5740:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 16, 17, considered and passed House.

May 24, considered and passed Senate, amended.

May 30, House concurred in Senate amendment.



Public Law 112–124  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 11 Dock Street in Pittston, Pennsylvania, as the “Trooper Joshua D. Miller Post Office Building”.

June 5, 2012  
[H.R. 2415]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TROOPER JOSHUA D. MILLER POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 11 Dock Street in Pittston, Pennsylvania, shall be known and designated as the “Trooper Joshua D. Miller Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Trooper Joshua D. Miller Post Office Building”.

Approved June 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 2415:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Nov. 14, 16, considered and passed House.  
Vol. 158 (2012): May 17, considered and passed Senate.



Public Law 112–125  
112th Congress

An Act

June 5, 2012  
[H.R. 3220]

To designate the facility of the United States Postal Service located at 170 Evergreen Square SW in Pine City, Minnesota, as the “Master Sergeant Daniel L. Fedder Post Office”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MASTER SERGEANT DANIEL L. FEDDER POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 170 Evergreen Square SW in Pine City, Minnesota, shall be known and designated as the “Master Sergeant Daniel L. Fedder Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Master Sergeant Daniel L. Fedder Post Office”.

Approved June 5, 2012.

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LEGISLATIVE HISTORY—H.R. 3220:

CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 12, considered and passed House.

Vol. 158 (2012): May 17, considered and passed Senate.



Public Law 112–126  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the “Private Isaac T. Cortes Post Office”.

June 5, 2012  
[H.R. 3413]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PRIVATE ISAAC T. CORTES POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, shall be known and designated as the “Private Isaac T. Cortes Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Private Isaac T. Cortes Post Office”.

Approved June 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 3413:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Mar. 5, considered and passed House.

May 17, considered and passed Senate.



Public Law 112–127  
112th Congress

An Act

June 5, 2012  
[H.R. 4119]

To reduce the trafficking of drugs and to prevent human smuggling across the Southwest Border by deterring the construction and use of border tunnels.

Border Tunnel  
Prevention Act of  
2012.  
18 USC 1 note.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Border Tunnel Prevention Act of 2012”.

18 USC 555 note.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Trafficking and smuggling organizations are intensifying their efforts to enter the United States through tunnels and other subterranean passages between Mexico and the United States.

(2) Border tunnels are most often used to transport narcotics from Mexico to the United States, but can also be used to transport people and other contraband.

(3) From Fiscal Year 1990 to Fiscal Year 2011, law enforcement authorities discovered 149 cross-border tunnels along the border between Mexico and the United States, 139 of which have been discovered since Fiscal Year 2001. There has been a dramatic increase in the number of cross-border tunnels discovered in Arizona and California since Fiscal Year 2006, with 40 tunnels discovered in California and 74 tunnels discovered in Arizona.

(4) Section 551 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295) added a new section to title 18, United States Code (18 U.S.C. 555), which—

(A) criminalizes the construction or financing of an unauthorized tunnel or subterranean passage across an international border into the United States; and

(B) prohibits any person from recklessly permitting others to construct or use an unauthorized tunnel or subterranean passage on the person’s land.

(5) Any person convicted of using a tunnel or subterranean passage to smuggle aliens, weapons, drugs, terrorists, or illegal goods is subject to an enhanced sentence for the underlying offense. Additional sentence enhancements would further deter tunnel activities and increase prosecutorial options.



**SEC. 3. ATTEMPT OR CONSPIRACY TO USE, CONSTRUCT, OR FINANCE  
A BORDER TUNNEL.**

Section 555 of title 18, United States Code, is amended by adding at the end the following:

“(d) Any person who attempts or conspires to commit any offense under subsection (a) or subsection (c) of this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.”.

**SEC. 4. AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.**

Section 2516(1)(c) of title 18, United States Code, is amended by inserting “, section 555 (relating to construction or use of international border tunnels)” before the semicolon at the end.

**SEC. 5. FORFEITURE.**

Section 982(a)(2)(B) of title 18, United States Code, is amended by inserting “555,” after “545,”.

**SEC. 6. MONEY LAUNDERING DESIGNATION.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting “section 555 (relating to border tunnels),” after “section 554 (relating to smuggling goods from the United States),”.

**SEC. 7. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) success in combating the construction and use of cross-border tunnels requires cooperation between Federal, State, local, and tribal officials and assistance from private land owners and tenants across the border between Mexico and the United States;

(2) the Department of Homeland Security is currently engaging in outreach efforts in California to certain landowners and tenants along the border to educate them about cross-border tunnels and seek their assistance in combating their construction; and

(3) the Department should continue its outreach efforts to both private and governmental landowners and tenants in areas along the border between Mexico and the United States with a high rate of cross-border tunnels.

**SEC. 8. REPORT.**

6 USC 257.

(a) **IN GENERAL.**—The Secretary of Homeland Security shall submit an annual report to the congressional committees set forth in subsection (b) that includes a description of—

Deadline.

(1) the cross-border tunnels along the border between Mexico and the United States discovered during the preceding fiscal year; and

(2) the needs of the Department of Homeland Security to effectively prevent, investigate and prosecute border tunnel construction along the border between Mexico and the United States.

(b) **CONGRESSIONAL COMMITTEES.**—The congressional committees set forth in this subsection are—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

(2) the Committee on the Judiciary of the Senate;

- (3) the Committee on Appropriations of the Senate;
- (4) the Committee on Homeland Security of the House of Representatives;
- (5) the Committee on the Judiciary of the House of Representatives; and
- (6) the Committee on Appropriations of the House of Representatives.

Approved June 5, 2012.

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LEGISLATIVE HISTORY—H.R. 4119 (S. 1236):

HOUSE REPORTS: No. 112–418, Pt. 1 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 15, 16, considered and passed House.

May 17, considered and passed Senate.



Public Law 112–128  
112th Congress

An Act

To direct the Secretary of the Interior to issue commercial use authorizations to commercial stock operators for operations in designated wilderness within the Sequoia and Kings Canyon National Parks, and for other purposes.

June 5, 2012

[H.R. 4849]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Sequoia and King Canyon National Parks Backcountry Access Act”.

Sequoia and King  
Canyon National  
Parks  
Backcountry  
Access Act.

**SEC. 2. COMMERCIAL SERVICES AUTHORIZATIONS IN WILDERNESS  
WITHIN THE SEQUOIA AND KINGS CANYON NATIONAL  
PARKS.**

(a) CONTINUATION OF AUTHORITY.—Until the date on which the Secretary of the Interior (referred to in this Act as the “Secretary”) completes any analysis and determination required under the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary shall continue to issue authorizations to provide commercial services for commercial stock operations (including commercial use authorizations and concession contracts) within any area designated as wilderness in the Sequoia and Kings Canyon National Parks (referred to in this section as the “Parks”) at use levels determined by the Secretary to be appropriate and subject to any terms and conditions that the Secretary determines to be appropriate.

Analysis.  
Determination.

(b) WILDERNESS STEWARDSHIP PLAN.—Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a wilderness stewardship plan with respect to the Parks.

Deadline.

(c) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue authorizations under subsection (a) shall terminate on the earlier of—

(1) the date on which the Secretary begins to issue authorizations to provide commercial services for commercial stock operations within any areas designated as wilderness in the Parks, as provided in a record of decision issued in accordance with a wilderness stewardship plan completed under subsection (b); or

(2) the date that is 4 years after the date of enactment of this Act.

Approved June 5, 2012.

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LEGISLATIVE HISTORY—H.R. 4849:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Apr. 27, considered and passed House.

May 17, considered and passed Senate, amended.

May 18, House concurred in Senate amendment.



Public Law 112–129  
112th Congress

An Act

To provide for the release of the reversionary interest held by the United States in certain land conveyed by the United States in 1950 for the establishment of an airport in Cook County, Minnesota.

June 8, 2012  
[H.R. 2947]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RELEASE OF REVERSIONARY INTEREST AND USE CONDITIONS, COOK COUNTY AIRPORT, COOK COUNTY, MINNESOTA.**

(a) **RELEASE OF REVERSIONARY INTEREST REQUIRED.**—The Secretary of Agriculture, acting on behalf of the United States, shall release, without consideration—

(1) the conditions imposed on the use of the parcel of land originally conveyed by the Secretary pursuant to section 16 of the Federal Airport Act (Act of May 13, 1946, ch. 251, 60 Stat. 170) to the State of Minnesota by deed executed May 31, 1950, for the establishment of an airport in Cook County, Minnesota; and

(2) the reversionary interest retained by the United States in connection with such conditions.

(b) **INSTRUMENT OF RELEASE.**—The Secretary of Agriculture shall execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument reflecting the release of the reversionary interest and conditions under subsection (a).

Approved June 8, 2012.

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**LEGISLATIVE HISTORY—H.R. 2947:**

HOUSE REPORTS: No. 112–441 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Apr. 24, considered and passed House.

May 24, considered and passed Senate.



Public Law 112–130  
112th Congress

An Act

June 8, 2012  
[H.R. 3992]

To allow otherwise eligible Israeli nationals to receive E–2 nonimmigrant visas if similarly situated United States nationals are eligible for similar nonimmigrant status in Israel.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

8 USC 1101 note.

**SECTION 1. NONIMMIGRANT TRADERS AND INVESTORS FROM ISRAEL.**

Israel shall be deemed to be a foreign state described in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)) for purposes of clauses (i) and (ii) of such section if the Government of Israel provides similar nonimmigrant status to nationals of the United States.

Approved June 8, 2012.

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**LEGISLATIVE HISTORY—H.R. 3992:**

HOUSE REPORTS: No. 112–410 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Mar. 19, considered and passed House.

May 24, considered and passed Senate.



Public Law 112–131  
112th Congress

An Act

To amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

June 8, 2012  
[H.R. 4097]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “John F. Kennedy Center Reauthorization Act of 2012”.

John F. Kennedy  
Center  
Reauthorization  
Act of 2012.  
20 USC 76h note.

**SEC. 2. EXPANSION PROJECT FOR JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.**

Section 3 of the John F. Kennedy Center Act (20 U.S.C. 76i) is amended by adding at the end the following:

“(c) EXPANSION PROJECT.—

“(1) AUTHORITY TO CONSTRUCT.—

“(A) IN GENERAL.—Subject to the requirements of this subsection, the Board may undertake such activities as may be necessary to construct the expansion project.

“(B) RESPONSIBILITIES OF THE BOARD.—The Board may construct the expansion project, and shall be responsible for the planning, design, engineering, and construction of the expansion project.

“(C) LIMITATIONS.—

“(i) MISSION.—All activities carried out under this paragraph shall be within the mission of the John F. Kennedy Center for the Performing Arts to serve as the national center for the performing arts.

“(ii) FUNDING.—The costs of planning, design, engineering, and construction of the expansion project shall be paid for using nonappropriated funds.

“(2) ANNUAL OPERATIONS AND MAINTENANCE COSTS.—

“(A) ESTIMATES.—Before awarding a contract for construction of the expansion project, the Board shall estimate any additional annual operations and maintenance costs (or savings) associated with the project.

“(B) BUDGET REQUESTS.—The Board shall account for any additional costs identified under subparagraph (A) in making a budget request for fiscal year 2014 and each fiscal year thereafter.

“(C) BUDGET PRIORITIES.—The Board shall base a final determination on whether to proceed with the expansion project on the ability of the Board to accommodate any additional costs identified under subparagraph (A) within the other budget priorities of the Board.

“(3) **ACKNOWLEDGMENTS.**—The Board may acknowledge private contributions used in carrying out the expansion project in the interior of the project, but may not acknowledge such private contributions on the exterior of the project. Any acknowledgment of private contributions under this paragraph shall be consistent with the requirements of section 4(b).

“(4) **EXPANSION PROJECT DEFINED.**—In this subsection, the term ‘expansion project’ means an addition to the south end of the building of the John F. Kennedy Center for the Performing Arts that—

“(A) is less than 100,000 square feet;

“(B) will improve the existing (as of the date of enactment of this subsection) accessibility and education functions of the Center; and

“(C) will become part of the existing (as of the date of enactment of this subsection) structure of the Center.”.

### **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

Section 13 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended by striking subsections (a) and (b) and inserting the following:

“(a) **MAINTENANCE, REPAIR, AND SECURITY.**—There is authorized to be appropriated to the Board to carry out section 4(a)(1)(H) \$22,379,000 for each of fiscal years 2013 and 2014.

“(b) **CAPITAL PROJECTS.**—There is authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1) \$13,588,000 for each of fiscal years 2013 and 2014.”.

Approved June 8, 2012.

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#### **LEGISLATIVE HISTORY—H.R. 4097:**

HOUSE REPORTS: No. 112–457 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 7, considered and passed House.

May 23, considered and passed Senate.





Public Law 112–132  
112th Congress

An Act

To allow the Chief of the Forest Service to award certain contracts for large  
air tankers.

June 13, 2012  
[S. 3261]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. WAIVER.**

Notwithstanding the last sentence of section 3903(d) of title 41, United States Code, the Chief of the Forest Service may award contracts pursuant to Solicitation Number AG–024B–S–11–9009 for large air tankers earlier than the end of the 30-day period beginning on the date of the notification required under the first sentence of section 3903(d) of that title. Time period.

Approved June 13, 2012.

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**LEGISLATIVE HISTORY—S. 3261:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 7, considered and passed Senate.

June 8, considered and passed House.



Public Law 112–133  
112th Congress

An Act

June 15, 2012

[S. 292]

Salmon Lake  
Land Selection  
Resolution Act.

To resolve the claims of the Bering Straits Native Corporation and the State of Alaska to land adjacent to Salmon Lake in the State of Alaska and to provide for the conveyance to the Bering Straits Native Corporation of certain other public land in partial satisfaction of the land entitlement of the Corporation under the Alaska Native Claims Settlement Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Salmon Lake Land Selection Resolution Act”.

**SEC. 2. PURPOSE.**

The purpose of this Act is to ratify the Salmon Lake Area Land Ownership Consolidation Agreement entered into by the United States, the State of Alaska, and the Bering Straits Native Corporation.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **AGREEMENT.**—The term “Agreement” means the document between the United States, the State, and the Bering Straits Native Corporation that—

(A) is entitled the “Salmon Lake Area Land Ownership Consolidation Agreement”;

(B) had an initial effective date of July 18, 2007; and

(C) is on file with Department of the Interior, the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives.

(2) **BERING STRAITS NATIVE CORPORATION.**—The term “Bering Straits Native Corporation” means an Alaskan Native Regional Corporation formed under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the Bering Straits region of the State.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(4) **STATE.**—The term “State” means the State of Alaska.

**SEC. 4. RATIFICATION AND IMPLEMENTATION OF AGREEMENT.**

(a) **IN GENERAL.**—Subject to the provisions of this Act, Congress ratifies the Agreement.

(b) **EASEMENTS.**—The conveyance of land to the Bering Straits Native Corporation, as specified in the Agreement, shall include the reservation of the easements that—

(1) are identified in Appendix E to the Agreement; and  
(2) were developed by the parties to the Agreement in accordance with section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)).

(c) CORRECTIONS.—Beginning on the date of enactment of this Act, the Secretary, with the consent of the other parties to the Agreement, may only make typographical or clerical corrections to the Agreement and any exhibits to the Agreement. Effective date.

(d) AUTHORIZATION.—The Secretary shall carry out all actions required by the Agreement.

Approved June 15, 2012.

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LEGISLATIVE HISTORY—S. 292:

HOUSE REPORTS: No. 112–428 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–52 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Oct. 18, considered and passed Senate.

Vol. 158 (2012): June 5, 6, considered and passed House.



Public Law 112–134  
112th Congress

An Act

June 15, 2012  
[S. 363]

To authorize the Secretary of Commerce to convey property of the National Oceanic and Atmospheric Administration to the City of Pascagoula, Mississippi, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXCHANGE OF NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION PROPERTY IN PASCAGOULA, MIS-  
SISSIPPI.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary of Commerce determines that it is in the best interest of the National Oceanic and Atmospheric Administration and the Federal Government to do so, the Secretary may convey to the City of Pascagoula, Mississippi, by standard quitclaim deed, real property consisting of parcels, or portions of parcels, under the administrative jurisdiction of the Under Secretary for Oceans and Atmosphere, including land and improvements thereon, within a tract roughly bounded by—

- (1) Delmas Avenue to the south;
- (2) Pascagoula River to the west;
- (3) Pol Street to the north; and
- (4) real property owned by the City of Pascagoula to the east.

(b) CONSIDERATION.—

(1) IN GENERAL.—For a conveyance under subsection (a), the Secretary shall require that the United States receive consideration of not less than the fair market value of the property or rights conveyed.

(2) FORM.—Consideration under this subsection may include any combination of—

(A) property (either real or personal), including tracts of real property and buildings, owned by the City of Pascagoula, that are located in such city south of Delmas Avenue, as well as a contiguous portion of the street known as Delmas Avenue adjacent to real property under the administrative jurisdiction of the Under Secretary for Oceans and Atmosphere;

(B) cash or cash equivalents; and

(C) consideration in-kind, including—

(i) provision of space, goods, or services of benefit, including construction, repair, remodeling, or other physical improvements;

(ii) maintenance of property;

(iii) provision of office, storage, or other useable space; or

(iv) relocation services associated with conveyance of property under this section.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine fair market value for purposes of paragraph (1) based on a highest- and best-use appraisal of the properties conveyed under subsection (a) conducted in conformance with the Uniform Appraisal Standards for Professional Appraisal Practice.

(c) USE OF PROCEEDS.—Any amounts received under subsection (b)(2)(A) by the United States as proceeds of any conveyance under this section shall be available to the Secretary, subject to appropriation, for activities related to the operations of, or capital improvements to, property of the Administration.

(d) ADDITIONAL TERMS AND CONDITIONS.—

(1) IN GENERAL.—The Secretary may require such additional terms and conditions with the exchange of property by the United States under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

(2) EASEMENTS OR RIGHTS OF WAY.—The Secretary may grant or convey to the City of Pascagoula a right of way or easement if the Secretary determines such grant or conveyance is in the best interest of the Administration and the Federal Government.

Approved June 15, 2012.

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LEGISLATIVE HISTORY—S. 363:

HOUSE REPORTS: No. 112–502 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–133 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Nov. 10, considered and passed Senate.

Vol. 158 (2012): June 5, 6, considered and passed House.



Public Law 112–135  
112th Congress

An Act

June 21, 2012

[H.R. 5883]

To make a technical correction in Public Law 112–108.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTION.**

*Ante*, p. 329.

(a) IN GENERAL.—Public Law 112–108 is amended by striking  
“115 4th” and inserting “208 1st”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)  
shall take effect as if included in the enactment of Public Law  
112–108.

Approved June 21, 2012.

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LEGISLATIVE HISTORY—H.R. 5883:

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 5, considered and passed House.

June 7, considered and passed Senate.



Public Law 112–136  
112th Congress

An Act

To correct a technical error in Public Law 112–122.

June 21, 2012  
[H.R. 5890]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTION.**

Section 24 of Public Law 112–122 is amended by striking “4 of Public Law 109–438” and inserting “1(c) of Public Law 103–428”. *Ante*, p. 364.

Approved June 21, 2012.

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**LEGISLATIVE HISTORY—H.R. 5890:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 5, considered and passed House.

June 7, considered and passed Senate.



Public Law 112–137  
112th Congress

An Act

June 27, 2012

[S. 404]

Michigan.

To modify a land grant patent issued by the Secretary of the Interior.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds that—

(1) pursuant to section 5505 of division A of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–516), the Secretary of the Interior, acting through the Bureau of Land Management, issued to the Great Lakes Shipwreck Historical Society located in Chippewa County of the State of Michigan United States Patent Number 61–98–0040 on September 23, 1998;

(2) United States Patent Number 61–98–0040 was recorded in the Office of the Register of Deeds of Chippewa County of the State of Michigan, on January 22, 1999, at Liber 757, on pages 115 through 118;

(3) in order to correct an error in United States Patent Number 61–98–0040, the Secretary issued a corrected patent, United States Patent Number 61–2000–0007, on March 10, 2000;

(4) after issuance of the corrected United States Patent Number 61–2000–0007, the original United States Patent Number 61–98–0040 was cancelled on the records of the Bureau of Land Management; and

(5) corrected United States Patent Number 61–2000–0007 should be modified in accordance with this Act—

(A) to effectuate—

(i) the Human Use/Natural Resource Plan for Whitefish Point, dated December 2002; and

(ii) the settlement agreement dated July 16, 2001, filed in Docket Number 2:00–CV–206 in the United States District Court for the Western District of Michigan; and

(B) to ensure a clear chain of title, recorded in the Office of the Register of Deeds of Chippewa County of the State of Michigan.

**SEC. 2. MODIFICATION OF LAND GRANT PATENT ISSUED BY SECRETARY OF THE INTERIOR.**

(a) IN GENERAL.—The Secretary of the Interior shall modify the matter under the heading “Subject Also to the Following Conditions” of paragraph 6 of United States Patent Number 61–2000–0007 by striking “Whitefish Point Comprehensive Plan of October



1992 or for a gift shop” and inserting “Human Use/Natural Resource Plan for Whitefish Point, dated December 2002”.

(b) EFFECT.—Each other term of the conveyance relating to the property that is the subject of United States Patent Number 61–2000–0007, including each obligation to maintain the property in accordance with the National Historic Preservation Act (16 U.S.C. 470 et seq.) and any other appropriate law (including regulations), and the obligation to use the property in a manner that does not impair or interfere with the conservation values of the property, shall remain in effect.

**SEC. 3. EFFECTIVE DATE.**

(a) IN GENERAL.—The modification of United States Patent Number 61–2000–0007 in accordance with section 2 shall become effective on the date of the recording of the modification in the Office of the Register of Deeds of Chippewa County of the State of Michigan.

(b) ENDORSEMENT.—The Office of the Register of Deeds of Chippewa County of the State of Michigan is requested to endorse on the recorded copy of United States Patent Number 61–2000–0007 the fact that the Patent Number has been modified in accordance with this Act.

Approved June 27, 2012.

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**LEGISLATIVE HISTORY—S. 404:**

HOUSE REPORTS: No. 112–433 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–56 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Oct. 18, considered and passed Senate.

Vol. 158 (2012): June 18, considered and passed House.



Public Law 112–138  
112th Congress

An Act

June 27, 2012  
[S. 684]

To provide for the conveyance of certain parcels of land to the town of Alta,  
Utah.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. CONVEYANCE.**

(a) **DEFINITIONS.**—In this Act:

(1) **NATIONAL FOREST SYSTEM LAND.**—The term “National Forest System land” means the parcels of National Forest System land that—

(A) are located—

(i) in sec. 5, T. 3 S., R. 3 E., Salt Lake meridian;

(ii) in, and adjacent to, parcels of land subject to special use permit SLC102708, the authority of which expires on December 30, 2026;

(iii) in the Wasatch-Cache National Forest in Salt Lake County, Utah; and

(iv) in the incorporated boundary of the town of Alta, Utah; and

(B) consist of approximately 2 acres (including appurtenances).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(3) **TOWN.**—The term “Town” means the town of Alta, Utah.

(b) **CONVEYANCE.**—On the request of the Town submitted to the Secretary by the date that is not later than 1 year after the date of enactment of this Act, the Secretary shall convey to the Town, without consideration, all right, title, and interest of the United States in and to the National Forest System land.

(c) **SURVEY; COSTS.**—

(1) **IN GENERAL.**—In accordance with paragraphs (2) and (3), the exact acreage and legal description of the National Forest System land shall be determined by a survey approved by the Secretary.

(2) **MAXIMUM AREA.**—The acreage of the National Forest System land determined under paragraph (1) may not exceed 2 acres.

(3) **COSTS.**—The Town shall pay the reasonable survey and other administrative costs associated with the conveyance.

(d) **USE OF NATIONAL FOREST SYSTEM LAND.**—As a condition of the conveyance under subsection (b), the Town shall use the National Forest System land only for public purposes.

(e) **REVERSIONARY INTEREST.**—In the deed to the Town, the Secretary shall provide that the National Forest System land shall

revert to the Secretary, at the election of the Secretary based on the best interests of the United States, if the National Forest System land is used for a purpose other than a public purpose.

(f) ADDITIONAL TERMS AND CONDITIONS.—With respect to the conveyance under subsection (b), the Secretary may require such additional terms and conditions as the Secretary determines to be appropriate to protect the interests of the United States.

Approved June 27, 2012.

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LEGISLATIVE HISTORY—S. 684:

HOUSE REPORTS: No. 112–434 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–61 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Nov. 2, considered and passed Senate.

Vol. 158 (2012): June 18, considered and passed House.



Public Law 112–139  
112th Congress

An Act

June 27, 2012  
[S. 997]

To authorize the Secretary of the Interior to extend a water contract between the United States and the East Bench Irrigation District.

East Bench  
Irrigation  
District Water  
Contract  
Extension Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “East Bench Irrigation District Water Contract Extension Act”.

**SEC. 2. AUTHORITY TO EXTEND WATER CONTRACT.**

The Secretary of the Interior may extend the contract for water services between the United States and the East Bench Irrigation District, numbered 14–06–600–3593, until the earlier of—

(1) the date that is 4 years after the date on which the contract would have expired if this Act had not been enacted; or

(2) the date on which a new long-term contract is executed by the parties to the contract.

Approved June 27, 2012.

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**LEGISLATIVE HISTORY—S. 997:**

HOUSE REPORTS: No. 112–527 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–65 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Nov. 2, considered and passed Senate.

Vol. 158 (2012): June 18, considered and passed House.



Public Law 112–140  
112th Congress

An Act

To provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs.

June 29, 2012  
[H.R. 6064]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; RECONCILIATION OF FUNDS; SPECIAL RULE FOR EXECUTION OF AMENDMENTS IN MAP–21; TABLE OF CONTENTS.**

Temporary  
Surface  
Transportation  
Extension Act  
of 2012.

(a) **SHORT TITLE.**—This Act may be cited as the “Temporary Surface Transportation Extension Act of 2012”.

23 USC 101 note.

(b) **RECONCILIATION OF FUNDS.**—The Secretary of Transportation shall reduce the amount apportioned or allocated for a program, project, or activity under this Act in fiscal year 2012 by amounts apportioned or allocated for the program, project, or activity pursuant to the Surface Transportation Extension Act of 2012 (Public Law 112–102) for the period beginning on October 1, 2011, and ending on June 30, 2012.

(c) **SPECIAL RULE FOR EXECUTION OF AMENDMENTS IN MAP–21.**—On the date of enactment of the MAP–21—

23 USC 101 note.  
Termination  
date.

(1) this Act and the amendments made by this Act shall cease to be effective;

(2) the text of the laws amended by this Act shall revert back so as to read as the text read on the day before the date of enactment of this Act; and

(3) the amendments made by the MAP–21 shall be executed as if this Act had not been enacted.

(d) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; reconciliation of funds; special rule for execution of amendments in MAP–21; table of contents.

**TITLE I—FEDERAL-AID HIGHWAYS**

Sec. 101. Extension of Federal-aid highway programs.

**TITLE II—EXTENSION OF HIGHWAY SAFETY PROGRAMS**

Sec. 201. Extension of National Highway Traffic Safety Administration highway safety programs.

Sec. 202. Extension of Federal Motor Carrier Safety Administration programs.

Sec. 203. Additional programs.

**TITLE III—PUBLIC TRANSPORTATION PROGRAMS**

Sec. 301. Allocation of funds for planning programs.

Sec. 302. Special rule for urbanized area formula grants.

Sec. 303. Allocating amounts for capital investment grants.

Sec. 304. Apportionment of formula grants for other than urbanized areas.

Sec. 305. Apportionment based on fixed guideway factors.  
 Sec. 306. Authorizations for public transportation.  
 Sec. 307. Amendments to SAFETEA–LU.

#### TITLE IV—HIGHWAY TRUST FUND EXTENSION

Sec. 401. Extension of trust fund expenditure authority.  
 Sec. 402. Extension of highway-related taxes.

#### TITLE V—STUDENT LOANS

Sec. 501. Temporary authority.

## TITLE I—FEDERAL-AID HIGHWAYS

### SEC. 101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) IN GENERAL.—Section 111 of the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 343) is amended—

(1) by striking “the period beginning on October 1, 2011, and ending on June 30, 2012,” each place it appears and inserting “the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(2) by striking “ $\frac{3}{4}$ ” each place it appears and inserting “ $\frac{280}{366}$ ”; and

(3) in subsection (a) by striking “June 30, 2012” and inserting “July 6, 2012”.

(b) USE OF FUNDS.—Section 111(c)(3)(B)(ii) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended by striking “\$479,250,000” and inserting “\$485,640,000”.

(c) EXTENSION OF AUTHORIZATIONS UNDER TITLE V OF SAFETEA–LU.—Section 111(e)(2) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended by striking “the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(d) ADMINISTRATIVE EXPENSES.—Section 112(a) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 346) is amended by striking “\$294,641,438 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$314,493,723 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(e) SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.—

(1) IN GENERAL.—Section 327(i)(1) of title 23, United States Code, is amended by striking “the date that is 7 years after the date of enactment of this section” and inserting “September 30, 2012”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 101 of the Surface Transportation Extension Act of 2012 and shall not be subject to the special rule in section 1(c) of this Act.

## TITLE II—EXTENSION OF HIGHWAY SAFETY PROGRAMS

### SEC. 201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is amended by striking “\$235,000,000 for each of fiscal years 2009 through 2011, and \$176,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$235,000,000 for each of fiscal years 2009 through 2011, and \$178,600,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of SAFETEA–LU (119 Stat. 1519) is amended by striking “\$108,244,000 for fiscal year 2011, and \$81,183,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$108,244,000 for fiscal year 2011, and \$82,265,440 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2001(a)(3) of SAFETEA–LU (119 Stat. 1519) is amended by striking “\$25,000,000 for each of fiscal years 2006 through 2011, and \$18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$25,000,000 for each of fiscal years 2006 through 2011, and \$19,000,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(d) SAFETY BELT PERFORMANCE GRANTS.—Section 2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amended by striking “\$124,500,000 for fiscal year 2011, and \$36,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$124,500,000 for fiscal year 2011, and \$36,860,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU (119 Stat. 1519) is amended by striking “\$34,500,000 for each of fiscal years 2006 through 2011 and \$25,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$34,500,000 for each of fiscal years 2006 through 2011 and \$26,220,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amended by striking “\$139,000,000 for each of fiscal years 2009 through 2011, and \$104,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$139,000,000 for each of fiscal years 2009 through 2011, and \$105,640,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(g) NATIONAL DRIVER REGISTER.—Section 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$4,116,000 for fiscal year 2011, and \$3,087,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$4,116,000 for fiscal year 2011, and \$3,128,160 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(h) **HIGH VISIBILITY ENFORCEMENT PROGRAM.**—Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$29,000,000 for each of fiscal years 2006 through 2011 and \$21,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$29,000,000 for each of fiscal years 2006 through 2011 and \$22,040,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(i) **MOTORCYCLIST SAFETY.**—Section 2001(a)(9) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$7,000,000 for each of fiscal years 2009 through 2011, and \$5,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$7,000,000 for each of fiscal years 2009 through 2011, and \$5,320,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(j) **CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.**—Section 2001(a)(10) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$7,000,000 for each of fiscal years 2009 through 2011, and \$5,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$7,000,000 for each of fiscal years 2009 through 2011, and \$5,320,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(k) **ADMINISTRATIVE EXPENSES.**—Section 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$25,328,000 for fiscal year 2011, and \$18,996,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$25,328,000 for fiscal year 2011, and \$19,249,280 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

**SEC. 202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.**

(a) **MOTOR CARRIER SAFETY GRANTS.**—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) \$161,120,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(b) **ADMINISTRATIVE EXPENSES.**—Section 31104(i)(1)(H) of title 49, United States Code, is amended to read as follows:

“(H) \$185,549,440 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(c) **GRANT PROGRAMS.**—Section 4101(c) of SAFETEA–LU (119 Stat. 1715) is amended—

(1) in paragraph (1) by striking “2011 and \$22,500,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “2011 and \$22,800,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”;

(2) in paragraph (2) by striking “2011 and \$24,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “2011 and \$24,320,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”;

(3) in paragraph (3) by striking “2011 and \$3,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “2011 and \$3,800,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”;

(4) in paragraph (4) by striking “2011 and \$18,750,000 for the period beginning on October 1, 2011, and ending on



June 30, 2012.” and inserting “2011 and \$19,000,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”; and

(5) in paragraph (5)—

(A) by striking “2006 and” and inserting “2006,”; and

(B) by striking “2011 and \$2,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “2011, and \$2,280,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(d) HIGH-PRIORITY ACTIVITIES.—Section 31104(k)(2) of title 49, United States Code, is amended by striking “2011 and \$11,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and \$11,400,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(e) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking “and up to \$21,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and up to \$22,040,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(f) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA-LU (119 Stat. 1741) is amended by striking “and 2011 (and \$750,000 to the Federal Motor Carrier Safety Administration, and \$2,250,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on June 30, 2012)” and inserting “and 2011 (and \$760,000 to the Federal Motor Carrier Safety Administration, and \$2,280,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on July 6, 2012)”.

49 USC 31100  
note.

(g) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA-LU (119 Stat. 1744) is amended by striking “2011 and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and \$760,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

49 USC 31301  
note.

(h) MOTOR CARRIER SAFETY ADVISORY COMMITTEE.—Section 4144(d) of SAFETEA-LU (119 Stat. 1748) is amended by striking “June 30, 2012” and inserting “July 6, 2012”.

49 USC 31100  
note.

(i) WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.—Section 4213(d) of SAFETEA-LU (49 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking “June 30, 2012” and inserting “July 6, 2012”.

#### SEC. 203. ADDITIONAL PROGRAMS.

(a) HAZARDOUS MATERIALS RESEARCH PROJECTS.—Section 7131(c) of SAFETEA-LU (119 Stat. 1910) is amended by striking “2011 and \$870,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and \$881,600 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(b) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) by striking “2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and for the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

(2) in the first sentence of subsection (b)(1)(A) by striking “2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

## **TITLE III—PUBLIC TRANSPORTATION PROGRAMS**

### **SEC. 301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.**

Section 5305(g) of title 49, United States Code, is amended by striking “2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012” and inserting “2011 and for the period beginning on October 1, 2011, and ending on July 6, 2012”.

### **SEC. 302. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.**

Section 5307(b)(2) of title 49, United States Code, is amended—

(1) by striking the paragraph heading and inserting “SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JULY 6, 2012.—”;

(2) in subparagraph (A) by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

(3) in subparagraph (E)—

(A) by striking the subparagraph heading and inserting “MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JULY 6, 2012.—”; and

(B) in the matter preceding clause (i) by striking “2011 and during the period beginning on October 1, 2011, and ending on June 30, 2012” and inserting “2011 and during the period beginning on October 1, 2011, and ending on July 6, 2012”.

### **SEC. 303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.**

Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking the paragraph heading and inserting “FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JULY 6, 2012.—”;

(B) in the matter preceding subparagraph (A) by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

(C) in subparagraph (A)(i) by striking “2011 and \$150,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and \$152,000,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(2) in paragraph (6)—

(A) in subparagraph (B) by striking “2011 and \$11,250,000 shall be available for the period beginning

on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and \$11,400,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

(B) in subparagraph (C) by striking “though 2011 and \$3,750,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “through 2011 and \$3,800,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

(3) in paragraph (7)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) in the first sentence by striking “2011 and \$7,500,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and \$7,600,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

(II) in the second sentence by striking “shall be set aside for:” and inserting “shall be set aside:”;

(ii) in clause (i) by striking “for each fiscal year and \$1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each fiscal year and \$1,900,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(iii) in clause (ii) by striking “for each fiscal year and \$1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each fiscal year and \$1,900,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(iv) in clause (iii) by striking “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each fiscal year and \$760,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(v) in clause (iv) by striking “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each fiscal year and \$760,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(vi) in clause (v) by striking “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each fiscal year and \$760,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(vii) in clause (vi) by striking “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each fiscal year and \$760,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(viii) in clause (vii) by striking “for each fiscal year and \$487,500 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting

“for each fiscal year and \$494,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

(ix) in clause (viii) by striking “for each fiscal year and \$262,500 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each fiscal year and \$266,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(B) in subparagraph (B) by striking clause (vii) and inserting the following:

“(vii) \$10,260,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”;

(C) in subparagraph (C) by striking “and during the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and during the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(D) in subparagraph (D) by striking “and not less than \$26,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and not less than \$26,600,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

(E) in subparagraph (E) by striking “and \$2,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$2,280,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012,”.

#### **SEC. 304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

Section 5311(c)(1)(G) of title 49, United States Code, is amended to read as follows:

“(G) \$11,400,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

#### **SEC. 305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.**

Section 5337(g) of title 49, United States Code, is amended to read as follows:

Time period.

“(g) SPECIAL RULE FOR OCTOBER 1, 2011, THROUGH JULY 6, 2012.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning on October 1, 2011, and ending on July 6, 2012, in accordance with subsection (a), except that the Secretary shall apportion 76 percent of each dollar amount specified in subsection (a).”.

#### **SEC. 306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.**

(a) FORMULA AND BUS GRANTS.—Section 5338(b) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking subparagraph (G) and inserting the following:

“(G) \$6,354,029,400 for the period beginning on October 1, 2011, and ending on July 6, 2012.”; and

(2) in paragraph (2)—

(A) in subparagraph (A) by striking “\$113,500,000 for each of fiscal years 2009 through 2011, and \$85,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$113,500,000 for each

of fiscal years 2009 through 2011, and \$86,260,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(B) in subparagraph (B) by striking “\$4,160,365,000 for each of fiscal years 2009 through 2011, and \$3,120,273,750 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$4,160,365,000 for each of fiscal years 2009 through 2011, and \$3,161,877,400 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(C) in subparagraph (C) by striking “\$51,500,000 for each of fiscal years 2009 through 2011, and \$38,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$51,500,000 for each of fiscal years 2009 through 2011, and \$39,140,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(D) in subparagraph (D) by striking “\$1,666,500,000 for each of fiscal years 2009 through 2011, and \$1,249,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$1,666,500,000 for each of fiscal years 2009 through 2011, and \$1,266,540,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(E) in subparagraph (E) by striking “\$984,000,000 for each of fiscal years 2009 through 2011, and \$738,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$984,000,000 for each of fiscal years 2009 through 2011, and \$747,840,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(F) in subparagraph (F) by striking “\$133,500,000 for each of fiscal years 2009 through 2011, and \$100,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$133,500,000 for each of fiscal years 2009 through 2011, and \$101,460,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(G) in subparagraph (G) by striking “\$465,000,000 for each of fiscal years 2009 through 2011, and \$348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$465,000,000 for each of fiscal years 2009 through 2011, and \$353,400,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(H) in subparagraph (H) by striking “\$164,500,000 for each of fiscal years 2009 through 2011, and \$123,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$164,500,000 for each of fiscal years 2009 through 2011, and \$125,020,000 for the period beginning on October 1, 2011, and ending on July 6, 2012,”;

(I) in subparagraph (I) by striking “\$92,500,000 for each of fiscal years 2009 through 2011, and \$69,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$92,500,000 for each of fiscal years 2009 through 2011, and \$70,300,000 for

the period beginning on October 1, 2011, and ending on July 6, 2012.”;

(J) in subparagraph (J) by striking “\$26,900,000 for each of fiscal years 2009 through 2011, and \$20,175,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$26,900,000 for each of fiscal years 2009 through 2011, and \$20,444,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”;

(K) in subparagraph (K) by striking “\$3,500,000 for each of fiscal years 2006 through 2011 and \$2,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$3,500,000 for each of fiscal years 2006 through 2011 and \$2,660,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”;

(L) in subparagraph (L) by striking “\$25,000,000 for each of fiscal years 2006 through 2011 and \$18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$25,000,000 for each of fiscal years 2006 through 2011 and \$19,000,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”;

(M) in subparagraph (M) by striking “\$465,000,000 for each of fiscal years 2009 through 2011, and \$348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$465,000,000 for each of fiscal years 2009 through 2011, and \$353,400,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”; and

(N) in subparagraph (N) by striking “\$8,800,000 for each of fiscal years 2009 through 2011, and \$6,600,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “\$8,800,000 for each of fiscal years 2009 through 2011, and \$6,688,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(b) CAPITAL INVESTMENT GRANTS.—Section 5338(c)(7) of title 49, United States Code, is amended to read as follows:

“(7) \$1,485,800,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking “2011, and \$33,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011, and \$33,440,000 for the period beginning on October 1, 2011, and ending on July 6, 2012.”; and

(2) by striking paragraph (3) and inserting the following:

“(3) ADDITIONAL AUTHORIZATIONS.—

“(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for the period beginning on October 1, 2011, and ending on July 6, 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 48 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

“(B) UNIVERSITY CENTERS PROGRAM.—

“(i) OCTOBER 1, 2011, THROUGH JULY 6, 2012.—Of the amounts allocated under subparagraph (A) for the university centers program under section 5506 for the period beginning on October 1, 2011, and ending on July 6, 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 48 percent of the amount allocated for fiscal year 2009 under each such clause.

“(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year.”.

(d) ADMINISTRATION.—Section 5338(e)(7) of title 49, United States Code, is amended to read as follows:

“(7) \$75,021,880 for the period beginning on October 1, 2011, and ending on July 6, 2012.”.

**SEC. 307. AMENDMENTS TO SAFETEA-LU.**

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA-LU (119 Stat. 1572) is amended by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on July 6, 2012,”.

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of SAFETEA-LU (119 Stat. 1573) is amended—

(1) in subsection (c)(5) by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012” and inserting “2011 and the period beginning on October 1, 2011, and ending on July 6, 2012”; and

(2) in the second sentence of subsection (d) by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on July 6, 2012,”.

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of SAFETEA-LU (49 U.S.C. 5310 note; 119 Stat. 1593) is amended by striking “June 30, 2012” and inserting “July 6, 2012”.

(d) OBLIGATION CEILING.—Section 3040(8) of SAFETEA-LU (119 Stat. 1639) is amended to read as follows:

“(8) \$7,948,291,280 for the period beginning on October 1, 2011, and ending on July 6, 2012, of which not more than \$6,354,029,400 shall be from the Mass Transit Account.”.

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of SAFETEA-LU (119 Stat. 1640) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on July 6, 2012,”; and

49 USC 5309  
note.

(2) in subsection (c), in the matter preceding paragraph (1), by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2011 and the period beginning on October 1, 2011, and ending on July 6, 2012,”.

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046(c)(2) of SAFETEA-LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended to read as follows:

“(2) for the period beginning on October 1, 2011, and ending on July 6, 2012, in amounts equal to 48 percent of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), and (8) through (25) of subsection (a).”.

## TITLE IV—HIGHWAY TRUST FUND EXTENSION

### SEC. 401. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

26 USC 9503.

(1) by striking “July 1, 2012” in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting “July 7, 2012”; and

(2) by striking “Surface Transportation Extension Act of 2012” in subsections (c)(1) and (e)(3) and inserting “Temporary Surface Transportation Extension Act of 2012”.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of such Code is amended—

(1) by striking “Surface Transportation Extension Act of 2012” each place it appears in subsection (b)(2) and inserting “Temporary Surface Transportation Extension Act of 2012”; and

(2) by striking “July 1, 2012” in subsection (d)(2) and inserting “July 7, 2012”.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of such Code is amended by striking “July 1, 2012” and inserting “July 7, 2012”.

26 USC 9503  
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2012.

### SEC. 402. EXTENSION OF HIGHWAY-RELATED TAXES.

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “June 30, 2012” and inserting “July 6, 2012”:

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking “July 1, 2012” and inserting “July 7, 2012”:

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of such Code is amended—

(1) by striking “July 1, 2012” each place it appears and inserting “July 7, 2012”;



(2) by striking “December 31, 2012” each place it appears and inserting “January 6, 2013”; and

(3) by striking “October 1, 2012” and inserting “October 7, 2012”.

(c) EXTENSION OF CERTAIN EXEMPTIONS.—Sections 4221(a) and 4483(i) of such Code are each amended by striking “July 1, 2012” and inserting “July 7, 2012”.

26 USC 4221,  
4483.

(d) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of such Code is amended—

(A) in subsection (b)—

(i) by striking “July 1, 2012” each place it appears in paragraphs (1) and (2) and inserting “July 7, 2012”; and

(ii) by striking “JULY 1, 2012” in the heading of paragraph (2) and inserting “JULY 7, 2012”; and

(iii) by striking “June 30, 2012” in paragraph (2) and inserting “July 6, 2012”; and

(iv) by striking “April 1, 2013” in paragraph (2) and inserting “April 7, 2013”; and

(B) in subsection (c)(2), by striking “April 1, 2013” and inserting “April 7, 2013”.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking “July 1, 2012” and inserting “July 7, 2012”.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(i) by striking “July 1, 2013” each place it appears and inserting “July 7, 2013”; and

(ii) by striking “July 1, 2012” and inserting “July 7, 2012”.

(e) TECHNICAL CORRECTION.—Paragraph (4) of section 4482(c) of such Code is amended to read as follows:

26 USC 4482.  
Definition.

“(4) TAXABLE PERIOD.—The term ‘taxable period’ means any year beginning before July 1, 2013, and the period which begins on July 1, 2013, and ends at the close of September 30, 2013.”

(f) EFFECTIVE DATE.—

16 USC 4601–11  
note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on July 1, 2012.

(2) TECHNICAL CORRECTION.—The amendment made by subsection (e) shall take effect as if included in section 402 of the Surface Transportation Extension Act of 2012.

## TITLE V—STUDENT LOANS

### SEC. 501. TEMPORARY AUTHORITY.

(a) TEMPORARY AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Education is authorized to delay the origination and disbursement of Federal Direct Stafford loans made to undergraduate students under part D of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) until the date of enactment of the MAP–21, except that the Secretary may only

Deadline.

delay the origination and disbursement of such loans until July 6, 2012.

(b) SPECIAL RULE DOES NOT APPLY.—Subsection (a) shall not be subject to the special rule in section 1(c) of this Act.

Approved June 29, 2012.

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LEGISLATIVE HISTORY—H.R. 6064:

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 29, considered and passed House and Senate.



Public Law 112–141  
112th Congress

An Act

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

July 6, 2012  
[H.R. 4348]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS;  
TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Moving Ahead for Progress in the 21st Century Act” or the “MAP–21”.

(b) **DIVISIONS.**—This Act is organized into 8 divisions as follows:

(1) Division A—Federal-aid Highways and Highway Safety Construction Programs.

(2) Division B—Public Transportation.

(3) Division C—Transportation Safety and Surface Transportation Policy.

(4) Division D—Finance.

(5) Division E—Research and Education.

(6) Division F—Miscellaneous.

(7) Division G—Surface Transportation Extension.

(8) Division H—Budgetary Effects.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; organization of Act into divisions; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Effective date.

**DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY  
CONSTRUCTION PROGRAMS**

**TITLE I—FEDERAL-AID HIGHWAYS**

**Subtitle A—Authorizations and Programs**

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Definitions.
- Sec. 1104. National Highway System.
- Sec. 1105. Apportionment.
- Sec. 1106. National highway performance program.
- Sec. 1107. Emergency relief.
- Sec. 1108. Surface transportation program.
- Sec. 1109. Workforce development.
- Sec. 1110. Highway use tax evasion projects.
- Sec. 1111. National bridge and tunnel inventory and inspection standards.
- Sec. 1112. Highway safety improvement program.
- Sec. 1113. Congestion mitigation and air quality improvement program.
- Sec. 1114. Territorial and Puerto Rico highway program.
- Sec. 1115. National freight policy.
- Sec. 1116. Prioritization of projects to improve freight movement.
- Sec. 1117. State freight advisory committees.

Moving Ahead for Progress in the 21st Century Act. State and local governments.  
23 USC 101 note.

- Sec. 1118. State freight plans.
- Sec. 1119. Federal lands and tribal transportation programs.
- Sec. 1120. Projects of national and regional significance.
- Sec. 1121. Construction of ferry boats and ferry terminal facilities.
- Sec. 1122. Transportation alternatives.
- Sec. 1123. Tribal high priority projects program.

Subtitle B—Performance Management

- Sec. 1201. Metropolitan transportation planning.
- Sec. 1202. Statewide and nonmetropolitan transportation planning.
- Sec. 1203. National goals and performance management measures.

Subtitle C—Acceleration of Project Delivery

- Sec. 1301. Declaration of policy and project delivery initiative.
- Sec. 1302. Advance acquisition of real property interests.
- Sec. 1303. Letting of contracts.
- Sec. 1304. Innovative project delivery methods.
- Sec. 1305. Efficient environmental reviews for project decisionmaking.
- Sec. 1306. Accelerated decisionmaking.
- Sec. 1307. Assistance to affected Federal and State agencies.
- Sec. 1308. Limitations on claims.
- Sec. 1309. Accelerating completion of complex projects within 4 years.
- Sec. 1310. Integration of planning and environmental review.
- Sec. 1311. Development of programmatic mitigation plans.
- Sec. 1312. State assumption of responsibility for categorical exclusions.
- Sec. 1313. Surface transportation project delivery program.
- Sec. 1314. Application of categorical exclusions for multimodal projects.
- Sec. 1315. Categorical exclusions in emergencies.
- Sec. 1316. Categorical exclusions for projects within the right-of-way.
- Sec. 1317. Categorical exclusion for projects of limited Federal assistance.
- Sec. 1318. Programmatic agreements and additional categorical exclusions.
- Sec. 1319. Accelerated decisionmaking in environmental reviews.
- Sec. 1320. Memoranda of agency agreements for early coordination.
- Sec. 1321. Environmental procedures initiative.
- Sec. 1322. Review of State environmental reviews and approvals for the purpose of eliminating duplication of environmental reviews.
- Sec. 1323. Review of Federal project and program delivery.

Subtitle D—Highway Safety

- Sec. 1401. Jason's law.
- Sec. 1402. Open container requirements.
- Sec. 1403. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
- Sec. 1404. Adjustments to penalty provisions.
- Sec. 1405. Highway worker safety.

Subtitle E—Miscellaneous

- Sec. 1501. Real-time ridesharing.
- Sec. 1502. Program efficiencies.
- Sec. 1503. Project approval and oversight.
- Sec. 1504. Standards.
- Sec. 1505. Justification reports for access points on the Interstate System.
- Sec. 1506. Construction.
- Sec. 1507. Maintenance.
- Sec. 1508. Federal share payable.
- Sec. 1509. Transferability of Federal-aid highway funds.
- Sec. 1510. Idle reduction technology.
- Sec. 1511. Special permits during periods of national emergency.
- Sec. 1512. Tolling.
- Sec. 1513. Miscellaneous parking amendments.
- Sec. 1514. HOV facilities.
- Sec. 1515. Funding flexibility for transportation emergencies.
- Sec. 1516. Defense access road program enhancements to address transportation infrastructure in the vicinity of military installations.
- Sec. 1517. Mapping.
- Sec. 1518. Buy America provisions.
- Sec. 1519. Consolidation of programs; repeal of obsolete provisions.
- Sec. 1520. Denali Commission.
- Sec. 1521. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 amendments.
- Sec. 1522. Extension of public transit vehicle exemption from axle weight restrictions.

- Sec. 1523. Use of debris from demolished bridges and overpasses.
- Sec. 1524. Use of youth service and conservation corps.
- Sec. 1525. State autonomy for culvert pipe selection.
- Sec. 1526. Evacuation routes.
- Sec. 1527. Consolidation of grants.
- Sec. 1528. Appalachian development highway system.
- Sec. 1529. Engineering judgment.
- Sec. 1530. Transportation training and employment programs.
- Sec. 1531. Notice of certain grant awards.
- Sec. 1532. Budget justification.
- Sec. 1533. Prohibition on use of funds for automated traffic enforcement.
- Sec. 1534. Public-private partnerships.
- Sec. 1535. Report on Highway Trust Fund expenditures.
- Sec. 1536. Sense of Congress on harbor maintenance.
- Sec. 1537. Estimate of harbor maintenance needs.
- Sec. 1538. Asian carp.
- Sec. 1539. Rest areas.

#### Subtitle F—Gulf Coast Restoration

- Sec. 1601. Short title.
- Sec. 1602. Gulf Coast Restoration Trust Fund.
- Sec. 1603. Gulf Coast natural resources restoration and economic recovery.
- Sec. 1604. Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology program.
- Sec. 1605. Centers of excellence research grants.
- Sec. 1606. Effect.
- Sec. 1607. Restoration and protection activity limitations.
- Sec. 1608. Inspector General.

### TITLE II—AMERICA FAST FORWARD FINANCING INNOVATION

- Sec. 2001. Short title.
- Sec. 2002. Transportation Infrastructure Finance and Innovation Act of 1998 amendments.

#### DIVISION B—PUBLIC TRANSPORTATION

- Sec. 20001. Short title.
- Sec. 20002. Repeals.
- Sec. 20003. Policies and purposes.
- Sec. 20004. Definitions.
- Sec. 20005. Metropolitan transportation planning.
- Sec. 20006. Statewide and nonmetropolitan transportation planning.
- Sec. 20007. Urbanized area formula grants.
- Sec. 20008. Fixed guideway capital investment grants.
- Sec. 20009. Mobility of seniors and individuals with disabilities.
- Sec. 20010. Formula grants for rural areas.
- Sec. 20011. Research, development, demonstration, and deployment projects.
- Sec. 20012. Technical assistance and standards development.
- Sec. 20013. Private sector participation.
- Sec. 20014. Bus testing facilities.
- Sec. 20015. Human resources and training.
- Sec. 20016. General provisions.
- Sec. 20017. Public Transportation Emergency Relief Program.
- Sec. 20018. Contract requirements.
- Sec. 20019. Transit asset management.
- Sec. 20020. Project management oversight.
- Sec. 20021. Public transportation safety.
- Sec. 20022. Alcohol and controlled substances testing.
- Sec. 20023. Nondiscrimination.
- Sec. 20024. Administrative provisions.
- Sec. 20025. National transit database.
- Sec. 20026. Apportionment of appropriations for formula grants.
- Sec. 20027. State of good repair grants.
- Sec. 20028. Authorizations.
- Sec. 20029. Bus and bus facilities formula grants.
- Sec. 20030. Technical and conforming amendments.

#### DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY

### TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2012

- Sec. 31001. Short title.

Sec. 31002. Definition.

Subtitle A—Highway Safety

Sec. 31101. Authorization of appropriations.  
Sec. 31102. Highway safety programs.  
Sec. 31103. Highway safety research and development.  
Sec. 31104. National driver register.  
Sec. 31105. National priority safety programs.  
Sec. 31106. High visibility enforcement program.  
Sec. 31107. Agency accountability.  
Sec. 31108. Emergency medical services.  
Sec. 31109. Repeal of programs.

Subtitle B—Enhanced Safety Authorities

Sec. 31201. Definition of motor vehicle equipment.  
Sec. 31202. Permit reminder system for non-use of safety belts.  
Sec. 31203. Civil penalties.  
Sec. 31204. Motor vehicle safety research and development.  
Sec. 31205. Odometer requirements.  
Sec. 31206. Increased penalties and damages for odometer fraud.  
Sec. 31207. Extend prohibitions on importing noncompliant vehicles and equipment to defective vehicles and equipment.  
Sec. 31208. Conditions on importation of vehicles and equipment.  
Sec. 31209. Port inspections; samples for examination or testing.

Subtitle C—Transparency and Accountability

Sec. 31301. Public availability of recall information.  
Sec. 31302. National Highway Traffic Safety Administration outreach to manufacturer, dealer, and mechanic personnel.  
Sec. 31303. Public availability of communications to dealers.  
Sec. 31304. Corporate responsibility for National Highway Traffic Safety Administration reports.  
Sec. 31305. Passenger motor vehicle information program.  
Sec. 31306. Promotion of vehicle defect reporting.  
Sec. 31307. Whistleblower protections for motor vehicle manufacturers, part suppliers, and dealership employees.  
Sec. 31308. Anti-revolving door.  
Sec. 31309. Study of crash data collection.  
Sec. 31310. Update means of providing notification; improving efficacy of recalls.  
Sec. 31311. Expanding choices of remedy available to manufacturers of replacement equipment.  
Sec. 31312. Recall obligations and bankruptcy of manufacturer.  
Sec. 31313. Repeal of insurance reports and information provision.  
Sec. 31314. Monroney sticker to permit additional safety rating categories.

Subtitle D—Vehicle Electronics and Safety Standards

Sec. 31401. National Highway Traffic Safety Administration electronics, software, and engineering expertise.  
Sec. 31402. Electronic systems performance.

Subtitle E—Child Safety Standards

Sec. 31501. Child safety seats.  
Sec. 31502. Child restraint anchorage systems.  
Sec. 31503. Rear seat belt reminders.  
Sec. 31504. Unattended passenger reminders.  
Sec. 31505. New deadline.

Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

Sec. 31601. Rulemaking on visibility of agricultural equipment.

TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012

Sec. 32001. Short title.  
Sec. 32002. References to title 49, United States Code.

Subtitle A—Commercial Motor Vehicle Registration

Sec. 32101. Registration of motor carriers.  
Sec. 32102. Safety fitness of new operators.  
Sec. 32103. Reincarnated carriers.

- Sec. 32104. Financial responsibility requirements.
- Sec. 32105. USDOT number registration requirement.
- Sec. 32106. Registration fee system.
- Sec. 32107. Registration update.
- Sec. 32108. Increased penalties for operating without registration.
- Sec. 32109. Revocation of registration for imminent hazard.
- Sec. 32110. Revocation of registration and other penalties for failure to respond to subpoena.
- Sec. 32111. Fleetwide out of service order for operating without required registration.
- Sec. 32112. Motor carrier and officer patterns of safety violations.

#### Subtitle B—Commercial Motor Vehicle Safety

- Sec. 32201. Crashworthiness standards.
- Sec. 32202. Canadian safety rating reciprocity.
- Sec. 32203. State reporting of foreign commercial driver convictions.
- Sec. 32204. Authority to disqualify foreign commercial drivers.
- Sec. 32205. Revocation of foreign motor carrier operating authority for failure to pay civil penalties.
- Sec. 32206. Rental truck accident study.

#### Subtitle C—Driver Safety

- Sec. 32301. Hours of service study and electronic logging devices.
- Sec. 32302. Driver medical qualifications.
- Sec. 32303. Commercial driver's license notification system.
- Sec. 32304. Commercial motor vehicle operator training.
- Sec. 32305. Commercial driver's license program.
- Sec. 32306. Commercial motor vehicle driver information systems.
- Sec. 32307. Employer responsibilities.
- Sec. 32308. Program to assist Veterans to acquire commercial driver's licenses.

#### Subtitle D—Safe Roads Act of 2012

- Sec. 32401. Short title.
- Sec. 32402. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators.

#### Subtitle E—Enforcement

- Sec. 32501. Inspection demand and display of credentials.
- Sec. 32502. Out of service penalty for denial of access to records.
- Sec. 32503. Penalties for violation of operation out of service orders.
- Sec. 32504. Impoundment and immobilization of commercial motor vehicles for imminent hazard.
- Sec. 32505. Increased penalties for evasion of regulations.
- Sec. 32506. Violations relating to commercial motor vehicle safety regulation and operators.
- Sec. 32507. Emergency disqualification for imminent hazard.
- Sec. 32508. Disclosure to State and local law enforcement agencies.
- Sec. 32509. Grade crossing safety regulations.

#### Subtitle F—Compliance, Safety, Accountability

- Sec. 32601. Motor carrier safety assistance program.
- Sec. 32602. Performance and registration information systems management program.
- Sec. 32603. Authorization of appropriations.
- Sec. 32604. Grants for commercial driver's license program implementation.
- Sec. 32605. Commercial vehicle information systems and networks.

#### Subtitle G—Motorcoach Enhanced Safety Act of 2012

- Sec. 32701. Short title.
- Sec. 32702. Definitions.
- Sec. 32703. Regulations for improved occupant protection, passenger evacuation, and crash avoidance.
- Sec. 32704. Fire prevention and mitigation.
- Sec. 32705. Occupant protection, collision avoidance, fire causation, and fire extinguisher research and testing.
- Sec. 32706. Concurrence of research and rulemaking.
- Sec. 32707. Improved oversight of motorcoach service providers.
- Sec. 32708. Report on feasibility, benefits, and costs of establishing a system of certification of training programs.
- Sec. 32709. Commercial driver's license passenger endorsement requirements.

- Sec. 32710. Safety inspection program for commercial motor vehicles of passengers.
- Sec. 32711. Regulations.

#### Subtitle H—Safe Highways and Infrastructure Preservation

- Sec. 32801. Comprehensive truck size and weight limits study.
- Sec. 32802. Compilation of existing State truck size and weight limit laws.

#### Subtitle I—Miscellaneous

#### PART I—MISCELLANEOUS

- Sec. 32911. Prohibition of coercion.
- Sec. 32912. Motor carrier safety advisory committee.
- Sec. 32913. Waivers, exemptions, and pilot programs.
- Sec. 32914. Registration requirements.
- Sec. 32915. Additional motor carrier registration requirements.
- Sec. 32916. Registration of freight forwarders and brokers.
- Sec. 32917. Effective periods of registration.
- Sec. 32918. Financial security of brokers and freight forwarders.
- Sec. 32919. Unlawful brokerage activities.

#### PART II—HOUSEHOLD GOODS TRANSPORTATION

- Sec. 32921. Additional registration requirements for household goods motor carriers.
- Sec. 32922. Failure to give up possession of household goods.
- Sec. 32923. Settlement authority.

#### PART III—TECHNICAL AMENDMENTS

- Sec. 32931. Update of obsolete text.
- Sec. 32932. Correction of interstate commerce commission references.
- Sec. 32933. Technical and conforming amendments.
- Sec. 32934. Exemptions from requirements for covered farm vehicles.

### TITLE III—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2012

- Sec. 33001. Short title.
- Sec. 33002. Definition.
- Sec. 33003. References to title 49, United States Code.
- Sec. 33004. Training for emergency responders.
- Sec. 33005. Paperless Hazard Communications Pilot Program.
- Sec. 33006. Improving data collection, analysis, and reporting.
- Sec. 33007. Hazardous material technical assessment, research and development, and analysis program.
- Sec. 33008. Hazardous Material Enforcement Training.
- Sec. 33009. Inspections.
- Sec. 33010. Civil penalties.
- Sec. 33011. Reporting of fees.
- Sec. 33012. Special permits, approvals, and exclusions.
- Sec. 33013. Highway routing disclosures.
- Sec. 33014. Motor carrier safety permits.
- Sec. 33015. Wetlines.
- Sec. 33016. Hazmat employee training requirements and grants.
- Sec. 33017. Authorization of appropriations.

### TITLE IV—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY ACT OF 2012

- Sec. 34001. Short title.
- Sec. 34002. Amendment of Federal Aid in Sport Fish Restoration Act.

#### TITLE V—MISCELLANEOUS

- Sec. 35001. Overflights in Grand Canyon National Park.
- Sec. 35002. Commercial air tour operations.
- Sec. 35003. Qualifications for public aircraft status.

#### DIVISION D—FINANCE

- Sec. 40001. Short title.

### TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES

- Sec. 40101. Extension of trust fund expenditure authority.



Sec. 40102. Extension of highway-related taxes.

#### TITLE II—REVENUE PROVISIONS

##### Subtitle A—Leaking Underground Storage Tank Trust Fund

Sec. 40201. Transfer from Leaking Underground Storage Tank Trust Fund to Highway Trust Fund.

##### Subtitle B—Pension Provisions

#### PART I—PENSION FUNDING STABILIZATION

Sec. 40211. Pension funding stabilization.

#### PART II—PBGC PREMIUMS

Sec. 40221. Single employer plan annual premium rates.

Sec. 40222. Multiemployer annual premium rates.

#### PART III—IMPROVEMENTS OF PBGC

Sec. 40231. Pension Benefit Guaranty Corporation Governance Improvement.

Sec. 40232. Participant and plan sponsor advocate.

Sec. 40233. Quality control procedures for the Pension Benefit Guaranty Corporation.

Sec. 40234. Line of credit repeal.

#### PART IV—TRANSFERS OF EXCESS PENSION ASSETS

Sec. 40241. Extension for transfers of excess pension assets to retiree health accounts.

Sec. 40242. Transfer of excess pension assets to retiree group term life insurance accounts.

##### Subtitle C—Additional Transfers to Highway Trust Fund

Sec. 40251. Additional transfers to Highway Trust Fund.

#### DIVISION E—RESEARCH AND EDUCATION

Sec. 50001. Short title.

#### TITLE I—FUNDING

Sec. 51001. Authorization of appropriations.

#### TITLE II—RESEARCH, TECHNOLOGY, AND EDUCATION

Sec. 52001. Research, technology, and education.

Sec. 52002. Surface transportation research, development, and technology.

Sec. 52003. Research and technology development and deployment.

Sec. 52004. Training and education.

Sec. 52005. State planning and research.

Sec. 52006. International highway transportation program.

Sec. 52007. Surface transportation environmental cooperative research program.

Sec. 52008. National cooperative freight research.

Sec. 52009. University transportation centers program.

Sec. 52010. University transportation research.

Sec. 52011. Bureau of Transportation Statistics.

Sec. 52012. Administrative authority.

Sec. 52013. Transportation research and development strategic planning.

#### TITLE III—INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH

Sec. 53001. Use of funds for ITS activities.

Sec. 53002. Goals and purposes.

Sec. 53003. General authorities and requirements.

Sec. 53004. Research and development.

Sec. 53005. National architecture and standards.

Sec. 53006. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.

#### DIVISION F—MISCELLANEOUS

#### TITLE I—REAUTHORIZATION OF CERTAIN PROGRAMS

##### Subtitle A—Secure Rural Schools and Community Self-determination Program

Sec. 100101. Secure Rural Schools and Community Self-Determination Program.

##### Subtitle B—Payment in Lieu of Taxes Program

Sec. 100111. Payments in lieu of taxes.

## Subtitle C—Offsets

- Sec. 100121. Phased retirement authority.
- Sec. 100122. Roll-your-own cigarette machines.
- Sec. 100123. Change in FMAP increase for disaster recovery states.
- Sec. 100124. Repeals.
- Sec. 100125. Limitation on payments from the Abandoned Mine Reclamation Fund.

## TITLE II—FLOOD INSURANCE

## Subtitle A—Flood Insurance Reform and Modernization

- Sec. 100201. Short title.
- Sec. 100202. Definitions.
- Sec. 100203. Extension of National Flood Insurance Program.
- Sec. 100204. Availability of insurance for multifamily properties.
- Sec. 100205. Reform of premium rate structure.
- Sec. 100207. Premium adjustment.
- Sec. 100208. Enforcement.
- Sec. 100209. Escrow of flood insurance payments.
- Sec. 100210. Minimum deductibles for claims under the National Flood Insurance Program.
- Sec. 100211. Considerations in determining chargeable premium rates.
- Sec. 100212. Reserve fund.
- Sec. 100213. Repayment plan for borrowing authority.
- Sec. 100214. Payment of condominium claims.
- Sec. 100215. Technical mapping advisory council.
- Sec. 100216. National flood mapping program.
- Sec. 100217. Scope of appeals.
- Sec. 100218. Scientific Resolution Panel.
- Sec. 100219. Removal of limitation on State contributions for updating flood maps.
- Sec. 100220. Coordination.
- Sec. 100221. Interagency coordination study.
- Sec. 100222. Notice of flood insurance availability under RESPA.
- Sec. 100223. Participation in State disaster claims mediation programs.
- Sec. 100224. Oversight and expense reimbursements of insurance companies.
- Sec. 100225. Mitigation.
- Sec. 100226. Flood Protection Structure Accreditation Task Force.
- Sec. 100227. Flood in progress determinations.
- Sec. 100228. Clarification of residential and commercial coverage limits.
- Sec. 100229. Local data requirement.
- Sec. 100230. Eligibility for flood insurance for persons residing in communities that have made adequate progress on the reconstruction or improvement of a flood protection system.
- Sec. 100231. Studies and reports.
- Sec. 100232. Reinsurance.
- Sec. 100233. GAO study on business interruption and additional living expenses coverages.
- Sec. 100234. Policy disclosures.
- Sec. 100235. Report on inclusion of building codes in floodplain management criteria.
- Sec. 100236. Study of participation and affordability for certain policyholders.
- Sec. 100237. Study and report concerning the participation of Indian tribes and members of Indian tribes in the National Flood Insurance Program.
- Sec. 100238. Technical corrections.
- Sec. 100239. Use of private insurance to satisfy mandatory purchase requirement.
- Sec. 100240. Levees constructed on certain properties.
- Sec. 100241. Insurance coverage for private properties affected by flooding from Federal lands.
- Sec. 100242. Permissible land use under Federal flood insurance plan.
- Sec. 100243. CDBG eligibility for flood insurance outreach activities and community building code administration grants.
- Sec. 100244. Termination of force-placed insurance.
- Sec. 100245. FEMA authority on transfer of policies.
- Sec. 100246. Reimbursement of certain expenses.
- Sec. 100247. FIO study on risks, hazards, and insurance.
- Sec. 100248. Flood protection improvements constructed on certain properties.
- Sec. 100249. No cause of action.

## Subtitle B—Alternative Loss Allocation

- Sec. 100251. Short title.
- Sec. 100252. Assessing and modeling named storms over coastal States.
- Sec. 100253. Alternative loss allocation system for indeterminate claims.

## Subtitle C—HEARTH Act Amendment

Sec. 100261. HEARTH Act technical corrections.

## TITLE III—STUDENT LOAN INTEREST RATE EXTENSION

Sec. 100301. Federal Direct Stafford Loan interest rate extension.

Sec. 100302. Eligibility for, and interest charges on, Federal Direct Stafford Loans for new borrowers on or after July 1, 2013.

## DIVISION G—SURFACE TRANSPORTATION EXTENSION

Sec. 110001. Short title.

## TITLE I—FEDERAL-AID HIGHWAYS

Sec. 111001. Extension of Federal-aid highway programs.

## TITLE II—EXTENSION OF HIGHWAY SAFETY PROGRAMS

Sec. 112001. Extension of National Highway Traffic Safety Administration highway safety programs.

Sec. 112002. Extension of Federal Motor Carrier Safety Administration programs.

Sec. 112003. Additional programs.

## TITLE III—PUBLIC TRANSPORTATION PROGRAMS

Sec. 113001. Allocation of funds for planning programs.

Sec. 113002. Special rule for urbanized area formula grants.

Sec. 113003. Allocating amounts for capital investment grants.

Sec. 113004. Apportionment of formula grants for other than urbanized areas.

Sec. 113005. Apportionment based on fixed guideway factors.

Sec. 113006. Authorizations for public transportation.

Sec. 113007. Amendments to SAFETEA-LU.

## TITLE IV—EFFECTIVE DATE

Sec. 114001. Effective date.

## DIVISION H—BUDGETARY EFFECTS

Sec. 120001. Budgetary effects.

**SEC. 2. DEFINITIONS.**

23 USC 101 note.

In this Act, the following definitions apply:

(1) DEPARTMENT.—The term “Department” means the Department of Transportation.

(2) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

**SEC. 3. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as otherwise provided, divisions A, B, C (other than sections 32603(d), 32603(g), 32912, and 34002 of that division) and E, including the amendments made by those divisions, take effect on October 1, 2012. 23 USC 101 note.

(b) REFERENCES.—Except as otherwise provided, any reference to the date of enactment of the MAP–21 or to the date of enactment of the Federal Public Transportation Act of 2012 in the divisions described in subsection (a) or in an amendment made by those divisions shall be deemed to be a reference to the effective date of those divisions. 23 USC 101 note.

## **DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS**

### **TITLE I—FEDERAL-AID HIGHWAYS**

#### **Subtitle A—Authorizations and Programs**

##### **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) **FEDERAL-AID HIGHWAY PROGRAM.**—For the national highway performance program under section 119 of title 23, United States Code, the surface transportation program under section 133 of that title, the highway safety improvement program under section 148 of that title, the congestion mitigation and air quality improvement program under section 149 of that title, and to carry out section 134 of that title—

(A) \$37,476,819,674 for fiscal year 2013; and

(B) \$37,798,000,000 for fiscal year 2014.

(2) **TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM.**—For credit assistance under the transportation infrastructure finance and innovation program under chapter 6 of title 23, United States Code—

(A) \$750,000,000 for fiscal year 2013; and

(B) \$1,000,000,000 for fiscal year 2014.

(3) **FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.**—

(A) **TRIBAL TRANSPORTATION PROGRAM.**—For the tribal transportation program under section 202 of title 23, United States Code, \$450,000,000 for each of fiscal years 2013 and 2014.

(B) **FEDERAL LANDS TRANSPORTATION PROGRAM.**—For the Federal lands transportation program under section 203 of title 23, United States Code, \$300,000,000 for each of fiscal years 2013 and 2014, of which \$240,000,000 of the amount made available for each fiscal year shall be the amount for the National Park Service and \$30,000,000 of the amount made available for each fiscal year shall be the amount for the United States Fish and Wildlife Service.

(C) **FEDERAL LANDS ACCESS PROGRAM.**—For the Federal lands access program under section 204 of title 23, United States Code, \$250,000,000 for each of fiscal years 2013 and 2014.

(4) **TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.**—For the territorial and Puerto Rico highway program under section 165 of title 23, United States Code, \$190,000,000 for each of fiscal years 2013 and 2014.

(b) **DISADVANTAGED BUSINESS ENTERPRISES.**—

(1) **FINDINGS.**—Congress finds that—

(A) while significant progress has occurred due to the establishment of the disadvantaged business enterprise

program, discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in federally-assisted surface transportation markets across the United States;

(B) the continuing barriers described in subparagraph (A) merit the continuation of the disadvantaged business enterprise program;

(C) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits, which show that race- and gender-neutral efforts alone are insufficient to address the problem;

(D) the testimony and documentation described in subparagraph (C) demonstrate that discrimination across the United States poses a barrier to full and fair participation in surface transportation-related businesses of women business owners and minority business owners and has impacted firm development and many aspects of surface transportation-related business in the public and private markets; and

(E) the testimony and documentation described in subparagraph (C) provide a strong basis that there is a compelling need for the continuation of the disadvantaged business enterprise program to address race and gender discrimination in surface transportation-related business.

(2) DEFINITIONS.—In this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—

(i) IN GENERAL.—The term “small business concern” means a small business concern (as the term is used in section 3 of the Small Business Act (15 U.S.C. 632)).

(ii) EXCLUSIONS.—The term “small business concern” does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of \$22,410,000, as adjusted annually by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term “socially and economically disadvantaged individuals” has the meaning given the term in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) AMOUNTS FOR SMALL BUSINESS CONCERNS.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under divisions A and B of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(4) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

(A) survey and compile a list of the small business concerns referred to in paragraph (2) in the State, including the location of the small business concerns in the State; and

Notification.

(B) notify the Secretary, in writing, of the percentage of the small business concerns that are controlled by—

- (i) women;
- (ii) socially and economically disadvantaged individuals (other than women); and
- (iii) individuals who are women and are otherwise socially and economically disadvantaged individuals.

(5) UNIFORM CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall establish minimum uniform criteria for use by State governments in certifying whether a concern qualifies as a small business concern for the purpose of this subsection.

(B) INCLUSIONS.—The minimum uniform criteria established under subparagraph (A) shall include, with respect to a potential small business concern—

- (i) on-site visits;
- (ii) personal interviews with personnel;
- (iii) issuance or inspection of licenses;
- (iv) analyses of stock ownership;
- (v) listings of equipment;
- (vi) analyses of bonding capacity;
- (vii) listings of work completed;
- (viii) examination of the resumes of principal owners;
- (ix) analyses of financial capacity; and
- (x) analyses of the type of work preferred.

(6) REPORTING.—The Secretary shall establish minimum requirements for use by State governments in reporting to the Secretary—

(A) information concerning disadvantaged business enterprise awards, commitments, and achievements; and

(B) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

(7) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an individual or entity to receive funds made available under divisions A and B of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (2) because a Federal court issues a final order in which the court finds that a requirement or the implementation of paragraph (2) is unconstitutional.

23 USC 104 note. **SEC. 1102. OBLIGATION CEILING.**

(a) GENERAL LIMITATION.—Subject to subsection (e), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

- (1) \$39,699,000,000 for fiscal year 2013; and
- (2) \$40,256,000,000 for fiscal year 2014.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (112 Stat. 107) or subsequent Acts for multiple years or to remain available until expended, but only to the extent that the obligation authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2011, only in an amount equal to \$639,000,000 for each of those fiscal years);

(11) section 1603 of SAFETEA-LU (23 U.S.C. 118 note; 119 Stat. 1248), to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation; and

(12) section 119 of title 23, United States Code (but, for each of fiscal years 2013 through 2014, only in an amount equal to \$639,000,000 for each of those fiscal years).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2013 through 2014, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; and

(B) amounts authorized for the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts—

(A) made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary (or apportioned by the Secretary under sections 202 or 204 of title 23, United States Code); and

(B) for which obligation authority was provided in a previous fiscal year;

(3) shall determine the proportion that—

Determination.

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2) of this subsection; bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (11) of subsection (b) and sums authorized to be appropriated for section 119 of title 23, United States Code, equal to the amount referred to in subsection (b)(12) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

(4) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs (other than programs to which paragraph (1) applies) that are allocated by the Secretary under this Act and title 23, United States Code, or apportioned by the Secretary under sections 202 or 204 of that title, by multiplying—

(A) the proportion determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(12) and the amounts apportioned under section 204 of that title) in the proportion that—

(A) amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to each State for the fiscal year; bears to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to all States for the fiscal year.

Time period.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2013 through 2014—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 144 (as in effect on the day before the date of enactment of this Act) and 104 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

Contracts.

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply



to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) division E of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 4 fiscal years; Time period.

and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2013 through 2014, the Secretary shall distribute to the States any funds (excluding funds authorized for the program under section 202 of title 23, United States Code) that— Deadline.

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States (or will not be apportioned to the States under section 204 of title 23, United States Code), and will not be available for obligation, for the fiscal year because of the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same proportion as the distribution of obligation authority under subsection (c)(5).

(3) AVAILABILITY.—Funds distributed to each State under paragraph (1) shall be available for any purpose described in section 133(c) of title 23, United States Code.

#### SEC. 1103. DEFINITIONS.

(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended—

(1) by striking paragraphs (6), (7), (9), (12), (19), (20), (24), (25), (26), (28), (38), and (39);

(2) by redesignating paragraphs (2), (3), (4), (5), (8), (13), (14), (15), (16), (17), (18), (21), (22), (23), (27), (29), (30), (31), (32), (33), (34), (35), (36), and (37) as paragraphs (3), (4), (5), (6), (9), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (28), (29), (33), and (34), respectively;

(3) by inserting after paragraph (1) the following:

“(2) ASSET MANAGEMENT.—The term ‘asset management’ means a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on both engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost.”;

(4) in paragraph (4) (as redesignated by paragraph (2))—

(A) in the matter preceding subparagraph (A), by inserting “or any project eligible for assistance under this title” after “of a highway”;

(B) by striking subparagraph (A) and inserting the following:

“(A) preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services;”;

(C) in subparagraph (B)—

(i) by inserting “reconstruction,” before “resurfacing”; and

(ii) by striking “and rehabilitation” and inserting “rehabilitation, and preservation”;

(D) in subparagraph (E) by striking “railway” and inserting “railway-highway”; and

(E) in subparagraph (F) by striking “obstacles” and inserting “hazards”;

(5) in paragraph (6) (as so redesignated)—

(A) by inserting “public” before “highway eligible”; and

(B) by inserting “functionally” before “classified”;

(6) by inserting after paragraph (6) (as so redesignated) the following:

“(7) FEDERAL LANDS ACCESS TRANSPORTATION FACILITY.—The term ‘Federal Lands access transportation facility’ means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

“(8) FEDERAL LANDS TRANSPORTATION FACILITY.—The term ‘Federal lands transportation facility’ means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title and maintenance responsibility is vested in the Federal Government, and that appears on the national Federal lands transportation facility inventory described in section 203(c).”;

(7) in paragraph (11)(B) by inserting “including public roads on dams” after “drainage structure”;

(8) in paragraph (14) (as so redesignated)—

(A) by striking “as a” and inserting “as an air quality”; and

(B) by inserting “air quality” before “attainment area”;

(9) in paragraph (18) (as so redesignated) by striking “an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking” and inserting “any undertaking”;

(10) in paragraph (19) (as so redesignated)—

(A) by striking “the State transportation department and”; and

(B) by inserting “and the recipient” after “Secretary”;

(11) by striking paragraph (23) (as so redesignated) and inserting the following:

“(23) SAFETY IMPROVEMENT PROJECT.—The term ‘safety improvement project’ means a strategy, activity, or project on a public road that is consistent with the State strategic highway safety plan and corrects or improves a roadway feature that constitutes a hazard to road users or addresses a highway safety problem.”;

(12) by inserting after paragraph (26) (as so redesignated) the following:

“(27) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ has the same meaning given such term in section 148(a).”;

(13) by striking paragraph (29) (as so redesignated) and inserting the following:

“(29) TRANSPORTATION ALTERNATIVES.—The term ‘transportation alternatives’ means any of the following activities when carried out as part of any program or project authorized or funded under this title, or as an independent program or project related to surface transportation:

“(A) Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

“(B) Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs.

“(C) Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users.

“(D) Construction of turnouts, overlooks, and viewing areas.

“(E) Community improvement activities, including—

“(i) inventory, control, or removal of outdoor advertising;

“(ii) historic preservation and rehabilitation of historic transportation facilities;

“(iii) vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control; and

“(iv) archaeological activities relating to impacts from implementation of a transportation project eligible under this title.

“(F) Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to—

“(i) address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329; or

“(ii) reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.”; and  
 (14) by inserting after paragraph (29) (as so redesignated) the following:

“(30) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

“(A) IN GENERAL.—The term ‘transportation systems management and operations’ means integrated strategies to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

“(B) INCLUSIONS.—The term ‘transportation systems management and operations’ includes—

“(i) actions such as traffic detection and surveillance, corridor management, freeway management, arterial management, active transportation and demand management, work zone management, emergency management, traveler information services, congestion pricing, parking management, automated enforcement, traffic control, commercial vehicle operations, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations; and

“(ii) coordination of the implementation of regional transportation system management and operations investments (such as traffic incident management, traveler information services, emergency management, roadway weather management, intelligent transportation systems, communication networks, and information sharing systems) requiring agreements, integration, and interoperability to achieve targeted system performance, reliability, safety, and customer service levels.

“(31) TRIBAL TRANSPORTATION FACILITY.—The term ‘tribal transportation facility’ means a public highway, road, bridge, trail, or transit system that is located on or provides access to tribal land and appears on the national tribal transportation facility inventory described in section 202(b)(1).

“(32) TRUCK STOP ELECTRIFICATION SYSTEM.—The term ‘truck stop electrification system’ means a system that delivers heat, air conditioning, electricity, or communications to a heavy-duty vehicle.”.

(b) SENSE OF CONGRESS.—Section 101(c) of title 23, United States Code, is amended by striking “system” and inserting “highway”.

#### **SEC. 1104. NATIONAL HIGHWAY SYSTEM.**

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

##### **“§ 103. National Highway System**

“(a) IN GENERAL.—For the purposes of this title, the Federal-aid system is the National Highway System, which includes the Interstate System.

“(b) NATIONAL HIGHWAY SYSTEM.—

“(1) DESCRIPTION.—The National Highway System consists of the highway routes and connections to transportation facilities that shall—

“(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

“(B) meet national defense requirements; and

“(C) serve interstate and interregional travel and commerce.

“(2) COMPONENTS.—The National Highway System described in paragraph (1) consists of the following:

“(A) The National Highway System depicted on the map submitted by the Secretary of Transportation to Congress with the report entitled ‘Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals’ and dated May 24, 1996, and modifications approved by the Secretary before the date of enactment of the MAP-21.

“(B) Other urban and rural principal arterial routes, and border crossings on those routes, that were not included on the National Highway System before the date of enactment of the MAP-21.

“(C) Other connector highways (including toll facilities) that were not included in the National Highway System before the date of enactment of the MAP-21 but that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

“(D) A strategic highway network that—

“(i) consists of a network of highways that are important to the United States strategic defense policy, that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime, and that were not included on the National Highway System before the date of enactment of the MAP-21;

“(ii) may include highways on or off the Interstate System; and

“(iii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

“(E) Major strategic highway network connectors that—

“(i) consist of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network but were not included on the National Highway System before the date of enactment of the MAP-21; and

“(ii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

“(3) MODIFICATIONS TO NHS.—

“(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State if the Secretary determines that the modification—

“(i) meets the criteria established for the National Highway System under this title after the date of enactment of the MAP-21; and

“(ii) enhances the national transportation characteristics of the National Highway System.

“(B) COOPERATION.—

“(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

“(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

“(c) INTERSTATE SYSTEM.—

“(1) DESCRIPTION.—

“(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with this paragraph.

“(B) DESIGN.—

“(i) IN GENERAL.—Except as provided in clause (ii), highways on the Interstate System shall be designed in accordance with the standards of section 109(b).

“(ii) EXCEPTION.—Highways on the Interstate System in Alaska and Puerto Rico shall be designed in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway.

“(C) LOCATION.—Highways on the Interstate System shall be located so as—

“(i) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

“(ii) to serve the national defense; and

“(iii) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

“(D) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

“(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

“(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner

consistent with the policies and procedures established under this subsection.

“(4) INTERSTATE SYSTEM DESIGNATIONS.—

“(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

“(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

“(i) IN GENERAL.—Subject to clauses (ii) through (vi), if the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

“(ii) WRITTEN AGREEMENT.—A designation under clause (i) shall be made only upon the written agreement of each State described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by not later than the date that is 25 years after the date of the agreement.

“(iii) FAILURE TO COMPLETE CONSTRUCTION.—If a State described in clause (i) has not substantially completed the construction of a highway designated under this subparagraph by the date specified in clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

“(iv) EFFECT OF REMOVAL.—Removal of the designation of a highway under clause (iii) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

“(v) RETROACTIVE EFFECT.—An agreement described in clause (ii) that is entered into before August 10, 2005, shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.

“(vi) REFERENCES.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, and no such highway shall be signed or marked, as a highway on the Interstate System, until such time as the highway—

“(I) is constructed to the geometric and construction standards for the Interstate System; and

“(II) has been designated as a route on the Interstate System.

“(C) FINANCIAL RESPONSIBILITY.—Except as provided in this title, the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

“(5) EXEMPTION OF INTERSTATE SYSTEM.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions or elements of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

“(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C)—

Determination.

“(i) the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 106 of the National Historic Preservation Act (16 U.S.C. 470f), those individual elements of the Interstate System that possess national or exceptional historic significance (such as a historic bridge or a highly significant engineering feature); and

“(ii) those elements shall be considered to be historic sites under section 303 of title 49 or section 138 of this title, as applicable.

“(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, preservation, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f).”.

(b) INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM.—

(1) IN GENERAL.—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 109 Stat. 597; 115 Stat. 872) is amended—

(A) in the first sentence, by striking “and in subsections (c)(18) and (c)(20)” and inserting “, in subsections (c)(18) and (c)(20), and in subparagraphs (A)(iii) and (B) of subsection (c)(26)”; and

(B) in the second sentence, by striking “that the segment” and all that follows through the period and inserting “that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code, and is planned to connect to an existing Interstate System segment by the date that is 25 years after the date of enactment of the MAP-21.”.

(2) ROUTE DESIGNATION.—Section 1105(e)(5)(C)(i) of the Intermodal Surface Transportation Efficiency Act of 1991 (105



Stat. 2032; 109 Stat. 598) is amended by adding at the end the following: “The routes referred to subparagraphs (A)(iii) and (B)(i) of subsection (c)(26) are designated as Interstate Route I-11.”.

(c) CONFORMING AMENDMENTS.—

(1) ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 103 and inserting the following:

“103. National Highway System.”.

(2) SECTION 113.—Section 113 of title 23, United States Code, is amended—

(A) in subsection (a) by striking “the Federal-aid systems” and inserting “Federal-aid highways”; and

(B) in subsection (b), in the first sentence, by striking “of the Federal-aid systems” and inserting “Federal-aid highway”.

(3) SECTION 123.—Section 123(a) of title 23, United States Code, is amended in the first sentence by striking “Federal-aid system” and inserting “Federal-aid highway”.

(4) SECTION 217.—Section 217(b) of title 23, United States Code, is amended in the subsection heading by striking “NATIONAL HIGHWAY SYSTEM” and inserting “NATIONAL HIGHWAY PERFORMANCE PROGRAM”.

(5) SECTION 304.—Section 304 of title 23, United States Code, is amended in the first sentence by striking “the Federal-aid highway systems” and inserting “Federal-aid highways”.

(6) SECTION 317.—Section 317(d) of title 23, United States Code, is amended by striking “system” and inserting “highway”.

#### SEC. 1105. APPORTIONMENT.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended to read as follows:

##### “§ 104. Apportionment

“(a) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration—

“(A) \$454,180,326 for fiscal year 2013; and

“(B) \$440,000,000 for fiscal year 2014.

“(2) PURPOSES.—The amounts authorized to be appropriated by this subsection shall be used—

“(A) to administer the provisions of law to be funded from appropriations for the Federal-aid highway program and programs authorized under chapter 2;

“(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system; and

“(C) to reimburse, as appropriate, the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

“(3) AVAILABILITY.—The amounts made available under paragraph (1) shall remain available until expended.

“(b) DIVISION OF STATE APPORTIONMENTS AMONG PROGRAMS.—The Secretary shall distribute the amount apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the surface transportation program, the highway safety improvement program, and the congestion mitigation and air quality improvement program, and to carry out section 134 as follows:

“(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, 63.7 percent of the amount remaining after distributing amounts under paragraphs (4) and (5).

“(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program, 29.3 percent of the amount remaining after distributing amounts under paragraphs (4) and (5).

“(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 7 percent of the amount remaining after distributing amounts under paragraphs (4) and (5).

“(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

“(A) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2009; bears to

“(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP-21.

“(5) METROPOLITAN PLANNING.—To carry out section 134, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

“(A) the amount apportioned to the State to carry out section 134 for fiscal year 2009; bears to

“(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP-21.

“(c) CALCULATION OF STATE AMOUNTS.—

“(1) FOR FISCAL YEAR 2013.—

“(A) CALCULATION OF AMOUNT.—For fiscal year 2013, the amount for each State of combined apportionments for the national highway performance program under section 119, the surface transportation program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 shall be equal to the combined amount of apportionments that the State received for fiscal year 2012.

“(B) STATE APPORTIONMENT.—On October 1 of such fiscal year, the Secretary shall apportion the sum authorized to be appropriated for expenditure on the national highway performance program under section 119, the surface transportation program under section 133, the highway

safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 in accordance with subparagraph (A).

“(2) FOR FISCAL YEAR 2014.—

“(A) STATE SHARE.—For fiscal year 2014, the amount for each State of combined apportionments for the national highway performance program under section 119, the surface transportation program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 shall be determined as follows:

“(i) INITIAL AMOUNT.—The initial amount for each State shall be determined by multiplying the total amount available for apportionment by the share for each State which shall be equal to the proportion that—

“(I) the amount of apportionments that the State received for fiscal year 2012; bears to

“(II) the amount of those apportionments received by all States for that fiscal year.

“(ii) ADJUSTMENTS TO AMOUNTS.—The initial amounts resulting from the calculation under clause (i) shall be adjusted to ensure that, for each State, the amount of combined apportionments for the programs shall not be less than 95 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

“(B) STATE APPORTIONMENT.—On October 1 of such fiscal year, the Secretary shall apportion the sum authorized to be appropriated for expenditure on the national highway performance program under section 119, the surface transportation program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, and to carry out section 134 in accordance with subparagraph (A).

“(d) METROPOLITAN PLANNING.—

“(1) USE OF AMOUNTS.—

“(A) USE.—

“(i) IN GENERAL.—Except as provided in clause (ii), the amounts apportioned to a State under subsection (b)(5) shall be made available by the State to the metropolitan planning organizations responsible for carrying out section 134 in the State.

“(ii) STATES RECEIVING MINIMUM APPORTIONMENT.—A State that received the minimum apportionment for use in carrying out section 134 for fiscal year 2009 may, subject to the approval of the Secretary, use the funds apportioned under subsection (b)(5) to fund transportation planning outside of urbanized areas.

“(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.

“(2) DISTRIBUTION OF AMOUNTS WITHIN STATES.—

“(A) IN GENERAL.—The distribution within any State of the planning funds made available to organizations under paragraph (1) shall be in accordance with a formula that—

“(i) is developed by each State and approved by the Secretary; and

“(ii) takes into consideration, at a minimum, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out section 134 and other applicable requirements of Federal law.

Deadline.

“(B) REIMBURSEMENT.—Not later than 15 business days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from amounts distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

“(3) DETERMINATION OF POPULATION FIGURES.—For the purpose of determining population figures under this subsection, the Secretary shall use the latest available data from the decennial census conducted under section 141(a) of title 13, United States Code.

Deadlines.

“(e) CERTIFICATION OF APPORTIONMENTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) on October 1 of each fiscal year, certify to each of the State transportation departments the amount that has been apportioned to the State under this section for the fiscal year; and

“(B) to permit the States to develop adequate plans for the use of amounts apportioned under this section, advise each State of the amount that will be apportioned to the State under this section for a fiscal year not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

“(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section for a fiscal year beginning after September 30, 1998, by not later than the date that is the twenty-first day of that fiscal year, the Secretary shall submit, by not later than that date, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a written statement of the reason for not making the apportionment in a timely manner.

“(3) APPORTIONMENT CALCULATIONS.—

“(A) IN GENERAL.—The calculation of official apportionments of funds to the States under this title is a primary responsibility of the Department and shall be carried out only by employees (and not contractors) of the Department.

“(B) PROHIBITION ON USE OF FUNDS TO HIRE CONTRACTORS.—None of the funds made available under this title shall be used to hire contractors to calculate the apportionments of funds to States.

“(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

“(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

“(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the amounts transferred under subparagraph (A).

Applicability.

“(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

“(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to amounts transferred under subparagraph (A).

Applicability.

“(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may, at the request of a State, transfer amounts apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more projects that are eligible for assistance with amounts so apportioned or allocated.

“(B) APPORTIONMENT.—The transfer shall have no effect on any apportionment of amounts to a State under this section.

“(C) FUNDS SUBALLOCATED TO URBANIZED AREAS.—Amounts that are apportioned or allocated to a State under subsection (b)(3) (as in effect on the day before the date of enactment of the MAP–21) or subsection (b)(2) and attributed to an urbanized area of a State with a population of more than 200,000 individuals under section 133(d) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

“(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be transferred in the same manner and amount as the amounts for the projects that are transferred under this section.

“(g) REPORT TO CONGRESS.—For each fiscal year, the Secretary shall make available to the public, in a user-friendly format via the Internet, a report that describes—

Public  
information.  
Web posting.

“(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

“(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section;

“(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

“(4) the rates of obligation of funds apportioned or set aside under this section, according to—

“(A) program;

“(B) funding category of subcategory;

“(C) type of improvement;

“(D) State; and

“(E) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area.”.

(b) CONFORMING AMENDMENT.—Section 146(a) of title 23, United States Code, is amended by striking “sections 104(b)(1) and 104(b)(3)” and inserting “section 104(b)(2)”.

#### **SEC. 1106. NATIONAL HIGHWAY PERFORMANCE PROGRAM.**

(a) IN GENERAL.—Section 119 of title 23, United States Code, is amended to read as follows:

##### **“§ 119. National highway performance program**

“(a) ESTABLISHMENT.—The Secretary shall establish and implement a national highway performance program under this section.

“(b) PURPOSES.—The purposes of the national highway performance program shall be—

“(1) to provide support for the condition and performance of the National Highway System;

“(2) to provide support for the construction of new facilities on the National Highway System; and

“(3) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in an asset management plan of a State for the National Highway System.

“(c) ELIGIBLE FACILITIES.—Except as provided in subsection (d), to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility shall be located on the National Highway System, as defined in section 103.

“(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out the national highway performance program may be obligated only for a project on an eligible facility that is—

“(1)(A) a project or part of a program of projects supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, mobility, or freight movement on the National Highway System; and

“(B) consistent with sections 134 and 135; and

“(2) for 1 or more of the following purposes:

“(A) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvement of segments of the National Highway System.

“(B) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on the National Highway System.

“(C) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including impact protection measures, security countermeasures, and protection against extreme events) of tunnels on the National Highway System.

“(D) Inspection and evaluation, as described in section 144, of bridges and tunnels on the National Highway System, and inspection and evaluation of other highway infrastructure assets on the National Highway System, including signs and sign structures, earth retaining walls, and drainage structures.

“(E) Training of bridge and tunnel inspectors, as described in section 144.

“(F) Construction, rehabilitation, or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

“(G) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

“(i) the highway project or transit project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

“(ii) the construction or improvements will reduce delays or produce travel time savings on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

“(iii) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the fully access-controlled highway described in clause (i).

“(H) Bicycle transportation and pedestrian walkways in accordance with section 217.

“(I) Highway safety improvements for segments of the National Highway System.

“(J) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs.

“(K) Development and implementation of a State asset management plan for the National Highway System in accordance with this section, including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management.

“(L) Infrastructure-based intelligent transportation systems capital improvements.

“(M) Environmental restoration and pollution abatement in accordance with section 328.

“(N) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

“(O) Environmental mitigation efforts related to projects funded under this section, as described in subsection (g).

“(P) Construction of publicly owned intracity or intercity bus terminals servicing the National Highway System.

“(e) STATE PERFORMANCE MANAGEMENT.—

“(1) IN GENERAL.—A State shall develop a risk-based asset management plan for the National Highway System to improve or preserve the condition of the assets and the performance of the system.

“(2) PERFORMANCE DRIVEN PLAN.—A State asset management plan shall include strategies leading to a program of projects that would make progress toward achievement of the State targets for asset condition and performance of the National Highway System in accordance with section 150(d) and supporting the progress toward the achievement of the national goals identified in section 150(b).

“(3) SCOPE.—In developing a risk-based asset management plan, the Secretary shall encourage States to include all infrastructure assets within the right-of-way corridor in such plan.

“(4) PLAN CONTENTS.—A State asset management plan shall, at a minimum, be in a form that the Secretary determines to be appropriate and include—

“(A) a summary listing of the pavement and bridge assets on the National Highway System in the State, including a description of the condition of those assets;

“(B) asset management objectives and measures;

“(C) performance gap identification;

“(D) lifecycle cost and risk management analysis;

“(E) a financial plan; and

“(F) investment strategies.

Determination.

“(5) REQUIREMENT FOR PLAN.—Notwithstanding section 120, with respect to the second fiscal year beginning after the date of establishment of the process established in paragraph (8) or any subsequent fiscal year, if the Secretary determines that a State has not developed and implemented a State asset management plan consistent with this section, the Federal share payable on account of any project or activity carried out by the State in that fiscal year under this section shall be 65 percent.

Deadlines.  
Reviews.

“(6) CERTIFICATION OF PLAN DEVELOPMENT PROCESS.—

“(A) IN GENERAL.—Not later than 90 days after the date on which a State submits a request for approval of the process used by the State to develop the State asset management plan for the National Highway System, the Secretary shall—

“(i) review the process; and

“(ii)(I) certify that the process meets the requirements established by the Secretary; or

“(II) deny certification and specify actions necessary for the State to take to correct deficiencies in the State process.

“(B) RECERTIFICATION.—Not less frequently than once every 4 years, the Secretary shall review and recertify that the process used by a State to develop and maintain the State asset management plan for the National Highway



System meets the requirements for the process, as established by the Secretary.

“(C) OPPORTUNITY TO CURE.—If the Secretary denies certification under subparagraph (A), the Secretary shall provide the State with—

“(i) not less than 90 days to cure the deficiencies of the plan, during which time period all penalties and other legal impacts of a denial of certification shall be stayed; and

“(ii) a written statement of the specific actions the Secretary determines to be necessary for the State to cure the plan.

Statement.

“(7) PERFORMANCE ACHIEVEMENT.—A State that does not achieve or make significant progress toward achieving the targets of the State for performance measures described in section 150(d) for the National Highway System for 2 consecutive reports submitted under this paragraph shall include in the next report submitted a description of the actions the State will undertake to achieve the targets.

Reports.

“(8) PROCESS.—Not later than 18 months after the date of enactment of the MAP-21, the Secretary shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1).

Deadline.  
Regulations.

“(f) INTERSTATE SYSTEM AND NHS BRIDGE CONDITIONS.—

“(1) CONDITION OF INTERSTATE SYSTEM.—

“(A) PENALTY.—If, during 2 consecutive reporting periods, the condition of the Interstate System, excluding bridges on the Interstate System, in a State falls below the minimum condition level established by the Secretary under section 150(c)(3), the State shall be required, during the following fiscal year—

“(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount that is not less than the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP-21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

“(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP-21).

“(B) RESTORATION.—The obligation requirement for the Interstate System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of the

Interstate System in the State exceeds the minimum condition level established by the Secretary.

“(2) CONDITION OF NHS BRIDGES.—

Determination.  
Time period.

“(A) PENALTY.—If the Secretary determines that, for the 3-year-period preceding the date of the determination, more than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as structurally deficient, an amount equal to 50 percent of funds apportioned to such State for fiscal year 2009 to carry out section 144 (as in effect the day before enactment of MAP–21) shall be set aside from amounts apportioned to a State for a fiscal year under section 104(b)(1) only for eligible projects on bridges on the National Highway System.

“(B) RESTORATION.—The set-aside requirement for bridges on the National Highway System in a State under subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as less than 10 percent of the total deck area of bridges in the State on the National Highway System is located on bridges that have been classified as structurally deficient, as determined by the Secretary.

“(g) ENVIRONMENTAL MITIGATION.—

“(1) ELIGIBLE ACTIVITIES.—In accordance with all applicable Federal law (including regulations), environmental mitigation efforts referred to in subsection (d)(2)(O) include participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include—

“(A) participation in mitigation banking or other third-party mitigation arrangements, such as—

“(i) the purchase of credits from commercial mitigation banks;

“(ii) the establishment and management of agency-sponsored mitigation banks; and

“(iii) the purchase of credits or establishment of in-lieu fee mitigation programs;

“(B) contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands; and

“(C) the development of statewide and regional environmental protection plans, including natural habitat and wetland conservation and restoration plans.

“(2) INCLUSION OF OTHER ACTIVITIES.—The banks, efforts, and plans described in paragraph (1) include any such banks, efforts, and plans developed in accordance with applicable law (including regulations).

Applicability.

“(3) TERMS AND CONDITIONS.—The following terms and conditions apply to natural habitat and wetlands mitigation efforts under this subsection:

“(A) Contributions to the mitigation effort may—

“(i) take place concurrent with, or in advance of, commitment of funding under this title to a project or projects; and

“(ii) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

“(B) Credits from any agency-sponsored mitigation bank that are attributable to funding under this section may be used only for projects funded under this title, unless the agency pays to the Secretary an amount equal to the Federal funds attributable to the mitigation bank credits the agency uses for purposes other than mitigation of a project funded under this title.

“(4) PREFERENCE.—At the discretion of the project sponsor, preference shall be given, to the maximum extent practicable, to mitigating an environmental impact through the use of a mitigation bank, in-lieu fee, or other third-party mitigation arrangement, if the use of credits from the mitigation bank or in-lieu fee, or the other third-party mitigation arrangement for the project, is approved by the applicable Federal agency.”.

(b) TRANSITION PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (2), until such date as a State has in effect an approved asset management plan and has established performance targets as described in sections 119 and 150 of title 23, United States Code, that will contribute to achieving the national goals for the condition and performance of the National Highway System, but not later than 18 months after the date on which the Secretary promulgates the final regulation required under section 150(c) of that title, the Secretary shall approve obligations of funds apportioned to a State to carry out the national highway performance program under section 119 of that title, for projects that otherwise meet the requirements of that section.

(2) EXTENSION.—The Secretary may extend the transition period for a State under paragraph (1) if the Secretary determines that the State has made a good faith effort to establish an asset management plan and performance targets referred to in that paragraph.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 119 and inserting the following:

“119. National highway performance program.”.

#### SEC. 1107. EMERGENCY RELIEF.

Section 125 of title 23, United States Code, is amended to read as follows:

#### “§ 125. Emergency relief

“(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

“(1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

“(2) catastrophic failure from any external cause.

“(b) RESTRICTION ON ELIGIBILITY.—

“(1) DEFINITION OF CONSTRUCTION PHASE.—In this subsection, the term ‘construction phase’ means the phase of physical construction of a highway or bridge facility that is separate from any other identified phases, such as planning, design,

23 USC 119 note.  
Deadline.

or right-of-way phases, in the State transportation improvement program.

“(2) RESTRICTION.—In no case shall funds be used under this section for the repair or reconstruction of a bridge—

“(A) that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration; or

“(B) if a construction phase of a replacement structure is included in the approved Statewide transportation improvement program at the time of an event described in subsection (a).

“(c) FUNDING.—

“(1) IN GENERAL.—Subject to the limitations described in paragraph (2), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to establish the fund authorized by this section and to replenish that fund on an annual basis.

“(2) LIMITATIONS.—The limitations referred to in paragraph (1) are that—

“(A) not more than \$100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out this section, except that, if for any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated for the fiscal year, the unobligated balance of that amount shall—

“(i) remain available until expended; and

“(ii) be in addition to amounts otherwise available to carry out this section for each year; and

“(B)(i) pending such appropriation or replenishment, the Secretary may obligate from any funds appropriated at any time for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as are necessary for the immediate prosecution of the work herein authorized; and

“(ii) funds obligated under this subparagraph shall be reimbursed from the appropriation or replenishment.

“(d) ELIGIBILITY.—

“(1) IN GENERAL.—The Secretary may expend funds from the emergency fund authorized by this section only for the repair or reconstruction of highways on Federal-aid highways in accordance with this chapter, except that—

“(A) no funds shall be so expended unless an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

“(B) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than 2 years after the natural disaster or catastrophic failure.

“(2) COST LIMITATION.—

Deadline.

“(A) DEFINITION OF COMPARABLE FACILITY.—In this paragraph, the term ‘comparable facility’ means a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life.

“(B) LIMITATION.—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility.

“(3) DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense under this section only for—

“(A) an event not declared a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

“(B) an event declared a major disaster or emergency by the President under that Act if the debris removal is not eligible for assistance under section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192).

“(4) TERRITORIES.—The total obligations for projects under this section for any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed \$20,000,000.

“(5) SUBSTITUTE TRAFFIC.—Notwithstanding any other provision of this section, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged for comparable service, may be expended from the emergency fund authorized by this section for Federal-aid highways.

“(e) TRIBAL TRANSPORTATION FACILITIES, FEDERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC ROADS ON FEDERAL LANDS.—

“(1) DEFINITION OF OPEN TO PUBLIC TRAVEL.—In this subsection, the term ‘open to public travel’ means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road is open to the general public for use with a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

“(2) EXPENDITURE OF FUNDS.—Notwithstanding subsection (d)(1), the Secretary may expend funds from the emergency fund authorized by this section, independently or in cooperation with any other branch of the Federal Government, a State agency, a tribal government, an organization, or a person, for the repair or reconstruction of tribal transportation facilities, Federal lands transportation facilities, and other federally owned roads that are open to public travel, whether or not those facilities are Federal-aid highways.

“(3) REIMBURSEMENT.—

“(A) IN GENERAL.—The Secretary may reimburse Federal and State agencies (including political subdivisions) for expenditures made for projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility.

“(B) TRANSFERS.—With respect to reimbursements described in subparagraph (A)—

“(i) those reimbursements to Federal agencies and Indian tribal governments shall be transferred to the account from which the expenditure was made, or to a similar account that remains available for obligation; and

“(ii) the budget authority associated with the expenditure shall be restored to the agency from which the authority was derived and shall be available for obligation until the end of the fiscal year following the year in which the transfer occurs.

“(f) TREATMENT OF TERRITORIES.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.

“(g) PROTECTING PUBLIC SAFETY AND MAINTAINING ROADWAYS.—The Secretary may use not more than 5 percent of amounts from the emergency fund authorized by this section to carry out projects that the Secretary determines are necessary to protect the public safety or to maintain or protect roadways that are included within the scope of an emergency declaration by the Governor of the State or by the President, in accordance with this section, and the Governor deems to be an ongoing concern in order to maintain vehicular traffic on the roadway.”.

#### **SEC. 1108. SURFACE TRANSPORTATION PROGRAM.**

(a) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking “section 104(b)(3)” and inserting “section 104(b)(2)”;

(2) by striking paragraph (1);

(3) by redesignating paragraphs (2) through (15) as paragraphs (5) through (18), respectively;

(4) by inserting before paragraph (5) (as so redesignated) the following:

“(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways, including construction of designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40.

“(2) Replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels on public roads of all functional classifications, including any such construction or reconstruction necessary to accommodate other transportation modes.

“(3) Construction of a new bridge or tunnel at a new location on a Federal-aid highway.

“(4) Inspection and evaluation of bridges and tunnels and training of bridge and tunnel inspectors (as defined in section

144), and inspection and evaluation of other highway assets (including signs, retaining walls, and drainage structures).”;

(5) by striking paragraph (6) (as so redesignated) and inserting the following:

“(6) Carpool projects, fringe and corridor parking facilities and programs, including electric vehicle and natural gas vehicle infrastructure in accordance with section 137, bicycle transportation and pedestrian walkways in accordance with section 217, and the modifications of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).”;

(6) by striking paragraph (7) (as so redesignated) and inserting the following:

“(7) Highway and transit safety infrastructure improvements and programs, installation of safety barriers and nets on bridges, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.”;

(7) in paragraph (11) (as so redesignated) by striking “enhancement activities” and inserting “alternatives”;

(8) by striking paragraph (14) (as so redesignated) and inserting the following:

“(14) Environmental mitigation efforts relating to projects funded under this title in the same manner and to the same extent as such activities are eligible under section 119(g).”; and

(9) by inserting after paragraph (18) (as so redesignated) the following:

“(19) Projects and strategies designed to support congestion pricing, including electric toll collection and travel demand management strategies and programs.

“(20) Recreational trails projects eligible for funding under section 206.

“(21) Construction of ferry boats and ferry terminal facilities eligible for funding under section 129(c).

“(22) Border infrastructure projects eligible for funding under section 1303 of the SAFETEA-LU (23 U.S.C. 101 note; Public Law 109-59).

“(23) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

“(24) Development and implementation of a State asset management plan for the National Highway System in accordance with section 119, including data collection, maintenance, and integration and the costs associated with obtaining, updating, and licensing software and equipment required for risk based asset management and performance based management, and for similar activities related to the development and implementation of a performance based management program for other public roads.

“(25) A project that, if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.

“(26) Construction and operational improvements for any minor collector if—

“(A) the minor collector, and the project to be carried out with respect to the minor collector, are in the same

corridor as, and in proximity to, a Federal-aid highway designated as part of the National Highway System;

“(B) the construction or improvements will enhance the level of service on the Federal-aid highway described in subparagraph (A) and improve regional traffic flow; and

“(C) the construction or improvements are more cost-effective, as determined by a benefit-cost analysis, than an improvement to the Federal-aid highway described in subparagraph (A).”.

(b) LOCATION OF PROJECTS.—Section 133 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) LOCATION OF PROJECTS.—Surface transportation program projects may not be undertaken on roads functionally classified as local or rural minor collectors unless the roads were on a Federal-aid highway system on January 1, 1991, except—

“(1) as provided in subsection (g);

“(2) for projects described in paragraphs (2), (4), (6), (7), (11), (20), (25), and (26) of subsection (b); and

“(3) as approved by the Secretary.”.

(c) ALLOCATION OF APPORTIONED FUNDS.—Section 133 of the title 23, United States Code, is amended by striking subsection (d) and inserting the following:

“(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

“(1) CALCULATION.—Of the funds apportioned to a State under section 104(b)(2)—

“(A) 50 percent for a fiscal year shall be obligated under this section, in proportion to their relative shares of the population of the State—

“(i) in urbanized areas of the State with an urbanized area population of over 200,000;

“(ii) in areas of the State other than urban areas with a population greater than 5,000; and

“(iii) in other areas of the State; and

“(B) 50 percent may be obligated in any area of the State.

“(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

“(3) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of paragraph (1)(A)(ii), before obligating funding attributed to an area with a population greater than 5,000 and less than 200,000, a State shall consult with the regional transportation planning organizations that represent the area, if any.

“(4) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of funds that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) based on the relative population of the areas.

“(B) OTHER FACTORS.—The State may obligate the funds described in subparagraph (A) based on other factors if the State and the relevant metropolitan planning



organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

“(5) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.”

(d) ADMINISTRATION.—Section 133 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

“(e) ADMINISTRATION.—

“(1) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

“(A) certifies that the State will meet all the requirements of this section; and Certification.

“(B) notifies the Secretary of the amount of obligations needed to carry out the program under this section. Notification.

“(2) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in paragraph (1)(B) as the State determines to be necessary.

“(3) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.”

(e) OBLIGATION AUTHORITY.—Section 133(f)(1) of title 23, United States Code, is amended by striking “2004 through 2006 and the period of fiscal years 2007 through 2009” and inserting “2011 through 2014”.

(f) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Section 133 of the title 23, United States Code, is amended by adding at the end the following:

“(g) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

“(1) DEFINITION OF OFF-SYSTEM BRIDGE.—In this subsection, the term ‘off-system bridge’ means a highway bridge located on a public road, other than a bridge on a Federal-aid highway.

“(2) SPECIAL RULE.—

“(A) SET-ASIDE.—Of the amounts apportioned to a State for fiscal year 2013 and each fiscal year thereafter under this section, the State shall obligate for activities described in subsection (b)(2) for off-system bridges an amount that is not less than 15 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009, except that amounts allocated under subsection (d) shall not be obligated to carry out this subsection.

“(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

“(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that is wholly funded from State and local sources, is eligible for Federal funds under

this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge—

“(A) any amount expended after the date of enactment of this subsection from State and local sources for the project in excess of 20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

“(B) that crediting shall be conducted in accordance with procedures established by the Secretary.

“(h) SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.—

“(1) SPECIAL RULE.—Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under subsection (d)(1)(A)(iii) for each of fiscal years 2013 through 2014 may be obligated on roads functionally classified as minor collectors.

“(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) with respect to a State if the Secretary determines that the authority provided under paragraph (1) is being used excessively by the State.”.

#### **SEC. 1109. WORKFORCE DEVELOPMENT.**

(a) ON-THE-JOB TRAINING.—Section 140(b) of title 23, United States Code, is amended—

(1) in the second sentence, by striking “Whenever apportionments are made under section 104(b)(3) of this title,” and inserting “From administrative funds made available under section 104(a),”; and

(2) in the fourth sentence, by striking “and the bridge program under section 144”.

(b) DISADVANTAGED BUSINESS ENTERPRISE.—Section 140(c) of title 23, United States Code, is amended in the second sentence by striking “Whenever apportionments are made under section 104(b)(3),” and inserting “From administrative funds made available under section 104(a),”.

#### **SEC. 1110. HIGHWAY USE TAX EVASION PROJECTS.**

Section 143 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

“(2) FUNDING.—

“(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary shall deduct such sums as are necessary, not to exceed \$10,000,000 for each of fiscal years 2013 and 2014, to carry out this section.

“(B) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary, except that of funds so made available for each fiscal year, \$2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.”; and

(B) in paragraph (8) by striking “section 104(b)(3)” and inserting “section 104(b)(2)”; and  
(2) in subsection (c)(3) by striking “for each of fiscal years 2005 through 2009,” and inserting “for each fiscal year,”.

**SEC. 1111. NATIONAL BRIDGE AND TUNNEL INVENTORY AND INSPECTION STANDARDS.**

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended to read as follows:

**“§ 144. National bridge and tunnel inventory and inspection standards**

“(a) FINDINGS AND DECLARATIONS.—

“(1) FINDINGS.—Congress finds that—

“(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and

“(B) the systematic preventative maintenance of bridges, and replacement and rehabilitation of deficient bridges, should be undertaken through an overall asset management approach to transportation investment.

“(2) DECLARATIONS.—Congress declares that it is in the vital interest of the United States—

“(A) to inventory, inspect, and improve the condition of the highway bridges and tunnels of the United States;

“(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety and extended service life;

“(C) to use performance-based bridge management systems to assist States in making timely investments;

“(D) to ensure accountability and link performance outcomes to investment decisions; and

“(E) to ensure connectivity and access for residents of rural areas of the United States through strategic investments in National Highway System bridges and bridges on all public roads.

“(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall—

“(1) inventory all highway bridges on public roads, on and off Federal-aid highways, including tribally owned and Federally owned bridges, that are bridges over waterways, other topographical barriers, other highways, and railroads;

“(2) inventory all tunnels on public roads, on and off Federal-aid highways, including tribally owned and Federally owned tunnels;

“(3) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished;

“(4) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation; and

“(5) determine the cost of replacing each structurally deficient bridge identified under this subsection with a comparable facility or the cost of rehabilitating the bridge.

“(c) GENERAL BRIDGE AUTHORITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this title.

“(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters that—

“(A) are not used and are not susceptible to use in the natural condition of the bridge or by reasonable improvement as a means to transport interstate or foreign commerce; and

“(B) are—

“(i) not tidal; or

“(ii) if tidal, used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

“(d) INVENTORY UPDATES AND REPORTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) annually revise the inventories authorized by subsection (b); and

“(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the inventories.

“(2) INSPECTION REPORT.—Not later than 2 years after the date of enactment of the MAP-21, each State and appropriate Federal agency shall report element level data to the Secretary, as each bridge is inspected pursuant to this section, for all highway bridges on the National Highway System.

“(3) GUIDANCE.—The Secretary shall provide guidance to States and Federal agencies for implementation of this subsection, while respecting the existing inspection schedule of each State.

“(4) BRIDGES NOT ON NATIONAL HIGHWAY SYSTEM.—The Secretary shall—

“(A) conduct a study on the benefits, cost-effectiveness, and feasibility of requiring element-level data collection for bridges not on the National Highway System; and

“(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

“(e) BRIDGES WITHOUT TAXING POWERS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this

Study.

title, but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system.

“(2) INSUFFICIENT ASSETS.—Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the bridge project or activity eligible for assistance under this title.

“(3) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

“(f) REPLACEMENT OF DESTROYED BRIDGES AND FERRY BOAT SERVICE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a State may use the funds apportioned under section 104(b)(2) to construct any bridge that replaces—

“(A) any low water crossing (regardless of the length of the low water crossing);

“(B) any bridge that was destroyed prior to January 1, 1965;

“(C) any ferry that was in existence on January 1, 1984; or

“(D) any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers.

“(2) FEDERAL SHARE.—The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of the construction.

“(g) HISTORIC BRIDGES.—

“(1) DEFINITION OF HISTORIC BRIDGE.—In this subsection, the term ‘historic bridge’ means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

“(2) COORDINATION.—The Secretary shall, in cooperation with the States, encourage the retention, rehabilitation, adaptive reuse, and future study of historic bridges.

“(3) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine the historic significance of the bridges.

“(4) ELIGIBILITY.—

“(A) IN GENERAL.—Subject to subparagraph (B), reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of a historic bridge shall be eligible as reimbursable project costs under section 133 if the load capacity and safety features of the historic bridge are adequate to serve the intended use for the life of the historic bridge.

“(B) BRIDGES NOT USED FOR VEHICLE TRAFFIC.—In the case of a historic bridge that is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project

costs pursuant to this chapter shall not exceed the estimated cost of demolition of the historic bridge.

“(5) PRESERVATION.—Any State that proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the historic bridge available for donation to a State, locality, or responsible private entity if the State, locality, or responsible entity enters into an agreement—

“(A) to maintain the bridge and the features that give the historic bridge its historic significance; and

“(B) to assume all future legal and financial responsibility for the historic bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

“(6) COSTS INCURRED.—

“(A) IN GENERAL.—Costs incurred by the State to preserve a historic bridge (including funds made available to the State, locality, or private entity to enable it to accept the bridge) shall be eligible as reimbursable project costs under this chapter in an amount not to exceed the cost of demolition.

“(B) ADDITIONAL FUNDING.—Any bridge preserved pursuant to this paragraph shall not be eligible for any other funds authorized pursuant to this title.

“(h) NATIONAL BRIDGE AND TUNNEL INSPECTION STANDARDS.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper inspection and evaluation of all highway bridges and tunnels for safety and serviceability.

“(B) UNIFORMITY.—The standards under this subsection shall be designed to ensure uniformity of the inspections and evaluations.

“(2) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under paragraph (1) shall, at a minimum—

“(A) specify, in detail, the method by which the inspections shall be carried out by the States, Federal agencies, and tribal governments;

“(B) establish the maximum time period between inspections;

“(C) establish the qualifications for those charged with carrying out the inspections;

“(D) require each State, Federal agency, and tribal government to maintain and make available to the Secretary on request—

Reports.

“(i) written reports on the results of highway bridge and tunnel inspections and notations of any action taken pursuant to the findings of the inspections; and

Inventory data.

“(ii) current inventory data for all highway bridges and tunnels reflecting the findings of the most recent highway bridge and tunnel inspections conducted; and

Procedures.  
Certification.

“(E) establish a procedure for national certification of highway bridge inspectors and tunnel inspectors.

“(3) STATE COMPLIANCE WITH INSPECTION STANDARDS.—The Secretary shall, at a minimum—

“(A) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures to conduct reviews of State compliance with—

“(i) the standards established under this subsection; and

“(ii) the calculation or reevaluation of bridge load ratings; and

“(B) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for States to follow in reporting to the Secretary—

Procedures.  
Reports.

“(i) critical findings relating to structural or safety-related deficiencies of highway bridges and tunnels; and

“(ii) monitoring activities and corrective actions taken in response to a critical finding described in clause (i).

“(4) REVIEWS OF STATE COMPLIANCE.—

Deadlines.

“(A) IN GENERAL.—The Secretary shall annually review State compliance with the standards established under this section.

“(B) NONCOMPLIANCE.—If an annual review in accordance with subparagraph (A) identifies noncompliance by a State, the Secretary shall—

“(i) issue a report detailing the issues of the noncompliance by December 31 of the calendar year in which the review was made; and

Reports.

“(ii) provide the State an opportunity to address the noncompliance by—

“(I) developing a corrective action plan to remedy the noncompliance; or

Action plan.

“(II) resolving the issues of noncompliance not later than 45 days after the date of notification.

“(5) PENALTY FOR NONCOMPLIANCE.—

“(A) IN GENERAL.—If a State fails to satisfy the requirements of paragraph (4)(B) by August 1 of the calendar year following the year of a finding of noncompliance, the Secretary shall, on October 1 of that year, and each year thereafter as may be necessary, require the State to dedicate funds apportioned to the State under sections 119 and 133 after the date of enactment of the MAP–21 to correct the noncompliance with the minimum inspection standards established under this subsection.

Deadlines.

“(B) AMOUNT.—The amount of the funds to be directed to correcting noncompliance in accordance with subparagraph (A) shall—

“(i) be determined by the State based on an analysis of the actions needed to address the noncompliance; and

Determination.

“(ii) require approval by the Secretary.

“(6) UPDATE OF STANDARDS.—Not later than 3 years after the date of enactment of the MAP–21, the Secretary shall update inspection standards to cover—

Deadline.

“(A) the methodology, training, and qualifications for inspectors; and

“(B) the frequency of inspection.

“(7) RISK-BASED APPROACH.—In carrying out the revisions required by paragraph (6), the Secretary shall consider a risk-based approach to determining the frequency of bridge inspections.

“(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—

“(1) IN GENERAL.—The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

“(2) REVISIONS.—The training program shall be revised from time to time to take into account new and improved techniques.

“(j) AVAILABILITY OF FUNDS.—In carrying out this section—

“(1) the Secretary may use funds made available to the Secretary under sections 104(a) and 503;

“(2) a State may use amounts apportioned to the State under section 104(b)(1) and 104(b)(3);

“(3) an Indian tribe may use funds made available to the Indian tribe under section 202; and

“(4) a Federal agency may use funds made available to the agency under section 503.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

“144. National bridge and tunnel inventory and inspection standards.”.

#### **SEC. 1112. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

(a) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

#### **“§ 148. Highway safety improvement program**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) HIGH RISK RURAL ROAD.—The term ‘high risk rural road’ means any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan.

“(2) HIGHWAY BASEMAP.—The term ‘highway basemap’ means a representation of all public roads that can be used to geolocate attribute data on a roadway.

“(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘highway safety improvement program’ means projects, activities, plans, and reports carried out under this section.

“(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

“(A) IN GENERAL.—The term ‘highway safety improvement project’ means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

“(i) correct or improve a hazardous road location or feature; or

“(ii) address a highway safety problem.

“(B) INCLUSIONS.—The term ‘highway safety improvement project’ includes, but is not limited to, a project for 1 or more of the following:

“(i) An intersection safety improvement.



“(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

“(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

“(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

“(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

“(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices.

“(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

“(viii) Construction of a traffic calming feature.

“(ix) Elimination of a roadside hazard.

“(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

“(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

“(xii) Installation of a traffic control or other warning device at a location with high crash potential.

“(xiii) Transportation safety planning.

“(xiv) Collection, analysis, and improvement of safety data.

“(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

“(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

“(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

“(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

“(xix) Construction and operational improvements on high risk rural roads.

“(xx) Geometric improvements to a road for safety purposes that improve safety.

“(xxi) A road safety audit.

“(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled ‘Highway Design Handbook for Older

Drivers and Pedestrians’ (FHWA-RD-01-103), dated May 2001 or as subsequently revised and updated.

“(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

“(xxiv) Systemic safety improvements.

“(5) MODEL INVENTORY OF ROADWAY ELEMENTS.—The term ‘model inventory of roadway elements’ means the listing and standardized coding by the Federal Highway Administration of roadway and traffic data elements critical to safety management, analysis, and decisionmaking.

“(6) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term ‘project to maintain minimum levels of retroreflectivity’ means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

“(7) ROAD SAFETY AUDIT.—The term ‘road safety audit’ means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

“(8) ROAD USERS.—The term ‘road user’ means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

“(9) SAFETY DATA.—

“(A) IN GENERAL.—The term ‘safety data’ means crash, roadway, and traffic data on a public road.

“(B) INCLUSION.—The term ‘safety data’ includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

“(10) SAFETY PROJECT UNDER ANY OTHER SECTION.—

“(A) IN GENERAL.—The term ‘safety project under any other section’ means a project carried out for the purpose of safety under any other section of this title.

“(B) INCLUSION.—The term ‘safety project under any other section’ includes—

“(i) a project consistent with the State strategic highway safety plan that promotes the awareness of the public and educates the public concerning highway safety matters (including motorcycle safety);

“(ii) a project to enforce highway safety laws; and

“(iii) a project to provide infrastructure and infrastructure-related equipment to support emergency services.

“(11) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

“(12) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ means a comprehensive plan, based on safety data, developed by a State transportation department that—

“(A) is developed after consultation with—

“(i) a highway safety representative of the Governor of the State;

“(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

“(iii) representatives of major modes of transportation;

“(iv) State and local traffic enforcement officials;

“(v) a highway-rail grade crossing safety representative of the Governor of the State;

“(vi) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

“(vii) motor vehicle administration agencies;

“(viii) county transportation officials;

“(ix) State representatives of nonmotorized users; and

“(x) other major Federal, State, tribal, and local safety stakeholders;

“(B) analyzes and makes effective use of State, regional, local, or tribal safety data;

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

“(D) considers safety needs of, and high-fatality segments of, all public roads, including non-State-owned public roads and roads on tribal land;

“(E) considers the results of State, regional, or local transportation and highway safety planning processes;

“(F) describes a program of strategies to reduce or eliminate safety hazards;

“(G) is approved by the Governor of the State or a responsible State agency;

“(H) is consistent with section 135(g); and

“(I) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

“(13) SYSTEMIC SAFETY IMPROVEMENT.—The term ‘systemic safety improvement’ means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

“(b) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

“(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in subsections (a)(12) and (d);

Strategic plan.

Evaluation.

“(B) produces a program of projects or strategies to reduce identified safety problems; and

“(C) evaluates the strategic highway safety plan on a regularly recurring basis in accordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

“(A) have in place a safety data system with the ability to perform safety problem identification and counter-measure analysis—

“(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

“(ii) to evaluate the effectiveness of data improvement efforts;

“(iii) to link State data systems, including traffic records, with other data systems within the State;

“(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

“(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

“(vi) to improve the collection of data on non-motorized crashes;

“(B) based on the analysis required by subparagraph (A)—

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users;

“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

“(iii) identify the number of fatalities and serious injuries on all public roads by location in the State;

“(iv) identify highway safety improvement projects on the basis of crash experience, crash potential, crash rate, or other data-supported means; and

“(v) consider which projects maximize opportunities to advance safety;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

“(iii) identifies hazardous locations, sections, and elements on all public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

“(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; and

“(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

“(ii) identify opportunities for preventing the development of such hazardous conditions; and

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

Evaluation.

“(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

“(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

“(1) ESTABLISHMENT OF REQUIREMENTS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

Deadline.

“(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

“(i) the findings of road safety audits;

“(ii) the locations of fatalities and serious injuries;

“(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

“(iv) rural roads, including all public roads, commensurate with fatality data;

“(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

“(vi) the cost-effectiveness of improvements;

“(vii) improvements to rail-highway grade crossings; and

“(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

“(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

“(A) IN GENERAL.—Each State shall—

“(i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and

“(ii) submit the updated plans to the Secretary, along with a detailed description of the process used to update the plan.

“(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

“(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and subsection (a)(12); and

“(ii) the process used is consistent with the requirements of this subsection.

Deadline.

“(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1), the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for each succeeding fiscal year until the fiscal year during which the plan is approved.

“(e) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail;

“(B) as provided in subsection (g); or

“(C) any project to maintain minimum levels of retroreflectivity with respect to a public road, without regard to whether the project is included in an applicable State strategic highway safety plan.

“(2) USE OF OTHER FUNDING FOR SAFETY.—

“(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

“(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

“(f) DATA IMPROVEMENT.—

“(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection, the following definitions apply:

“(A) IN GENERAL.—The term ‘data improvement activities’ means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

“(B) INCLUSIONS.—The term ‘data improvement activities’ includes a project or activity—

“(i) to create, update, or enhance a highway basemap of all public roads in a State;

“(ii) to collect safety data, including data identified as part of the model inventory for roadway elements, for creation of or use on a highway basemap of all public roads in a State;

“(iii) to store and maintain safety data in an electronic manner;

“(iv) to develop analytical processes for safety data elements;

“(v) to acquire and implement roadway safety analysis tools; and

“(vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

“(2) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

“(A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and

“(B) ensure that States adopt and use the subset to improve data collection.

“(g) SPECIAL RULES.—

“(1) HIGH-RISK RURAL ROAD SAFETY.—If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next fiscal year for projects on high risk rural roads an amount equal to at least 200 percent of the amount of funds the State received for fiscal year 2009 for high risk rural roads under subsection (f) of this section, as in effect on the day before the date of enactment of the MAP-21.

“(2) OLDER DRIVERS.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to include, in the subsequent Strategic Highway Safety Plan of the State, strategies to address the increases in those rates, taking into account the recommendations included in the publication of the Federal Highway Administration entitled ‘Highway Design Handbook for Older Drivers and Pedestrians’ (FHWA-RD-01-103), and dated May 2001, or as subsequently revised and updated.

“(h) REPORTS.—

“(1) IN GENERAL.—A State shall submit to the Secretary a report that—

“(A) describes progress being made to implement highway safety improvement projects under this section;

“(B) assesses the effectiveness of those improvements; and

“(C) describes the extent to which the improvements funded under this section have contributed to reducing—

“(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

“(ii) the number and rate of serious injuries on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State; and

“(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

“(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

Public  
information.  
Web posting.

“(3) TRANSPARENCY.—The Secretary shall make strategic highway safety plans submitted under subsection (d) and reports submitted under this subsection available to the public through—

“(A) the website of the Department; and

“(B) such other means as the Secretary determines to be appropriate.

“(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

Determination.  
Deadline.

“(i) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State established under section 150(d) by the date that is 2 years after the date of the establishment of the performance targets, the State shall—

“(1) use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State; and

Implementation  
plan.

“(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State, an implementation plan that—

“(A) identifies roadway features that constitute a hazard to road users;

“(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

“(C) describes how highway safety improvement program funds will be allocated, including projects, activities, and strategies to be implemented;



“(D) describes how the proposed projects, activities, and strategies funded under the State highway safety improvement program will allow the State to make progress toward achieving the safety performance targets of the State; and

“(E) describes the actions the State will undertake to meet the performance targets of the State.

“(j) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.”.

(b) STUDY OF HIGH-RISK RURAL ROADS BEST PRACTICES.—

23 USC 148 note.

(1) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

(B) METHODOLOGY.—In carrying out the study, the Secretary shall—

- (i) conduct a thorough literature review;
- (ii) survey current practices of State departments of transportation; and
- (iii) survey current practices of local units of government, as appropriate.

(C) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

- (i) State departments of transportation;
- (ii) county engineers and public works professionals;
- (iii) appropriate local officials; and
- (iv) appropriate private sector experts in the field of roadway safety infrastructure.

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

(B) CONTENTS.—The report shall include—

- (i) a summary of cost-effective roadway safety infrastructure improvements;
- (ii) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and
- (iii) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

(3) MANUAL.—

(A) DEVELOPMENT.—Based on the results of the study under paragraph (2), the Secretary, in consultation with the individuals and entities described in paragraph (1)(C), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious

bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

Deadline.

(B) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under paragraph (2).

(C) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.

(D) USE OF MANUAL.—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person.

**SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.**

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “in subsection (c)” and inserting “in subsection (d)”; and

(B) by striking “section 104(b)(2)” and inserting “section 104(b)(4)”; and

(2) in paragraph (5)—

(A) by inserting “add turning lanes,” after “improve intersections,”; and

(B) by striking “paragraph,” and inserting “paragraph, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information,”;

(3) in paragraph (6) by striking “or” at the end;

(4) in paragraph (7)(A)(ii) by striking “published in the list under subsection (f)(2)” and inserting “verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131))”;

(5) by striking the matter following paragraph (7);

(6) by redesignating paragraph (7) as paragraph (8); and

(7) by inserting after paragraph (6) the following:

“(7) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ridesharing, carsharing, alternative work hours, and pricing; or”.

(b) SPECIAL RULES.—Section 149 of title 23, United States Code, is amended—

(1) by redesignating subsections (c) through (h) as subsections (d) through (i) respectively;

(2) by inserting after subsection (b) the following:

“(c) SPECIAL RULES.—

“(1) PROJECTS FOR PM–10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(4) for a project or program for an area that is nonattainment for ozone or carbon monoxide, or both, and for PM–

10 resulting from transportation activities, without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

“(2) ELECTRIC VEHICLE AND NATURAL GAS VEHICLE INFRASTRUCTURE.—A State may obligate funds apportioned under section 104(b)(4) for a project or program to establish electric vehicle charging stations or natural gas vehicle refueling stations for the use of battery powered or natural gas fueled trucks or other motor vehicles at any location in the State except that such stations may not be established or supported where commercial establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

“(3) HOV FACILITIES.—No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.”;

(3) by striking subsection (d) (as redesignated by paragraph (1)) and inserting the following:

“(d) STATES FLEXIBILITY.—

“(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(4) for any project in the State that—

“(A) would otherwise be eligible under subsection (b) as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the surface transportation program under section 133.

“(2) STATES WITH A NONATTAINMENT AREA.—

“(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP-21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP-21, the State may use for any project that is eligible under the surface transportation program under section 133 an amount of funds apportioned to such State under section 104(b)(4) that is equal to the product obtained by multiplying—

“(i) the amount apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under paragraph (1)); by

“(ii) the ratio calculated under subparagraph (B).

“(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as the proportion that—

“(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP-21, to obligate in any area of the State for projects eligible

under section 133, as in effect on the day before the date of enactment of the MAP–21t; bears to

“(ii) the total apportionment to such State for fiscal year 2009 under section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21.

“(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.”;

(4) in subsection (f)(3) (as redesignated by paragraph (1)) by striking “104(b)(2)” and inserting “104(b)(4)”;

(5) in subsection (g) (as redesignated by paragraph (1)) by striking paragraph (3) and inserting the following:

“(3) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for PM<sub>2.5</sub> under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) to projects that are proven to reduce PM<sub>2.5</sub>, including diesel retrofits.”;

(6) by striking subsection (i) (as redesignated by paragraph (1)) and inserting the following:

“(i) EVALUATION AND ASSESSMENT OF PROJECTS.—

“(1) DATABASE.—

“(A) IN GENERAL.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects, including specific information about each project, such as the project name, location, sponsor, cost, and, to the extent already measured by the project sponsor, cost-effectiveness, based on reductions in congestion and emissions.

“(B) AVAILABILITY.—The database shall be published or otherwise made readily available by the Secretary in electronically accessible format and means, such as the Internet, for public review.

“(2) COST EFFECTIVENESS.—

“(A) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate projects on a periodic basis and develop a table or other similar medium that illustrates the cost-effectiveness of a range of project types eligible for funding under this section as to how the projects mitigate congestion and improve air quality.

“(B) CONTENTS.—The table described in subparagraph (A) shall show measures of cost-effectiveness, such as dollars per ton of emissions reduced, and assess those measures over a variety of timeframes to capture impacts on the planning timeframes outlined in section 134.

“(C) USE OF TABLE.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (1).

“(j) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

Publication.  
Public  
information.

Evaluation.

“(1) IN GENERAL.—At the discretion of a metropolitan planning organization, a technical assessment of a selected program of projects may be conducted through modeling or other means to demonstrate the emissions reduction projection required under this section.

“(2) APPLICABILITY.—If an assessment described in paragraph (1) successfully demonstrates an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of emissions reduction of individual projects included in such assessment.

“(k) PRIORITY FOR USE OF FUNDS IN PM2.5 AREAS.—

“(1) IN GENERAL.—For any State that has a nonattainment or maintenance area for fine particulate matter, an amount equal to 25 percent of the funds apportioned to each State under section 104(b)(4) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce such fine particulate matter emissions in such area, including diesel retrofits.

“(2) CONSTRUCTION EQUIPMENT AND VEHICLES.—In order to meet the requirements of paragraph (1), a State or metropolitan planning organization may elect to obligate funds to install diesel emission control technology on nonroad diesel equipment or on-road diesel equipment that is operated on a highway construction project within a PM2.5 nonattainment or maintenance area.

“(l) PERFORMANCE PLAN.—

“(1) IN GENERAL.—Each metropolitan planning organization serving a transportation management area (as defined in section 134) with a population over 1,000,000 people representing a nonattainment or maintenance area shall develop a performance plan that—

“(A) includes an area baseline level for traffic congestion and on-road mobile source emissions for which the area is in nonattainment or maintenance;

“(B) describes progress made in achieving the performance targets described in section 150(d); and

“(C) includes a description of projects identified for funding under this section and how such projects will contribute to achieving emission and traffic congestion reduction targets.

“(2) UPDATED PLANS.—Performance plans shall be updated biennially and include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

Deadline.  
Reports.

“(m) OPERATING ASSISTANCE.—A State may obligate funds apportioned under section 104(b)(2) in an area of such State that is otherwise eligible for obligations of such funds for operating costs under chapter 53 of title 49 or on a system that was previously eligible under this section.”

(c) AIR QUALITY AND CONGESTION MITIGATION MEASURE OUTCOMES ASSESSMENT STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall examine the outcomes of actions funded under the congestion

mitigation and air quality improvement program since the date of enactment of the SAFETEA-LU (Public Law 109-59).

(2) GOALS.—The goals of the program shall include—

(A) the assessment and documentation, through outcomes research conducted on a representative sample of cases, of—

(i) the emission reductions achieved by federally supported surface transportation actions intended to reduce emissions or lessen traffic congestion; and

(ii) the air quality and human health impacts of those actions, including potential unrecognized or indirect consequences, attributable to those actions;

(B) an expanded base of empirical evidence on the air quality and human health impacts of actions described in paragraph (1); and

(C) an increase in knowledge of—

(i) the factors determining the air quality and human health changes associated with transportation emission reduction actions; and

(ii) other information to more accurately understand the validity of current estimation and modeling routines and ways to improve those routines.

(3) ADMINISTRATIVE ELEMENTS.—To carry out this subsection, the Secretary shall—

(A) make a grant for the coordination, selection, management, and reporting of component studies to an independent scientific research organization with the necessary experience in successfully conducting accountability and other studies on mobile source air pollutants and associated health effects;

(B) ensure that case studies are identified and conducted by teams selected through a competitive solicitation overseen by an independent committee of unbiased experts; and

(C) ensure that all findings and reports are peer-reviewed and published in a form that presents the findings together with reviewer comments.

(4) REPORT.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) not later than 1 year after the date of enactment of the MAP-21, and for the following year, a report providing an initial scoping and plan, and status updates, respectively, for the program under this subsection; and

(B) not later than 2 years after the date of enactment of the MAP-21, a final report that describes the findings of, and recommendations resulting from, the program under this subsection.

(5) FUNDING.—Of the amounts made available to carry out section 104(a) for fiscal year 2013, the Secretary shall make available to carry out this subsection not more than \$1,000,000.

Grants.

#### SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Section 165 of title 23, United States Code, is amended to read as follows:

**“§ 165. Territorial and Puerto Rico highway program**

“(a) DIVISION OF FUNDS.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

“(1) \$150,000,000 shall be for the Puerto Rico highway program under subsection (b); and

“(2) \$40,000,000 shall be for the territorial highway program under subsection (c).

“(b) PUERTO RICO HIGHWAY PROGRAM.—

“(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

“(2) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

“(A) APPORTIONMENT.—

“(i) IN GENERAL.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144 (as in effect for fiscal year 1997) for each program funded under those sections in an amount determined by multiplying—

“(I) the aggregate of the amounts for the fiscal year; by

“(II) the proportion that—

“(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

“(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

“(ii) EXCEPTION.—Funds identified under clause (i) as having been apportioned for the national highway system, the surface transportation program, and the Interstate maintenance program shall be deemed to have been apportioned 50 percent for the national highway performance program and 50 percent for the surface transportation program for purposes of imposing such penalties.

“(B) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

“(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—

“(i) at least 50 percent shall be available only for purposes eligible under section 119;

“(ii) at least 25 percent shall be available only for purposes eligible under section 148; and

“(iii) any remaining funds may be obligated for activities eligible under chapter 1.

“(3) EFFECT ON APPORTIONMENTS.—Except as otherwise specifically provided, Puerto Rico shall not be eligible to receive funds apportioned to States under this title.

“(c) TERRITORIAL HIGHWAY PROGRAM.—

“(1) TERRITORY DEFINED.—In this subsection, the term ‘territory’ means any of the following territories of the United States:

“(A) American Samoa.

“(B) The Commonwealth of the Northern Mariana Islands.

“(C) Guam.

“(D) The United States Virgin Islands.

“(2) PROGRAM.—

“(A) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

“(i) designated by the Governor or chief executive officer of each territory; and

“(ii) approved by the Secretary.

“(B) FEDERAL SHARE.—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(g).

“(3) TECHNICAL ASSISTANCE.—

“(A) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories, on a continuing basis—

“(i) to engage in highway planning;

“(ii) to conduct environmental evaluations;

“(iii) to administer right-of-way acquisition and relocation assistance programs; and

“(iv) to design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

“(B) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under subparagraph (A), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by paragraph (5).

“(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

“(A) IN GENERAL.—Except to the extent that provisions of this chapter are determined by the Secretary to be inconsistent with the needs of the territories and the intent of this subsection, this chapter (other than provisions of this chapter relating to the apportionment and allocation of funds) shall apply to funds made available under this subsection.

“(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (5) for each territory shall identify the sections of this chapter that are applicable to that territory and the extent of the applicability of those sections.

“(5) AGREEMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available under this subsection shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the



territory has entered into an agreement (including an agreement entered into under section 215 as in effect on the day before the enactment of this section) with the Secretary providing that the government of the territory shall—

“(i) implement the program in accordance with applicable provisions of this chapter and paragraph (4);

“(ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

“(I) appropriate for each territory; and

“(II) approved by the Secretary;

“(iii) provide for the maintenance of facilities constructed or operated under this subsection in a condition to adequately serve the needs of present and future traffic; and

“(iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

“(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

“(i) specify the kind of technical assistance to be provided under the program;

“(ii) include appropriate provisions regarding information sharing among the territories; and

“(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

“(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

Deadline.

“(D) EXISTING AGREEMENTS.—With respect to an agreement under this subsection or an agreement entered into under section 215 of this title as in effect on the day before the date of enactment of this subsection—

“(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

“(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under subparagraph (A), is in effect.

“(6) ELIGIBLE USES OF FUNDS.—

“(A) IN GENERAL.—Funds made available under this subsection may be used only for the following projects and activities carried out in a territory:

“(i) Eligible surface transportation program projects described in section 133(b).

“(ii) Cost-effective, preventive maintenance consistent with section 116(e).

“(iii) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

“(iv) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

“(v) Studies of the economy, safety, and convenience of highway use.

“(vi) The regulation and equitable taxation of highway use.

“(vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

“(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available under this subsection shall be obligated or expended for routine maintenance.

“(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (2), (4), (7), (8), (14), and (19) of section 133(b)) may not be undertaken on roads functionally classified as local.”.

(b) CONFORMING AMENDMENTS.—

(1) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 165 and inserting the following:

“165. Territorial and Puerto Rico highway program.”.

(2) TERRITORIAL HIGHWAY PROGRAM.—

(A) REPEAL.—Section 215 of title 23, United States Code, is repealed.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215.

(C) DUNCAN HUNTER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009.—Section 3512(e) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (48 U.S.C. 1421r(e)) is amended by striking “section 215” and inserting “section 165”.

#### SEC. 1115. NATIONAL FREIGHT POLICY.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

##### “§ 167. National freight policy

“(a) IN GENERAL.—It is the policy of the United States to improve the condition and performance of the national freight network to ensure that the national freight network provides the foundation for the United States to compete in the global economy and achieve each goal described in subsection (b).

“(b) GOALS.—The goals of the national freight policy are—

“(1) to invest in infrastructure improvements and to implement operational improvements that—

“(A) strengthen the contribution of the national freight network to the economic competitiveness of the United States;

“(B) reduce congestion; and

“(C) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

“(2) to improve the safety, security, and resilience of freight transportation;

“(3) to improve the state of good repair of the national freight network;

“(4) to use advanced technology to improve the safety and efficiency of the national freight network;

“(5) to incorporate concepts of performance, innovation, competition, and accountability into the operation and maintenance of the national freight network; and

“(6) to improve the economic efficiency of the national freight network.

“(7) to reduce the environmental impacts of freight movement on the national freight network;

“(c) ESTABLISHMENT OF A NATIONAL FREIGHT NETWORK.—

“(1) IN GENERAL.—The Secretary shall establish a national freight network in accordance with this section to assist States in strategically directing resources toward improved system performance for efficient movement of freight on highways, including national highway system, freight intermodal connectors and aerotropolis transportation systems.

“(2) NETWORK COMPONENTS.—The national freight network shall consist of—

“(A) the primary freight network, as designated by the Secretary under subsection (d) (referred to in this section as the ‘primary freight network’) as most critical to the movement of freight;

“(B) the portions of the Interstate System not designated as part of the primary freight network; and

“(C) critical rural freight corridors established under subsection (e).

“(d) DESIGNATION OF PRIMARY FREIGHT NETWORK.—

“(1) INITIAL DESIGNATION OF PRIMARY FREIGHT NETWORK.—

“(A) DESIGNATION.—Not later than 1 year after the date of enactment of this section, the Secretary shall designate a primary freight network—

Deadline.

“(i) based on an inventory of national freight volume conducted by the Administrator of the Federal Highway Administration, in consultation with stakeholders, including system users, transport providers, and States; and

“(ii) that shall be comprised of not more than 27,000 centerline miles of existing roadways that are most critical to the movement of freight.

“(B) FACTORS FOR DESIGNATION.—In designating the primary freight network, the Secretary shall consider—

“(i) the origins and destinations of freight movement in the United States;

“(ii) the total freight tonnage and value of freight moved by highways;

“(iii) the percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;

“(iv) the annual average daily truck traffic on principal arterials;

“(v) land and maritime ports of entry;

“(vi) access to energy exploration, development, installation, or production areas;

“(vii) population centers; and

“(viii) network connectivity.

“(2) ADDITIONAL MILES ON PRIMARY FREIGHT NETWORK.—In addition to the miles initially designated under paragraph (1), the Secretary may increase the number of miles designated as part of the primary freight network by not more than 3,000 additional centerline miles of roadways (which may include existing or planned roads) critical to future efficient movement of goods on the primary freight network.

Effective date.  
Deadline.

“(3) REDESIGNATION OF PRIMARY FREIGHT NETWORK.—Effective beginning 10 years after the designation of the primary freight network and every 10 years thereafter, using the designation factors described in paragraph (1), the Secretary shall redesignate the primary freight network (including additional mileage described in paragraph (2)).

“(e) CRITICAL RURAL FREIGHT CORRIDORS.—A State may designate a road within the borders of the State as a critical rural freight corridor if the road—

“(1) is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (FHWA vehicle class 8 to 13);

“(2) provides access to energy exploration, development, installation, or production areas;

“(3) connects the primary freight network, a roadway described in paragraph (1) or (2), or Interstate System to facilities that handle more than—

“(A) 50,000 20-foot equivalent units per year; or

“(B) 500,000 tons per year of bulk commodities.

“(f) NATIONAL FREIGHT STRATEGIC PLAN.—

Deadline.

“(1) INITIAL DEVELOPMENT OF NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 3 years after the date of enactment of this section, the Secretary shall, in consultation with State departments of transportation and other appropriate public and private transportation stakeholders, develop and post on the Department of Transportation public website a national freight strategic plan that shall include—

“(A) an assessment of the condition and performance of the national freight network;

“(B) an identification of highway bottlenecks on the national freight network that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include—

“(i) information from the Freight Analysis Network of the Federal Highway Administration; and

“(ii) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented;

“(C) forecasts of freight volumes for the 20-year period beginning in the year during which the plan is issued;

“(D) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the

identification of which shall be revised, as appropriate, in subsequent plans;

“(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers);

“(F) an identification of routes providing access to energy exploration, development, installation, or production areas;

“(G) best practices for improving the performance of the national freight network;

“(H) best practices to mitigate the impacts of freight movement on communities;

“(I) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

“(J) strategies to improve freight intermodal connectivity.

“(2) UPDATES TO NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 5 years after the date of completion of the first national freight strategic plan under paragraph (1), and every 5 years thereafter, the Secretary shall update and repost on the Department of Transportation public website a revised national freight strategic plan.

“(g) FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—Not later than 2 years after the date of enactment of this section, and biennially thereafter, the Secretary shall prepare a report that contains a description of the conditions and performance of the national freight network in the United States. Web posting.

“(h) TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall— Deadline.

“(A) begin development of new tools and improvement of existing tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

“(i) methodologies for systematic analysis of benefits and costs;

“(ii) tools for ensuring that the evaluation of freight-related and other transportation projects could consider safety, economic competitiveness, environmental sustainability, and system condition in the project selection process; and

“(iii) other elements to assist in effective transportation planning;

“(B) identify transportation-related model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

“(C) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

“(2) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data in paragraph (1).

“(i) DEFINITION OF AEROTROPOLIS TRANSPORTATION SYSTEM.—In this section, the term ‘aerotropolis transportation system’ means a planned and coordinated multimodal freight and passenger transportation network that, as determined by the Secretary, provides efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“167. National freight program.”.

23 USC 167 note.

**SEC. 1116. PRIORITIZATION OF PROJECTS TO IMPROVE FREIGHT MOVEMENT.**

Certification.

(a) IN GENERAL.—Notwithstanding section 120 of title 23, United States Code, the Secretary may increase the Federal share payable for any project to 95 percent for projects on the Interstate System and 90 percent for any other project if the Secretary certifies that the project meets the requirements of this section.

(b) INCREASED FUNDING.—To be eligible for the increased Federal funding share under this section, a project shall—

(1) demonstrate the improvement made by the project to the efficient movement of freight, including making progress towards meeting performance targets for freight movement established under section 150(d) of title 23, United States Code; and

(2) be identified in a State freight plan developed pursuant to section 1118.

(c) ELIGIBLE PROJECTS.—Eligible projects to improve the movement of freight under this section may include, but are not limited to—

(1) construction, reconstruction, rehabilitation, and operational improvements directly relating to improving freight movement;

(2) intelligent transportation systems and other technology to improve the flow of freight;

(3) efforts to reduce the environmental impacts of freight movement on the primary freight network;

(4) railway-highway grade separation;

(5) geometric improvements to interchanges and ramps.

(6) truck-only lanes;

(7) climbing and runaway truck lanes;

(8) truck parking facilities eligible for funding under section 1401;

(9) real-time traffic, truck parking, roadway condition, and multimodal transportation information systems;

(10) improvements to freight intermodal connectors; and

(11) improvements to truck bottlenecks.

23 USC 167 note.

**SEC. 1117. STATE FREIGHT ADVISORY COMMITTEES.**

(a) IN GENERAL.—The Secretary shall encourage each State to establish a freight advisory committee consisting of a representative cross-section of public and private sector freight stakeholders, including representatives of ports, shippers, carriers, freight-related

associations, the freight industry workforce, the transportation department of the State, and local governments.

(b) **ROLE OF COMMITTEE.**—A freight advisory committee of a State described in subsection (a) shall—

- (1) advise the State on freight-related priorities, issues, projects, and funding needs;
- (2) serve as a forum for discussion for State transportation decisions affecting freight mobility;
- (3) communicate and coordinate regional priorities with other organizations;
- (4) promote the sharing of information between the private and public sectors on freight issues; and
- (5) participate in the development of the freight plan of the State described in section 1118.

**SEC. 1118. STATE FREIGHT PLANS.**

23 USC 167 note.

(a) **IN GENERAL.**—The Secretary shall encourage each State to develop a freight plan that provides a comprehensive plan for the immediate and long-range planning activities and investments of the State with respect to freight.

(b) **PLAN CONTENTS.**—A freight plan described in subsection (a) shall include, at a minimum—

- (1) an identification of significant freight system trends, needs, and issues with respect to the State;
- (2) a description of the freight policies, strategies, and performance measures that will guide the freight-related transportation investment decisions of the State;
- (3) a description of how the plan will improve the ability of the State to meet the national freight goals established under section 167 of title 23, United States Code;
- (4) evidence of consideration of innovative technologies and operational strategies, including intelligent transportation systems, that improve the safety and efficiency of freight movement;
- (5) in the case of routes on which travel by heavy vehicles (including mining, agricultural, energy cargo or equipment, and timber vehicles) is projected to substantially deteriorate the condition of roadways, a description of improvements that may be required to reduce or impede the deterioration; and
- (6) an inventory of facilities with freight mobility issues, such as truck bottlenecks, within the State, and a description of the strategies the State is employing to address those freight mobility issues.

(c) **RELATIONSHIP TO LONG-RANGE PLAN.**—A freight plan described in subsection (a) may be developed separate from or incorporated into the statewide strategic long-range transportation plan required by section 135 of title 23, United States Code.

**SEC. 1119. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.**

(a) **IN GENERAL.**—Chapter 2 of title 23, United States Code, is amended by striking sections 201 through 204 and inserting the following:

**“§ 201. Federal lands and tribal transportation programs**

“(a) **PURPOSE.**—Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and

Coordination.

other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all public Federal and tribal transportation facilities that shall apply to Federal lands transportation facilities, tribal transportation facilities, and Federal lands access transportation facilities.

“(b) AVAILABILITY OF FUNDS.—

“(1) AVAILABILITY.—Funds authorized for the tribal transportation program, the Federal lands transportation program, and the Federal lands access program shall be available for contract upon apportionment, or on October 1 of the fiscal year for which the funds were authorized if no apportionment is required.

“(2) AMOUNT REMAINING.—Any amount remaining unexpended for a period of 3 years after the close of the fiscal year for which the funds were authorized shall lapse.

“(3) OBLIGATIONS.—The Secretary of the department responsible for the administration of funds under this subsection may incur obligations, approve projects, and enter into contracts under such authorizations, which shall be considered to be contractual obligations of the United States for the payment of the cost thereof, the funds of which shall be considered to have been expended when obligated.

“(4) EXPENDITURE.—

“(A) IN GENERAL.—Any funds authorized for any fiscal year after the date of enactment of this section under the Federal lands transportation program, the Federal lands access program, and the tribal transportation program shall be considered to have been expended if a sum equal to the total of the sums authorized for the fiscal year and previous fiscal years have been obligated.

“(B) CREDITED FUNDS.—Any funds described in subparagraph (A) that are released by payment of final voucher or modification of project authorizations shall be—

“(i) credited to the balance of unobligated authorizations; and

“(ii) immediately available for expenditure.

“(5) APPLICABILITY.—This section shall not apply to funds authorized before the date of enactment of this paragraph.

“(6) CONTRACTUAL OBLIGATION.—

“(A) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the authorization by the Secretary, or the Secretary of the appropriate Federal land management agency if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval by the Secretary of plans, specifications, and estimates for construction of a project, shall be considered to constitute a contractual obligation of the Federal Government to pay the total eligible cost of—

“(i) any project funded under this title; and

“(ii) any project funded pursuant to agreements authorized by this title or any other title.

“(B) EFFECT.—Nothing in this paragraph—



“(i) affects the application of the Federal share associated with the project being undertaken under this section; or

“(ii) modifies the point of obligation associated with Federal salaries and expenses.

“(7) FEDERAL SHARE.—

“(A) TRIBAL AND FEDERAL LANDS TRANSPORTATION PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.

“(B) FEDERAL LANDS ACCESS PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands access program shall be determined in accordance with section 120.

“(c) TRANSPORTATION PLANNING.—

“(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall implement transportation planning procedures for Federal lands and tribal transportation facilities that are consistent with the planning processes required under sections 134 and 135.

“(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

“(3) INCLUSION IN OTHER PLANS.—Each regionally significant tribal transportation program, Federal lands transportation program, and Federal lands access program project shall be—

“(A) developed in cooperation with State and metropolitan planning organizations; and

“(B) included in appropriate tribal transportation program plans, Federal lands transportation program plans, Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

“(4) INCLUSION IN STATE PROGRAMS.—The approved tribal transportation program, Federal lands transportation program, and Federal lands access program transportation improvement programs shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

“(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems for facilities funded under the tribal transportation program and the Federal lands transportation program in support of asset management.

“(6) DATA COLLECTION.—

“(A) DATA COLLECTION.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary to implement the Federal lands transportation program, the Federal lands access program, and the tribal transportation program in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), including—

“(i) inventory and condition information on Federal lands transportation facilities and tribal transportation facilities; and

“(ii) bridge inspection and inventory information on any Federal bridge open to the public.

“(B) STANDARDS.—The Secretary, in coordination with the Secretaries of the appropriate Federal land management agencies, shall define the collection and reporting data standards.

“(7) ADMINISTRATIVE EXPENSES.—To implement the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies, the Secretary may use not more than 5 percent for each fiscal year of the funds authorized for programs under sections 203 and 204.

“(d) REIMBURSABLE AGREEMENTS.—In carrying out work under reimbursable agreements with any State, local, or tribal government under this title, the Secretary—

“(1) may, without regard to any other provision of law (including regulations), record obligations against accounts receivable from the entity; and

“(2) shall credit amounts received from the entity to the appropriate account, which shall occur not later than 90 days after the date of the original request by the Secretary for payment.

“(e) TRANSFERS.—

“(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

“(A) the Secretary;

“(B) the affected Secretaries of the respective Federal land management agencies;

“(C) State departments of transportation; and

“(D) local government agencies.

“(2) CREDIT.—The funds described in paragraph (1) shall be credited back to the loaning entity with funds that are currently available for obligation at the time of the credit.

## “§ 202. Tribal transportation program

“(a) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available under the tribal transportation program shall be used by the Secretary of Transportation and the Secretary of the Interior to pay the costs of—

“(A)(i) transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;

“(ii) adjacent vehicular parking areas;

“(iii) interpretive signage;

“(iv) acquisition of necessary scenic easements and scenic or historic sites;

“(v) provisions for pedestrians and bicycles;

“(vi) environmental mitigation in or adjacent to tribal land—

“(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

“(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

“(vii) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

“(viii) other appropriate public road facilities as determined by the Secretary;

“(B) operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government; and

“(C) any transportation project eligible for assistance under this title that is located within, or that provides access to, tribal land, or is associated with a tribal government.

“(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the Interior may enter into a contract or other appropriate agreement with respect to the activity with—

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) INDIAN LABOR.—Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

“(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to the construction or improvement of tribal transportation facilities.

“(5) FUNDS FOR CONSTRUCTION AND IMPROVEMENT.—All funds made available for the construction and improvement of tribal transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the Interior.

“(6) ADMINISTRATIVE EXPENSES.—Of the funds authorized to be appropriated for the tribal transportation program, not more than 6 percent may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses.

“(7) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Secretary of the Interior may reserve amounts from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

“(8) MAINTENANCE.—

“(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the amount of funds allocated to an Indian tribe from the tribal transportation program, for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation), the Secretary shall not use an amount more than the greater of—

“(i) an amount equal to 25 percent; or

“(ii) \$500,000.

“(B) RESPONSIBILITY OF BUREAU OF INDIAN AFFAIRS AND SECRETARY OF THE INTERIOR.—

“(i) BUREAU OF INDIAN AFFAIRS.—The Bureau of Indian Affairs shall retain primary responsibility, including annual funding request responsibility, for Bureau of Indian Affairs road maintenance programs on Indian reservations.

“(ii) SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall ensure that funding made available under this subsection for maintenance of tribal transportation facilities for each fiscal year is supplementary to, and not in lieu of, any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

“(C) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

“(i) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe shall assume the responsibility of the State for—

“(I) tribal transportation facilities; and

“(II) roads providing access to tribal transportation facilities.

“(ii) REQUIREMENTS.—Agreements entered into under clause (i) shall—

“(I) be negotiated between the State and the Indian tribe; and

“(II) not require the approval of the Secretary.

“(9) COOPERATION.—

“(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the tribal transportation program.

“(10) COMPETITIVE BIDDING.—

“(A) CONSTRUCTION.—

“(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(ii) EXCEPTION.—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

“(B) APPLICABILITY.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

“(b) FUNDS DISTRIBUTION.—

“(1) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

“(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program.

“(B) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that an Indian tribe has requested, including facilities that—

“(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

“(ii) are owned by an Indian tribal government;

“(iii) are owned by the Bureau of Indian Affairs;

“(iv) were constructed or reconstructed with funds from the Highway Trust Fund under the Indian reservation roads program since 1983;

“(v) are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives;

“(vi) are public roads within or providing access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian or Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians; or

“(vii) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

“(C) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this paragraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.

“(D) ADDITIONAL FACILITIES.—Nothing in this paragraph precludes the Secretary from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

“(E) BRIDGES.—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 144.

“(2) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

“(3) BASIS FOR FUNDING FORMULA.—

“(A) BASIS.—

“(i) IN GENERAL.—After making the set asides authorized under subparagraph (C) and subsections (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as follows:

“(I) For fiscal year 2013—

“(aa) for each Indian tribe, 80 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

“(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

“(II) For fiscal year 2014—

“(aa) for each Indian tribe, 60 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

“(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

“(III) For fiscal year 2015—

“(aa) for each Indian tribe, 40 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

“(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

“(IV) For fiscal year 2016 and thereafter—

“(aa) for each Indian tribe, 20 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

“(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

“(ii) TRIBAL HIGH PRIORITY PROJECTS.—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21), shall not continue in effect.

“(B) TRIBAL SHARES.—Tribal shares under this program shall be determined using the national tribal transportation facility inventory as calculated for fiscal year 2012, and the most recent data on American Indian and Alaska Native population within each Indian tribe’s American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance

and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), in the following manner:

“(i) 27 percent in the ratio that the total eligible road mileage in each tribe bears to the total eligible road mileage of all American Indians and Alaskan Natives. For the purposes of this calculation, eligible road mileage shall be computed based on the inventory described in paragraph (1), using only facilities included in the inventory described in clause (i), (ii), or (iii) of paragraph (1)(B).

“(ii) 39 percent in the ratio that the total population in each tribe bears to the total population of all American Indians and Alaskan Natives.

“(iii) 34 percent shall be divided equally among each Bureau of Indian Affairs region. Within each region, such share of funds shall be distributed to each Indian tribe in the ratio that the average total relative need distribution factors and population adjustment factors from fiscal years 2005 through 2011 for a tribe bears to the average total of relative need distribution factors and population adjustment factors for fiscal years 2005 through 2011 in that region.

“(C) TRIBAL SUPPLEMENTAL FUNDING.—

“(i) TRIBAL SUPPLEMENTAL FUNDING AMOUNT.—Of funds made available for each fiscal year for the tribal transportation program, the Secretary shall set aside the following amount for a tribal supplemental program:

“(I) If the amount made available for the tribal transportation program is less than or equal to \$275,000,000, 30 percent of such amount.

“(II) If the amount made available for the tribal transportation program exceeds \$275,000,000—

“(aa) \$82,500,000; plus

“(bb) 12.5 percent of the amount made available for the tribal transportation program in excess of \$275,000,000.

“(ii) TRIBAL SUPPLEMENTAL ALLOCATION.—The Secretary shall distribute tribal supplemental funds as follows:

“(I) DISTRIBUTION AMONG REGIONS.—Of the amounts set aside under clause (i), the Secretary shall distribute to each region of the Bureau of Indian Affairs a share of tribal supplemental funds in proportion to the regional total of tribal shares based on the cumulative tribal shares of all Indian tribes within such region under subparagraph (B).

“(II) DISTRIBUTION WITHIN A REGION.—Of the amount that a region receives under subclause (I), the Secretary shall distribute tribal supplemental funding among Indian tribes within such region as follows:

“(aa) TRIBAL SUPPLEMENTAL AMOUNTS.—

The Secretary shall determine—

“(AA) which such Indian tribes would be entitled under subparagraph (A) to

Determination.

receive in a fiscal year less funding than they would receive in fiscal year 2011 pursuant to the relative need distribution factor and population adjustment factor, as described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21); and

“(BB) the combined amount that such Indian tribes would be entitled to receive in fiscal year 2011 pursuant to such relative need distribution factor and population adjustment factor in excess of the amount that they would be entitled to receive in the fiscal year under subparagraph (B).

“(bb) COMBINED AMOUNT.—Subject to subclause (III), the Secretary shall distribute to each Indian tribe that meets the criteria described in item (aa)(AA) a share of funding under this subparagraph in proportion to the share of the combined amount determined under item (aa)(BB) attributable to such Indian tribe.

“(III) CEILING.—An Indian tribe may not receive under subclause (II) and based on its tribal share under subparagraph (A) a combined amount that exceeds the amount that such Indian tribe would be entitled to receive in fiscal year 2011 pursuant to the relative need distribution factor and population adjustment factor, as described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21).

“(IV) OTHER AMOUNTS.—If the amount made available for a region under subclause (I) exceeds the amount distributed among Indian tribes within that region under subclause (II), the Secretary shall distribute the remainder of such region’s funding under such subclause among all Indian tribes in that region in proportion to the combined amount that each such Indian tribe received under subparagraph (A) and subclauses (I), (II), and (III).]

“(4) TRANSFERRED FUNDS.—

Deadline.

“(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and made available for immediate use by, eligible Indian tribes, in accordance with the formula for distribution of funds under the tribal transportation program.

“(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.



“(5) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available from the tribal transportation program through a contract or agreement under Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), if the Indian tribal government—

“(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

“(B) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

“(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs, Department of Transportation, or the Assistant Secretary for Indian Affairs, Department of the Interior, as appropriate.

“(6) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions of programs, services, functions, or activities, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any tribal transportation facility shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organizational level at which the Department of the Interior has previously carried out such programs, functions, services, or activities.

“(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

“(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds, including contract support costs, for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the tribal transportation program, the programs, functions, services, or activities involved.

“(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

“(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

“(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

“(F) ELIGIBILITY.—

“(i) IN GENERAL.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

“(ii) CONSIDERATIONS.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the contracts or self-governance funding agreements made by the Indian tribe with any Federal agency under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability of the Indian tribe for purposes of clause (i).

“(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that

inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolution and appeal procedures authorized by that Act, including regulations issued to carry out the Act.

“(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

“(c) PLANNING.—

“(1) IN GENERAL.—For each fiscal year, not more than 2 percent of the funds made available for the tribal transportation program shall be allocated among Indian tribal governments that apply for transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(2) REQUIREMENT.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(c).

“(3) SELECTION AND APPROVAL OF PROJECTS.—A project funded under this section shall be—

“(A) selected by the Indian tribal government from the transportation improvement program; and

“(B) subject to the approval of the Secretary of the Interior and the Secretary.

“(d) TRIBAL TRANSPORTATION FACILITY BRIDGES.—

“(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall maintain a nationwide priority program for improving deficient bridges eligible for the tribal transportation program.

“(2) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated—

“(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

“(B) to implement any countermeasure for deficient tribal transportation facility bridges, including multiple-pipe culverts.

“(3) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in paragraph (1) shall—

“(A) have an opening of not less than 20 feet;

“(B) be classified as a tribal transportation facility;

and

“(C) be structurally deficient or functionally obsolete.

“(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

“(e) SAFETY.—

“(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in section 148(a)(4).

“(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

“(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before approving as a project on a tribal transportation facility any project eligible for funds apportioned under section 104 in a State, the Secretary shall, for projects on tribal transportation facilities, determine that the obligation of funds for the project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State under section 104.

### “§ 203. Federal lands transportation program

“(a) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

“(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

“(i) adjacent vehicular parking areas;

“(ii) acquisition of necessary scenic easements and scenic or historic sites;

“(iii) provision for pedestrians and bicycles;

“(iv) environmental mitigation in or adjacent to Federal land open to the public—

“(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

“(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

“(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

“(vi) congestion mitigation; and

“(vii) other appropriate public road facilities, as determined by the Secretary;

“(B) operation and maintenance of transit facilities;

“(C) any transportation project eligible for assistance under this title that is on a public road within or adjacent to, or that provides access to, Federal lands open to the public; and

“(D) not more \$10,000,000 of the amounts made available per fiscal year to carry out this section for activities eligible under subparagraph (A)(iv).

“(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

“(4) COOPERATION.—

“(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation facilities to which the funds were contributed.

“(5) COMPETITIVE BIDDING.—

“(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

“(b) AGENCY PROGRAM DISTRIBUTIONS.—

Effective date.  
Deadlines.

“(1) IN GENERAL.—On October 1, 2011, and on October 1 of each fiscal year thereafter, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for the Federal lands transportation program on the basis of applications of need, as determined by the Secretary—

“(A) in consultation with the Secretaries of the applicable Federal land management agencies; and

“(B) in coordination with the transportation plans required under section 201 of the respective transportation systems of—

“(i) the National Park Service;

“(ii) the Forest Service;

“(iii) the United States Fish and Wildlife Service;

“(iv) the Corps of Engineers; and

“(v) the Bureau of Land Management.

“(2) APPLICATIONS.—

“(A) REQUIREMENTS.—Each application submitted by a Federal land management agency shall include proposed programs at various potential funding levels, as defined by the Secretary following collaborative discussions with applicable Federal land management agencies.

“(B) CONSIDERATION BY SECRETARY.—In evaluating an application submitted under subparagraph (A), the Secretary shall consider the extent to which the programs support—

“(i) the transportation goals of—

“(I) a state of good repair of transportation facilities;

“(II) a reduction of bridge deficiencies, and

“(III) an improvement of safety;

“(ii) high-use Federal recreational sites or Federal economic generators; and

“(iii) the resource and asset management goals of the Secretary of the respective Federal land management agency.

“(C) PERMISSIVE CONTENTS.—Applications may include proposed programs the duration of which extend over a multiple-year period to support long-term transportation planning and resource management initiatives.

“(c) NATIONAL FEDERAL LANDS TRANSPORTATION FACILITY INVENTORY.—

“(1) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

“(2) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORIES.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

“(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

“(B) are owned by 1 of the following agencies:

“(i) The National Park Service.

“(ii) The Forest Service.

“(iii) The United States Fish and Wildlife Service.

“(iv) The Bureau of Land Management.

“(v) The Corps of Engineers.

“(3) AVAILABILITY.—The inventories shall be made available to the Secretary.

“(4) UPDATES.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

“(5) REVIEW.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road unless the Secretary determines that the bicycle level of service on that roadway is rated B or higher.

#### “§ 204. Federal lands access program

“(a) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

“(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

“(i) adjacent vehicular parking areas;

“(ii) acquisition of necessary scenic easements and scenic or historic sites;

“(iii) provisions for pedestrians and bicycles;

“(iv) environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;

“(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

“(vi) other appropriate public road facilities, as determined by the Secretary;

“(B) operation and maintenance of transit facilities; and

“(C) any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, Federal land.

“(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands access transportation facilities shall be administered in conformity with regulations and agreements approved by the Secretary.

“(4) COOPERATION.—

“(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision for a Federal lands access transportation facility project shall be credited to appropriations available under the Federal lands access program.

“(5) COMPETITIVE BIDDING.—

“(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

“(b) PROGRAM DISTRIBUTIONS.—

“(1) IN GENERAL.—Funding made available to carry out the Federal lands access program shall be allocated among those States that have Federal land, in accordance with the following formula:

“(A) 80 percent of the available funding for use in those States that contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

“(i) 30 percent in the ratio that—

“(I) recreational visitation within each such State; bears to

“(II) the recreational visitation within all such States.

“(ii) 5 percent in the ratio that—

“(I) the Federal land area within each such State; bears to

“(II) the Federal land area in all such States.

“(iii) 55 percent in the ratio that—

“(I) the Federal public road miles within each such State; bears to

“(II) the Federal public road miles in all such States.

“(iv) 10 percent in the ratio that—

“(I) the number of Federal public bridges within each such State; bears to

“(II) the number of Federal public bridges in all such States.

“(B) 20 percent of the available funding for use in those States that do not contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

“(i) 30 percent in the ratio that—



“(I) recreational visitation within each such State; bears to

“(II) the recreational visitation within all such States.

“(ii) 5 percent in the ratio that—

“(I) the Federal land area within each such State; bears to

“(II) the Federal land area in all such States.

“(iii) 55 percent in the ratio that—

“(I) the Federal public road miles within each such State; bears to

“(II) the Federal public road miles in all such States.

“(iv) 10 percent in the ratio that—

“(I) the number of Federal public bridges within each such State; bears to

“(II) the number of Federal public bridges in all such States.

“(2) DATA SOURCE.—Data necessary to distribute funding under paragraph (1) shall be provided by the following Federal land management agencies:

“(A) The National Park Service.

“(B) The Forest Service.

“(C) The United States Fish and Wildlife Service.

“(D) The Bureau of Land Management.

“(E) The Corps of Engineers.

“(c) PROGRAMMING DECISIONS COMMITTEE.—

“(1) IN GENERAL.—Programming decisions shall be made within each State by a committee comprised of—

“(A) a representative of the Federal Highway Administration;

“(B) a representative of the State Department of Transportation; and

“(C) a representative of any appropriate political subdivision of the State.

“(2) CONSULTATION REQUIREMENT.—The committee described in paragraph (1) shall cooperate with each applicable Federal agency in each State before any joint discussion or final programming decision.

“(3) PROJECT PREFERENCE.—In making a programming decision under paragraph (1), the committee shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators, as identified by the Secretaries of the appropriate Federal land management agencies.”

(b) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—Section 214 of title 23, United States Code, is repealed. Repeal.

(c) CONFORMING AMENDMENTS.—

(1) CHAPTER 2 ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended—

(A) by striking the items relating to sections 201 through 204 and inserting the following:

“201. Federal lands and tribal transportation programs.

“202. Tribal transportation program.

“203. Federal lands transportation program.

“204. Federal lands access program.”; and

(B) by striking the item relating to section 214.

(2) **DEFINITION.**—Section 138(a) of title 23, United States Code, is amended in the third sentence by striking “park road or parkway under section 204 of this title” and inserting “Federal lands transportation facility”.

(3) **RULES, REGULATIONS, AND RECOMMENDATIONS.**—Section 315 of title 23, United States Code, is amended by striking “204(f)” and inserting “202(a)(5), 203(a)(3),”.

**SEC. 1120. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.**

Section 1301 of the SAFETEA-LU (23 U.S.C. 101 note; 119 Stat. 1198) is amended—

(1) in subsection (b), by striking “States” and inserting “eligible applicants”;

(2) in subsection (c), by striking paragraph (3) and inserting the following:

“(3) **ELIGIBLE APPLICANT.**—The term ‘eligible applicant’ means—

“(A) a State department of transportation or a group of State departments of transportation;

“(B) a tribal government or consortium of tribal governments;

“(C) a transit agency; or

“(D) a multi-State or multi-jurisdictional group of the agencies described in subparagraphs (A) through (C).”;

(3) in subsection (d)(2), by striking “75” and inserting “50”;

(4) in subsection (e), by striking “State” and inserting “eligible applicant”;

(5) in subsection (f)(3) by striking subparagraph (B) and inserting the following:

“(B) improves roadways vital to national energy security; and”;

(6) in subsection (g)(1) by adding at the end the following:

“(E) **CONGRESSIONAL APPROVAL.**—The Secretary may not issue a letter of intent, enter into a full funding grant agreement under paragraph (2), or make any other obligation or commitment to fund a project under this section if a joint resolution of disapproval is enacted disapproving funding for the project before the last day of the 60-day period described in subparagraph (B).”;

(7) in subsection (k), by adding at the end the following:

“(3) **PROJECT SELECTION JUSTIFICATIONS.**—

“(A) **IN GENERAL.**—Not later than 30 days after the date on which the Secretary selects a project for funding under this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the reasons for selecting the project, based on the criteria described in subsection (f).

“(B) **INCLUSIONS.**—The report submitted under subparagraph (A) shall specify each criteria described in subsection (f) that the project meets.

“(C) **AVAILABILITY.**—The Secretary shall make available on the website of the Department the report submitted under subparagraph (A).”; and

(8) by striking subsections (l) and (m) and inserting the following:

Deadline.

Deadline.  
Reports.

Web posting.

“(1) REPORT.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the MAP-21, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate regarding projects of national and regional significance.

“(2) PURPOSE.—The purpose of the report issued under this subsection shall be to identify projects of national and regional significance that—

“(A) will significantly improve the performance of the Federal-aid highway system, nationally or regionally;

“(B) is able to—

“(i) generate national economic benefits that reasonably exceed the costs of the projects, including increased access to jobs, labor, and other critical economic inputs;

“(ii) reduce long-term congestion, including impacts in the State, region, and the United States, and increase speed, reliability, and accessibility of the movement of people or freight; and

“(iii) improve transportation safety, including reducing transportation accidents, and serious injuries and fatalities; and

“(C) can be supported by an acceptable degree of non-Federal financial commitments.

“(3) CONTENTS.—The report issued under this subsection shall include—

“(A) a comprehensive list of each project of national and regional significance that—

“(i) has been compiled through a survey of State departments of transportation; and

“(ii) has been classified by the Secretary as a project of regional or national significance in accordance with this section;

“(B) an analysis of the information collected under paragraph (1), including a discussion of the factors supporting each classification of a project as a project of regional or national significance; and

“(C) recommendations on financing for eligible project costs.

“(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$500,000,000 for fiscal year 2013, to remain available until expended.”.

**SEC. 1121. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.**

(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—Section 147 of title 23, United States Code, is amended—

(1) by striking subsections (c) and (d);

(2) by redesignating subsections (e) and (f) as subsections

(f) and (g), respectively; and

(3) by inserting after subsection (b) the following:

“(c) DISTRIBUTION OF FUNDS.—Of the amounts made available to ferry systems and public entities responsible for developing ferries under this section for a fiscal year, 100 percent shall be allocated in accordance with the formula set forth in subsection (d).

“(d) FORMULA.—Of the amounts allocated pursuant to subsection (c)—

“(1) 20 percent shall be allocated among eligible entities in the proportion that—

“(A) the number of ferry passengers carried by each ferry system in the most recent fiscal year; bears to

“(B) the number of ferry passengers carried by all ferry systems in the most recent fiscal year;

“(2) 45 percent shall be allocated among eligible entities in the proportion that—

“(A) the number of vehicles carried by each ferry system in the most recent fiscal year; bears to

“(B) the number of vehicles carried by all ferry systems in the most recent fiscal year; and

“(3) 35 percent shall be allocated among eligible entities in the proportion that—

“(A) the total route miles serviced by each ferry system; bears to

“(B) the total route miles serviced by all ferry systems.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$67,000,000 for each of fiscal years 2013 and 2014.”.

(b) NATIONAL FERRY DATABASE.—Section 1801(e) of the SAFETEA-LU (23 U.S.C. 129 note; Public Law 109-59) is amended—

(1) in paragraph (2), by inserting “, including any Federal, State, and local government funding sources,” after “sources”; and

(2) in paragraph (4)—

(A) in subparagraph (B), by striking “and” at the end;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B), the following:

“(C) ensure that the database is consistent with the national transit database maintained by the Federal Transit Administration; and”; and

(D) in subparagraph (D) (as redesignated by subparagraph (B)), by striking “2009” and inserting “2014”.

#### SEC. 1122. TRANSPORTATION ALTERNATIVES.

(a) IN GENERAL.—Section 213 of title 23, United States Code, is amended to read as follows:

#### “§ 213. Transportation alternatives

“(a) RESERVATION OF FUNDS.—

“(1) IN GENERAL.—On October 1 of each of fiscal years 2013 and 2014, the Secretary shall proportionally reserve from the funds apportioned to a State under section 104(b) to carry out the requirements of this section an amount equal to the amount obtained by multiplying the amount determined under paragraph (2) by the ratio that—

Effective dates.

“(A) the amount apportioned to the State for the transportation enhancements program for fiscal year 2009 under section 133(d)(2), as in effect on the day before the date of enactment of the MAP-21; bears to

“(B) the total amount of funds apportioned to all States for that fiscal year for the transportation enhancements program for fiscal year 2009.

“(2) CALCULATION OF NATIONAL AMOUNT.—The Secretary shall determine an amount for each fiscal year that is equal to 2 percent of the amounts authorized to be appropriated for such fiscal year from the Highway Trust Fund (other than the Mass Transit Account) to carry out chapters 1, 2, 5, and 6 of this title. Determination.

“(b) ELIGIBLE PROJECTS.—A State may obligate the funds reserved under this section for any of the following projects or activities:

“(1) Transportation alternatives, as defined in section 101.

“(2) The recreational trails program under section 206.

“(3) The safe routes to school program under section 1404 of the SAFETEA-LU (23 U.S.C. 402 note; Public Law 109-59).

“(4) Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

“(c) ALLOCATIONS OF FUNDS.—

“(1) CALCULATION.—Of the funds reserved in a State under this section—

“(A) 50 percent for a fiscal year shall be obligated under this section to any eligible entity in proportion to their relative shares of the population of the State—

“(i) in urbanized areas of the State with an urbanized area population of over 200,000;

“(ii) in areas of the State other than urban areas with a population greater than 5,000; and

“(iii) in other areas of the State; and

“(B) 50 percent shall be obligated in any area of the State.

“(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

“(3) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

“(A) IN GENERAL.—Except as provided in paragraph (1)(B), the amount of funds that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) based on the relative population of the areas.

“(B) OTHER FACTORS.—A State may obligate the funds described in subparagraph (A) based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

“(4) ACCESS TO FUNDS.—

“(A) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with

paragraph (1) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection.

“(B) DEFINITION OF ELIGIBLE ENTITY.—In this paragraph, the term ‘eligible entity’ means—

- “(i) a local government;
- “(ii) a regional transportation authority;
- “(iii) a transit agency;
- “(iv) a natural resource or public land agency;
- “(v) a school district, local education agency, or school;
- “(vi) a tribal government; and
- “(vii) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

“(5) SELECTION OF PROJECTS.—For funds reserved in a State under this section and suballocated to a metropolitan planning area under paragraph (1)(A)(i), each such metropolitan planning organization shall select projects carried out within the boundaries of the applicable metropolitan planning area, in consultation with the relevant State.

Effective date.

“(d) FLEXIBILITY OF EXCESS RESERVED FUNDING.—Beginning in the second fiscal year after the date of enactment of the MAP-21, if on August 1 of that fiscal year the unobligated balance of available funds reserved by a State under this section exceeds 100 percent of such reserved amount in such fiscal year, the State may thereafter obligate the amount of excess funds for any activity—

“(1) that is eligible to receive funding under this section;

or

“(2) for which the Secretary has approved the obligation of funds for any State under section 149.

“(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section (excluding those carried out under subsection (f)) shall be treated as projects on a Federal-aid highway under this chapter.

“(f) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—Each State shall—

“(1) obligate an amount of funds reserved under this section equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2) for projects relating to recreational trails under section 206;

“(2) return 1 percent of those funds to the Secretary for the administration of that program; and

“(3) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described under subsection (d)(3)(A) of that section.

Notification.  
Deadline.

“(g) STATE FLEXIBILITY.—A State may opt out of the recreational trails program under subsection (f) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 213 and inserting the following:

“213. Transportation alternatives”.

**SEC. 1123. TRIBAL HIGH PRIORITY PROJECTS PROGRAM.**

23 USC 202 note.

(a) DEFINITIONS.—In this section:

(1) EMERGENCY OR DISASTER.—The term “emergency or disaster” means damage to a tribal transportation facility that—

(A) renders the tribal transportation facility impassable or unusable;

(B) is caused by—

(i) a natural disaster over a widespread area; or

(ii) a catastrophic failure from an external cause;

and

(C) would be eligible under the emergency relief program under section 125 of title 23, United States Code, but does not meet the funding thresholds required by that section.

(2) LIST.—The term “list” means the funding priority list developed under subsection (c)(5).

(3) PROGRAM.—The term “program” means the Tribal High Priority Projects program established under subsection (b)(1).

(4) PROJECT.—The term “project” means a project provided funds under the program.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (h) to carry out a Tribal High Priority Projects program under which funds shall be provided to eligible applicants in accordance with this section.

(2) ELIGIBLE APPLICANTS.—Applicants eligible for program funds under this section include—

(A) an Indian tribe whose annual allocation of funding under section 202 of title 23, United States Code, is insufficient to complete the highest priority project of the Indian tribe;

(B) a governmental subdivision of an Indian tribe—

(i) that is authorized to administer the funding of the Indian tribe under section 202 of title 23, United States Code; and

(ii) for which the annual allocation under that section is insufficient to complete the highest priority project of the Indian tribe; or

(C) any Indian tribe that has an emergency or disaster with respect to a transportation facility included on the national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code.

(c) PROJECT APPLICATIONS; FUNDING.—

(1) IN GENERAL.—To apply for funds under this section, an eligible applicant shall submit to the Department of the Interior or the Department an application that includes—

(A) project scope of work, including deliverables, budget, and timeline;

(B) the amount of funds requested;

(C) project information addressing—

(i) the ranking criteria identified in paragraph (3);  
or

(ii) the nature of the emergency or disaster;

(D) documentation that the project meets the definition of a tribal transportation facility and is included in the national inventory of tribal transportation facilities under section 202(b)(1) of title 23, United States Code;

(E) documentation of official tribal action requesting the project;

(F) documentation from the Indian tribe providing authority for the Secretary of the Interior to place the project on a transportation improvement program if the project is selected and approved; and

(G) any other information the Secretary of the Interior or Secretary considers appropriate to make a determination.

(2) LIMITATION ON APPLICATIONS.—An applicant for funds under the program may only have 1 application for assistance under this section pending at any 1 time, including any emergency or disaster application.

(3) APPLICATION RANKING.—

Determination.

(A) IN GENERAL.—The Secretary of the Interior and the Secretary shall determine the eligibility of, and fund, program applications, subject to the availability of funds.

(B) RANKING CRITERIA.—The project ranking criteria for applications under this section shall include—

(i) the existence of safety hazards with documented fatality and injury accidents;

(ii) the number of years since the Indian tribe last completed a construction project funded by section 202 of title 23, United States Code;

(iii) the readiness of the Indian tribe to proceed to construction or bridge design need;

(iv) the percentage of project costs matched by funds that are not provided under section 202 of title 23, United States Code, with projects with a greater percentage of other sources of matching funds ranked ahead of lesser matches);

(v) the amount of funds requested, with requests for lesser amounts given greater priority;

(vi) the challenges caused by geographic isolation; and

(vii) all weather access for employment, commerce, health, safety, educational resources, or housing.

(4) PROJECT SCORING MATRIX.—The project scoring matrix established in the appendix to part 170 of title 25, Code of Regulations (as in effect on the date of enactment of this Act) shall be used to rank all applications accepted under this section.

(5) FUNDING PRIORITY LIST.—

(A) IN GENERAL.—The Secretary of the Interior and the Secretary shall jointly produce a funding priority list that ranks the projects approved for funding under the program.

(B) LIMITATION.—The number of projects on the list shall be limited by the amount of funding made available.



(6) **TIMELINE.**—The Secretary of the Interior and the Secretary shall— Notification.

(A) require applications for funding no sooner than 60 days after funding is made available pursuant to subsection (a);

(B) notify all applicants and Regions in writing of acceptance of applications;

(C) rank all accepted applications in accordance with the project scoring matrix, develop the funding priority list, and return unaccepted applications to the applicant with an explanation of deficiencies;

(D) notify all accepted applicants of the projects included on the funding priority list no later than 180 days after the application deadline has passed pursuant to subparagraph (A); and

(E) distribute funds to successful applicants.

(d) **EMERGENCY OR DISASTER PROJECT APPLICATIONS.**—

(1) **IN GENERAL.**—Notwithstanding subsection (c)(6), an eligible applicant may submit an emergency or disaster project application at any time during the fiscal year.

(2) **CONSIDERATION AS PRIORITY.**—The Secretary shall—

(A) consider project applications submitted under paragraph (1) to be a priority; and

(B) fund the project applications in accordance with paragraph (3).

(3) **FUNDING.**—

(A) **IN GENERAL.**—If an eligible applicant submits an application for a project under this subsection before the issuance of the list under subsection (c)(5) and the project is determined to be eligible for program funds, the Secretary of the Interior shall provide funding for the project before providing funding for other approved projects on the list.

(B) **SUBMISSION AFTER ISSUANCE OF LIST.**—If an eligible applicant submits an application under this subsection after the issuance of the list under subsection (c)(5) and the distribution of program funds in accordance with the list, the Secretary of the Interior shall provide funding for the project on the date on which unobligated funds provided to projects on the list are returned to the Department of the Interior.

(C) **EFFECT ON OTHER PROJECTS.**—If the Secretary of the Interior uses funding previously designated for a project on the list to fund an emergency or disaster project under this subsection, the project on the list that did not receive funding as a result of the redesignation of funds shall move to the top of the list the following year.

(4) **EMERGENCY OR DISASTER PROJECT COST.**—The cost of a project submitted as an emergency or disaster under this subsection shall be at least 10 percent of the distribution of funds of the Indian tribe under section 202(b) of title 23, United States Code.

(e) **LIMITATION ON USE OF FUNDS.**—Program funds shall not be used for—

(1) transportation planning;

(2) research;

(3) routine maintenance activities;

(4) structures and erosion protection unrelated to transportation and roadways;

(5) general reservation planning not involving transportation;

(6) landscaping and irrigation systems not involving transportation programs and projects;

(7) work performed on projects that are not included on a transportation improvement program approved by the Federal Highway Administration, unless otherwise authorized by the Secretary of the Interior and the Secretary;

(8) the purchase of equipment unless otherwise authorized by Federal law; or

(9) the condemnation of land for recreational trails.

(f) **LIMITATION ON PROJECT AMOUNTS.**—Project funding shall be limited to a maximum of \$1,000,000 per application, except that funding for disaster or emergency projects shall also be limited to the estimated cost of repairing damage to the tribal transportation facility.

(g) **COST ESTIMATE CERTIFICATION.**—All cost estimates prepared for a project shall be required to be submitted by the applicant to the Secretary of the Interior and the Secretary for certification and approval.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated \$30,000,000 out of the general fund of the Treasury to carry out the program for each of fiscal years 2013 and 2014.

(2) **ADMINISTRATION.**—The funds made available under paragraph (1) shall be administered in the same manner as funds made available for the tribal transportation program under section 202 of title 23, United States Code, except that—

(A) the funds made available for the program shall remain available until September 30 of the third fiscal year after the year appropriated; and

(B) the Federal share of the cost of a project shall be 100 percent.

## Subtitle B—Performance Management

### SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.

(a) **IN GENERAL.**—Section 134 of title 23, United States Code, is amended to read as follows:

#### “§ 134. Metropolitan transportation planning

“(a) **POLICY.**—It is in the national interest—

“(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

“(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided

by the planning factors identified in subsection (h) and section 135(d).

“(b) DEFINITIONS.—In this section and section 135, the following definitions apply:

“(1) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

“(2) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the policy board of an organization established as a result of the designation process under subsection (d).

“(3) NONMETROPOLITAN AREA.—The term ‘nonmetropolitan area’ means a geographic area outside designated metropolitan planning areas.

“(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term ‘nonmetropolitan local official’ means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

“(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term ‘regional transportation planning organization’ means a policy board of an organization established as the result of a designation under section 135(m).

“(6) TIP.—The term ‘TIP’ means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

“(7) URBANIZED AREA.—The term ‘urbanized area’ means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

“(c) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

“(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

Deadline.

“(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) STRUCTURE.—Not later than 2 years after the date of enactment of MAP-21, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

“(A) local elected officials;

“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

“(C) appropriate State officials.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

“(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

“(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

“(5) REDESIGNATION PROCEDURES.—

“(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

“(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

“(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

“(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

Time period.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

“(4) EXISTING METROPOLITAN PLANNING AREAS IN NON-ATTAINMENT.—

“(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA-LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

“(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

“(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA-LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in the manner described in subsection (d)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

“(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

“(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

“(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of title 49, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

“(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

“(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under chapter 53 of title 49;

“(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iii) recipients of assistance under section 204.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and for freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of this title and in section 5301(c) of title 49.

“(B) PERFORMANCE TARGETS.—

“(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

“(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

“(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

“(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed under chapter 53 of title 49 by providers of public transportation, required as part of a performance-based program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this title or chapter 53

of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

“(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

“(B) FREQUENCY.—

“(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

“(I) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

Deadline.

“(ii) OTHER AREAS.—In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

“(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

“(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

“(i) IN GENERAL.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

“(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

“(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

“(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—



“(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

“(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

“(D) MITIGATION ACTIVITIES.—

“(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

“(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(E) FINANCIAL PLAN.—

“(i) IN GENERAL.—A financial plan that—

“(I) demonstrates how the adopted transportation plan can be implemented;

“(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

“(III) recommends any additional financing strategies for needed projects and programs.

“(ii) INCLUSIONS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

“(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

“(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401

et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

“(4) OPTIONAL SCENARIO DEVELOPMENT.—

“(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

“(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

“(i) potential regional investment strategies for the planning horizon;

“(ii) assumed distribution of population and employment;

“(iii) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

“(iv) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

“(v) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

“(vi) estimated costs and potential revenues available to support each scenario.

“(C) METRICS.—In addition to the performance measures identified in section 150(c), metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

“(5) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve, as appropriate—

“(i) comparison of transportation plans with State conservation plans or maps, if available; or

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

“(6) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties

with a reasonable opportunity to comment on the transportation plan.

“(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

“(i) shall be developed in consultation with all interested parties; and

“(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

“(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

Public  
information.

“(7) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

Public  
information.

“(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

“(j) METROPOLITAN TIP.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the metropolitan planning area that—

“(i) contains projects consistent with the current metropolitan transportation plan;

“(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

“(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

“(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

“(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively

develop estimates of funds that are reasonably expected to be available to support program implementation.

“(D) UPDATING AND APPROVAL.—The TIP shall be—

“(i) updated at least once every 4 years; and

“(ii) approved by the metropolitan planning organization and the Governor.

“(2) CONTENTS.—

Deadline.

“(A) PRIORITY LIST.—The TIP shall include a priority list of proposed Federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

“(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

“(i) demonstrates how the TIP can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

“(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

“(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

“(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

“(3) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase

of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

“(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

“(5) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of Federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

“(i) by—

“(I) in the case of projects under this title, the State; and

“(II) in the case of projects under chapter 53 of title 49, the designated recipients of public transportation funding; and

“(ii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

“(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

“(7) PUBLICATION.—

“(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

“(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

“(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

“(k) TRANSPORTATION MANAGEMENT AREAS.—

“(1) IDENTIFICATION AND DESIGNATION.—

“(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

“(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

“(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

“(3) CONGESTION MANAGEMENT PROCESS.—

“(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies.

“(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All Federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

“(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

Deadline.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

“(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

“(C) EFFECT OF FAILURE TO CERTIFY.—

“(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

“(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

“(1) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

“(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection

“(2) REPORT.—Not later than 5 years after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report evaluating—

“(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

“(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

“(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

“(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area of less than 200,000 and their ability to carry out the requirements of this section.

“(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

Web posting.

“(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide

for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

“(o) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

“(p) FUNDING.—Funds set aside under section 104(f) of this title or section 5305(g) of title 49 shall be available to carry out this section.

“(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under that Act.”.

Evaluation.

(b) STUDY ON METROPOLITAN PLANNING SCENARIO DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall evaluate the costs and benefits associated with metropolitan planning organizations developing multiple scenarios for consideration as a part of the development of their metropolitan transportation plan.

(2) INCLUSIONS.—The evaluation shall include an analysis of the technical and financial capacity of the metropolitan planning organization needed to develop scenarios described in paragraph (1).

#### SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:



**“§ 135. Statewide and nonmetropolitan transportation planning**

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134, to accomplish the objectives stated in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State.

“(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 134(a) and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

“(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 134 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

“(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(c) INTERSTATE AGREEMENTS.—

“(1) IN GENERAL.—Two or more States may enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

“(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title and in section 5301(c) of title 49.

“(B) PERFORMANCE TARGETS.—

“(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the State.

“(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

“(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In urbanized areas not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

“(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph, in other State transportation plans and transportation processes, as well as any plans developed pursuant to chapter 53 of title 49 by providers of public transportation in urbanized areas not represented by a metropolitan planning organization required as part of a performance-based program.

“(D) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be considered by a State when developing policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum—

“(1) with respect to nonmetropolitan areas, cooperate with affected local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m);

“(2) consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) consider coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

“(B) NONMETROPOLITAN AREAS.—

“(i) IN GENERAL.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in cooperation with affected nonmetropolitan officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

“(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the consultation process in each State.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

“(3) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide to—

“(i) nonmetropolitan local elected officials or, if applicable, through regional transportation planning organizations described in subsection (m), an opportunity to participate in accordance with subparagraph (B)(i); and

“(ii) citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties a reasonable opportunity to comment on the proposed plan.

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

“(ii) hold any public meetings at convenient and accessible locations and times;

“(iii) employ visualization techniques to describe plans; and

“(iv) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(5) FINANCIAL PLAN.—The statewide transportation plan may include—

“(A) a financial plan that—

“(i) demonstrates how the adopted statewide transportation plan can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(B) for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

“(7) PERFORMANCE-BASED APPROACH.—The statewide transportation plan should include—

“(A) a description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (d)(2); and

“(B) a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2), including progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

“(8) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation improvement program for all areas of the State.

“(B) DURATION AND UPDATING OF PROGRAM.—Each program developed under subparagraph (A) shall cover a period of 4 years and shall be updated every 4 years or more frequently if the Governor of the State elects to update more frequently.

Time period.  
Deadline.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

“(B) NONMETROPOLITAN AREAS.—

“(i) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

“(ii) **ROLE OF SECRETARY.**—The Secretary shall not review or approve the specific consultation process in the State.

“(C) **INDIAN TRIBAL AREAS.**—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) **PARTICIPATION BY INTERESTED PARTIES.**—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

“(4) **PERFORMANCE TARGET ACHIEVEMENT.**—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

“(5) **INCLUDED PROJECTS.**—

“(A) **IN GENERAL.**—A transportation improvement program developed under this subsection for a State shall include Federally supported surface transportation expenditures within the boundaries of the State.

“(B) **LISTING OF PROJECTS.**—

“(i) **IN GENERAL.**—An annual listing of projects for which funds have been obligated for the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review.

“(ii) **FUNDING CATEGORIES.**—The listing described in clause (i) shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) **PROJECTS UNDER CHAPTER 2.**—

“(i) **REGIONALLY SIGNIFICANT PROJECTS.**—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

“(ii) **OTHER PROJECTS.**—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

“(D) **CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.**—Each project shall be—

“(i) consistent with the statewide transportation plan developed under this section for the State;

“(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as a nonattainment area for ozone, particulate matter, or carbon monoxide under part D of title I of that Act (42 U.S.C. 7501 et seq.).

“(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(F) FINANCIAL PLAN.—

“(i) IN GENERAL.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs.

“(ii) ADDITIONAL PROJECTS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

“(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

“(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49.

“(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

“(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under this title or under sections 5310 and 5311 of title 49), by the State in cooperation with the affected nonmetropolitan local

officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (m).

“(B) OTHER PROJECTS.—Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

Time period.

“(7) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

“(8) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 134.

“(9) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

Criteria.

“(h) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

“(A) The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.

“(B) The extent to which the State has made transportation investments that are efficient and cost-effective.

“(C) The extent to which the State—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each State.

Web posting.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.



“(i) FUNDING.—Funds apportioned under section 104(b)(5) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

“(j) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 134, and sections 5303 and 5304 of title 49, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 134, and sections 5303 and 5304 of title 49, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 134 and sections 5303 and 5304 of title 49, as appropriate.

“(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.

Guidance.

Deadline.

“(m) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvement programs, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

“(2) STRUCTURE.—A regional transportation planning organization shall be established as a multijurisdictional organization of nonmetropolitan local officials or their designees who volunteer for such organization and representatives of local transportation systems who volunteer for such organization.

“(3) REQUIREMENTS.—A regional transportation planning organization shall establish, at a minimum—

“(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and, as appropriate, additional representatives from the

State, private business, transportation service providers, economic development practitioners, and the public in the region; and

“(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.

“(4) DUTIES.—The duties of a regional transportation planning organization shall include—

“(A) developing and maintaining, in cooperation with the State, regional long-range multimodal transportation plans;

“(B) developing a regional transportation improvement program for consideration by the State;

“(C) fostering the coordination of local planning, land use, and economic development plans with State, regional, and local transportation plans and programs;

“(D) providing technical assistance to local officials;

“(E) participating in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas;

“(F) providing a forum for public participation in the statewide and regional transportation planning processes;

“(G) considering and sharing plans and programs with neighboring regional transportation planning organizations, metropolitan planning organizations, and, where appropriate, tribal organizations; and

“(H) conducting other duties, as necessary, to support and enhance the statewide planning process under subsection (d).

“(5) STATES WITHOUT REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—If a State chooses not to establish or designate a regional transportation planning organization, the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 135 and inserting the following:

“135. Statewide and nonmetropolitan transportation planning.”.

**SEC. 1203. NATIONAL GOALS AND PERFORMANCE MANAGEMENT MEASURES.**

(a) IN GENERAL.—Section 150 of title 23, United States Code, is amended to read as follows:

**“§ 150. National goals and performance management measures**

“(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

“(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

“(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

“(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

“(3) CONGESTION REDUCTION.—To achieve a significant reduction in congestion on the National Highway System.

“(4) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

“(5) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

“(6) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

“(7) REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies’ work practices.

“(c) ESTABLISHMENT OF PERFORMANCE MEASURES.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the MAP-21, the Secretary, in consultation with State departments of transportation, metropolitan planning organizations, and other stakeholders, shall promulgate a rulemaking that establishes performance measures and standards.

Deadline.  
Regulations.

“(2) ADMINISTRATION.—In carrying out paragraph (1), the Secretary shall—

“(A) provide States, metropolitan planning organizations, and other stakeholders not less than 90 days to comment on any regulation proposed by the Secretary under that paragraph;

“(B) take into consideration any comments relating to a proposed regulation received during that comment period; and

“(C) limit performance measures only to those described in this subsection.

“(3) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—

“(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out section 119, the Secretary shall establish—

“(i) minimum standards for States to use in developing and operating bridge and pavement management systems;

Standards.

“(ii) measures for States to use to assess—

“(I) the condition of pavements on the Interstate system;

“(II) the condition of pavements on the National Highway System (excluding the Interstate);

“(III) the condition of bridges on the National Highway System;

“(IV) the performance of the Interstate System; and

“(V) the performance of the National Highway System (excluding the Interstate System);

“(iii) minimum levels for the condition of pavement on the Interstate System, only for the purposes of carrying out section 119(f)(1); and

“(iv) the data elements that are necessary to collect and maintain standardized data to carry out a performance-based approach.

“(B) REGIONS.—In establishing minimum condition levels under subparagraph (A)(iii), if the Secretary determines that various geographic regions of the United States experience disparate factors contributing to the condition of pavement on the Interstate System in those regions, the Secretary may establish different minimum levels for each region;

“(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the purpose of carrying out section 148, the Secretary shall establish measures for States to use to assess—

“(A) serious injuries and fatalities per vehicle mile traveled; and

“(B) the number of serious injuries and fatalities.

“(5) CONGESTION MITIGATION AND AIR QUALITY PROGRAM.—For the purpose of carrying out section 149, the Secretary shall establish measures for States to use to assess—

“(A) traffic congestion; and

“(B) on-road mobile source emissions.

“(6) NATIONAL FREIGHT MOVEMENT.—The Secretary shall establish measures for States to use to assess freight movement on the Interstate System.

“(d) ESTABLISHMENT OF PERFORMANCE TARGETS.—

“(1) IN GENERAL.—Not later than 1 year after the Secretary has promulgated the final rulemaking under subsection (c), each State shall set performance targets that reflect the measures identified in paragraphs (3), (4), (5), and (6) of subsection (c).

“(2) DIFFERENT APPROACHES FOR URBAN AND RURAL AREAS.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

“(e) REPORTING ON PERFORMANCE TARGETS.—Not later than 4 years after the date of enactment of the MAP-21 and biennially thereafter, a State shall submit to the Secretary a report that describes—

“(1) the condition and performance of the National Highway System in the State;

“(2) the effectiveness of the investment strategy document in the State asset management plan for the National Highway System;

“(3) progress in achieving performance targets identified under subsection (d); and

“(4) the ways in which the State is addressing congestion at freight bottlenecks, including those identified in the National Freight Strategic Plan, within the State.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150 and inserting the following:

“150. National goals and performance management measures.”.

Deadline.

## Subtitle C—Acceleration of Project Delivery

### SEC. 1301. DECLARATION OF POLICY AND PROJECT DELIVERY INITIATIVE. 23 USC 101 note.

(a) IN GENERAL.—It is the policy of the United States that—  
(1) it is in the national interest for the Department, State departments of transportation, transit agencies, and all other recipients of Federal transportation funds—

(A) to accelerate project delivery and reduce costs; and

(B) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner, promoting accountability for public investments and encouraging greater private sector involvement in project financing and delivery while enhancing safety and protecting the environment;

(2) delay in the delivery of transportation projects increases project costs, harms the economy of the United States, and impedes the travel of the people of the United States and the shipment of goods for the conduct of commerce; and

(3) the Secretary shall identify and promote the deployment of innovation aimed at reducing the time and money required to deliver transportation projects while enhancing safety and protecting the environment.

(b) PROJECT DELIVERY INITIATIVE.—

(1) IN GENERAL.—To advance the policy described in subsection (a), the Secretary shall carry out a project delivery initiative under this section.

(2) PURPOSES.—The purposes of the project delivery initiative shall be—

(A) to develop and advance the use of best practices to accelerate project delivery and reduce costs across all modes of transportation and expedite the deployment of technology and innovation;

(B) to implement provisions of law designed to accelerate project delivery; and

(C) to select eligible projects for applying experimental features to test innovative project delivery techniques.

(3) ADVANCING THE USE OF BEST PRACTICES.—

(A) IN GENERAL.—In carrying out the initiative under this section, the Secretary shall identify and advance best practices to reduce delivery time and project costs, from planning through construction, for transportation projects and programs of projects regardless of mode and project size.

(B) ADMINISTRATION.—To advance the use of best practices, the Secretary shall—

(i) engage interested parties, affected communities, resource agencies, and other stakeholders to gather information regarding opportunities for accelerating project delivery and reducing costs;

(ii) establish a clearinghouse for the collection, documentation, and advancement of existing and new innovative approaches and best practices;

(iii) disseminate information through a variety of means to transportation stakeholders on new innovative approaches and best practices; and

(iv) provide technical assistance to assist transportation stakeholders in the use of flexibility authority to resolve project delays and accelerate project delivery if feasible.

(4) IMPLEMENTATION OF ACCELERATED PROJECT DELIVERY.—The Secretary shall ensure that the provisions of this subtitle designed to accelerate project delivery are fully implemented, including—

(A) expanding eligibility of early acquisition of property prior to completion of environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) allowing the use of the construction manager or general contractor method of contracting in the Federal-aid highway system; and

(C) establishing a demonstration program to streamline the relocation process by permitting a lump-sum payment for acquisition and relocation if elected by the displaced occupant.

(c) EXPEDITED PROJECT DELIVERY.—Section 101(b) of title 23, United States Code, is amended by adding at the end the following:

“(4) EXPEDITED PROJECT DELIVERY.—

“(A) IN GENERAL.—Congress declares that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process.

“(B) POLICY OF THE UNITED STATES.—Accordingly, it is the policy of the United States that—

“(i) the Secretary shall have the lead role among Federal agencies in carrying out the environmental review process for surface transportation projects;

“(ii) each Federal agency shall cooperate with the Secretary to expedite the environmental review process for surface transportation projects;

“(iii) project sponsors shall not be prohibited from carrying out preconstruction project development activities concurrently with the environmental review process;

“(iv) programmatic approaches shall be used to reduce the need for project-by-project reviews and decisions by Federal agencies; and

“(v) the Secretary shall identify opportunities for project sponsors to assume responsibilities of the Secretary where such responsibilities can be assumed in a manner that protects public health, the environment, and public participation.”.

#### SEC. 1302. ADVANCE ACQUISITION OF REAL PROPERTY INTERESTS.

(a) REAL PROPERTY INTERESTS.—Section 108 of title 23, United States Code, is amended—

(1) by striking “real property” each place it appears and inserting “real property interests”;

(2) by striking “right-of-way” each place it appears and inserting “real property interest”; and

(3) by striking “rights-of-way” each place it appears and inserting “real property interests”.

(b) STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—Section 108(c) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking “EARLY ACQUISITION OF RIGHTS-OF-WAY” and inserting “STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS”;

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(3) in paragraph (2) (as so redesignated)—

(A) in the heading, by striking “GENERAL RULE” and inserting “ELIGIBILITY FOR REIMBURSEMENT”; and

(B) by striking “Subject to paragraph (2)” and inserting “Subject to paragraph (3)”;

(4) by inserting before paragraph (2) (as so redesignated) the following:

“(1) IN GENERAL.—A State may carry out, at the expense of the State, acquisitions of interests in real property for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project by the State or any Federal agency.”; and

(5) in paragraph (3) (as so redesignated)—

(A) in the matter preceding subparagraph (A), by striking “in paragraph (1)” and inserting “in paragraph (2)”; and

(B) in subparagraph (G), by striking “both the Secretary and the Administrator of the Environmental Protection Agency have concurred” and inserting “the Secretary has determined”.

(c) FEDERALLY FUNDED ACQUISITION OF REAL PROPERTY INTERESTS.—Section 108 of title 23, United States Code, is amended by adding at the end the following:

“(d) FEDERALLY FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—

“(1) DEFINITION OF ACQUISITION OF A REAL PROPERTY INTEREST.—In this subsection, the term ‘acquisition of a real property interest’ includes the acquisition of—

“(A) any interest in land;

“(B) a contractual right to acquire any interest in land;

or

“(C) any other similar action to acquire or preserve rights-of-way for a transportation facility.

“(2) AUTHORIZATION.—The Secretary may authorize the use of funds apportioned to a State under this title for the acquisition of a real property interest by a State.

“(3) STATE CERTIFICATION.—A State requesting Federal funding for an acquisition of a real property interest shall certify in writing, with concurrence by the Secretary, that—

“(A) the State has authority to acquire the real property interest under State law; and

“(B) the acquisition of the real property interest—

“(i) is for a transportation purpose;

“(ii) will not cause any significant adverse environmental impact;

“(iii) will not limit the choice of reasonable alternatives for the project or otherwise influence the decision of the Secretary on any approval required for the project;

“(iv) does not prevent the lead agency from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process;

“(v) is consistent with the State transportation planning process under section 135;

“(vi) complies with other applicable Federal laws (including regulations);

“(vii) will be acquired through negotiation, without the threat of condemnation; and

“(viii) will not result in a reduction or elimination of benefits or assistance to a displaced person required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

“(4) ENVIRONMENTAL COMPLIANCE.—

“(A) IN GENERAL.—Before authorizing Federal funding for an acquisition of a real property interest, the Secretary shall complete the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the acquisition of the real property interest.

“(B) INDEPENDENT UTILITY.—The acquisition of a real property interest—

“(i) shall be treated as having independent utility for purposes of the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(ii) shall not limit consideration of alternatives for future transportation improvements with respect to the real property interest.

“(5) PROGRAMMING.—

“(A) IN GENERAL.—The acquisition of a real property interest for which Federal funding is requested shall be included as a project in an applicable transportation improvement program under sections 134 and 135 and sections 5303 and 5304 of title 49.

“(B) ACQUISITION PROJECT.—The acquisition project may consist of the acquisition of a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.

“(6) DEVELOPMENT.—Real property interests acquired under this subsection may not be developed in anticipation of a project until all required environmental reviews for the project have been completed.

“(7) REIMBURSEMENT.—If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

“(8) OTHER REQUIREMENTS AND CONDITIONS.—



“(A) APPLICABLE LAW.—The acquisition of a real property interest shall be carried out in compliance with all requirements applicable to the acquisition of real property interests for federally funded transportation projects.

“(B) ADDITIONAL CONDITIONS.—The Secretary may establish such other conditions or restrictions on acquisitions under this subsection as the Secretary determines to be appropriate.”.

**SEC. 1303. LETTING OF CONTRACTS.**

(a) EFFICIENCIES IN CONTRACTING.—Section 112(b) of title 23, United States Code, is amended by adding at the end the following:

“(4) METHOD OF CONTRACTING.—

“(A) IN GENERAL.—

“(i) 2-PHASE CONTRACT.—A contracting agency may award a 2-phase contract to a construction manager or general contractor for preconstruction and construction services.

“(ii) PRECONSTRUCTION SERVICES PHASE.—In the preconstruction services phase of a contract under this paragraph, the contractor shall provide the contracting agency with advice for scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

“(iii) AGREEMENT.—Prior to the start of the construction services phase, the contracting agency and the contractor may agree to a price and other factors specified in regulation for the construction of the project or a portion of the project.

“(iv) CONSTRUCTION PHASE.—If an agreement is reached under clause (iii), the contractor shall be responsible for the construction of the project or portion of the project at the negotiated price and in compliance with the other factors specified in the agreement.

“(B) SELECTION.—A contract shall be awarded to a contractor under this paragraph using a competitive selection process based on qualifications, experience, best value, or any other combination of factors considered appropriate by the contracting agency.

“(C) TIMING.—

“(i) RELATIONSHIP TO NEPA PROCESS.—Prior to the completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may—

“(I) issue requests for proposals;

“(II) proceed with the award of a contract for preconstruction services under subparagraph (A)(ii); and

“(III) issue notices to proceed with a preliminary design and any work related to preliminary design, to the extent that those actions do not limit any reasonable range of alternatives.

“(ii) CONSTRUCTION SERVICES PHASE.—A contracting agency shall not proceed with the award of the construction services phase of a contract under subparagraph (A)(iv) and shall not proceed, or permit

any consultant or contractor to proceed, with final design or construction until completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

“(iii) APPROVAL REQUIREMENT.—Prior to authorizing construction activities, the Secretary shall approve—

“(I) the price estimate of the contracting agency for the entire project; and

“(II) any price agreement with the general contractor for the project or a portion of the project.

“(iv) DESIGN ACTIVITIES.—

“(I) IN GENERAL.—A contracting agency may proceed, at the expense of the contracting agency, with design activities at any level of detail for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project.

“(II) REIMBURSEMENT.—Design activities carried out under subclause (I) shall be eligible for Federal reimbursement as a project expense in accordance with the requirements under section 109(r).

“(v) TERMINATION PROVISION.—The Secretary shall require a contract to include an appropriate termination provision in the event that a no-build alternative is selected.”.

23 USC 112 note. (b) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the amendment made by subsection (a).

23 USC 112 note. (c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendment made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning construction manager risk that is being carried out by the Secretary as of the date of enactment of this Act.

#### **SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.**

23 USC 101 note. (a) DECLARATION OF POLICY.—

(1) IN GENERAL.—Congress declares that it is in the national interest to promote the use of innovative technologies and practices that increase the efficiency of construction of, improve the safety of, and extend the service life of highways and bridges.

(2) INCLUSIONS.—The innovative technologies and practices described in paragraph (1) include state-of-the-art intelligent transportation system technologies, elevated performance standards, and new highway construction business practices that improve highway safety and quality, accelerate project delivery, and reduce congestion related to highway construction.

(b) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended by adding at the end the following:

“(3) INNOVATIVE PROJECT DELIVERY.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share payable on account of a project,

program, or activity carried out with funds apportioned under paragraph (1), (2), or (5) of section 104(b) may, at the discretion of the State, be up to 100 percent for any such project, program, or activity that the Secretary determines—

“(i) contains innovative project delivery methods that improve work zone safety for motorists or workers and the quality of the facility;

“(ii) contains innovative technologies, manufacturing processes, financing, or contracting methods that improve the quality of, extend the service life of, or decrease the long-term costs of maintaining highways and bridges;

“(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or

“(iv) reduces congestion related to highway construction.

“(B) **EXAMPLES.**—Projects, programs, and activities described in subparagraph (A) may include the use of—

“(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;

“(ii) innovative construction equipment, materials, or techniques, including the use of in-place recycling technology and digital 3-dimensional modeling technologies;

“(iii) innovative contracting methods, including the design-build and the construction manager-general contractor contracting methods;

“(iv) intelligent compaction equipment; or

“(v) contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.

“(C) **LIMITATIONS.**—

“(i) **IN GENERAL.**—In each fiscal year, a State may use the authority under subparagraph (A) for up to 10 percent of the combined apportionments of the State under paragraphs (1), (2), and (5) of section 104(b).

“(ii) **FEDERAL SHARE INCREASE.**—The Federal share payable on account of a project, program, or activity described in subparagraph (A) may be increased by up to 5 percent of the total project cost.”.

**SEC. 1305. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.**

(a) **FLEXIBILITY.**—Section 139(b) of title 23, United States Code, is amended—

(1) in paragraph (2) by inserting “, and any requirements established under this section may be satisfied,” after “exercised”; and

(2) by adding at the end the following:

“(3) **PROGRAMMATIC COMPLIANCE.**—

Regulations.

“(A) IN GENERAL.—The Secretary shall initiate a rulemaking to allow for the use of programmatic approaches to conduct environmental reviews that—

“(i) eliminate repetitive discussions of the same issues;

“(ii) focus on the actual issues ripe for analyses at each level of review; and

“(iii) are consistent with—

“(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(II) other applicable laws.

“(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall—

Consultation.

“(i) before initiating the rulemaking under that subparagraph, consult with relevant Federal agencies and State resource agencies, State departments of transportation, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches;

“(ii) emphasize the importance of collaboration among relevant Federal agencies, State agencies, and Indian tribes in undertaking programmatic reviews, especially with respect to including reviews with a broad geographic scope;

“(iii) ensure that the programmatic reviews—

“(I) promote transparency, including of the analyses and data used in the environmental reviews, the treatment of any deferred issues raised by agencies or the public, and the temporal and special scales to be used to analyze such issues;

“(II) use accurate and timely information in reviews, including—

“(aa) criteria for determining the general duration of the usefulness of the review; and

“(bb) the timeline for updating any out-of-date review;

“(III) describe—

“(aa) the relationship between programmatic analysis and future tiered analysis; and

“(bb) the role of the public in the creation of future tiered analysis; and

“(IV) are available to other relevant Federal and State agencies, Indian tribes, and the public;

“(iv) allow not fewer than 60 days of public notice and comment on any proposed rule; and

“(v) address any comments received under clause (iv).”.

Time period.  
Public notice and  
comments.

(b) FEDERAL LEAD AGENCY.—Section 139(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “The Department of Transportation” and inserting the following:

“(A) IN GENERAL.—The Department of Transportation”; and

(B) by adding at the end the following:

“(B) MODAL ADMINISTRATION.—If the project requires approval from more than 1 modal administration within the Department, the Secretary may designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.”.

(c) PARTICIPATING AGENCIES.—Section 139(d) of title 23, United States Code, is amended—

(1) by striking paragraph (4) and inserting the following:

“(4) EFFECT OF DESIGNATION.—

“(A) REQUIREMENT.—A participating agency shall comply with the requirements of this section.

“(B) IMPLICATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

“(i) supports a proposed project; or

“(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the project.”; and

(2) by striking paragraph (7) and inserting the following:

“(7) CONCURRENT REVIEWS.—Each participating agency and cooperating agency shall—

“(A) carry out the obligations of that agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to conduct needed analysis or otherwise carry out those obligations; and

“(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.”.

(d) PROJECT INITIATION.—Section 139(e) of title 23, United States Code, is amended—

(1) by striking “The project sponsor” and inserting the following:

“(1) IN GENERAL.—The project sponsor”; and

(2) by adding at the end the following:

“(2) SUBMISSION OF DOCUMENTS.—The project sponsor may satisfy the requirement under paragraph (1) by submitting to the Secretary any relevant documents containing the information described in that paragraph, including a draft notice for publication in the Federal Register announcing the preparation of an environmental review for the project.”.

Federal Register,  
publication.

(e) COORDINATION AND SCHEDULING.—Section 139(g)(1)(B)(i) of title 23, United States Code, is amended by inserting “and the concurrence of” after “consultation with”.

#### SEC. 1306. ACCELERATED DECISIONMAKING.

Section 139(h) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING.—

“(A) IN GENERAL.—Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the project sponsor, lead agency, resource agencies,

Deadline.

and any relevant State agencies to ensure that all parties are on schedule to meet deadlines for decisions to be made regarding the project.

“(B) DEADLINES.—The deadlines referred to in subparagraph (A) shall be those established under subsection (g), or any other deadlines established by the lead agency, in consultation with the project sponsor and other relevant agencies.

“(C) FAILURE TO ASSURE.—If the relevant agencies cannot provide reasonable assurances that the deadlines described in subparagraph (B) will be met, the Secretary may initiate the issue resolution and referral process described under paragraph (5) and before the completion of the record of decision.

“(5) ACCELERATED ISSUE RESOLUTION AND REFERRAL.—

“(A) AGENCY ISSUE RESOLUTION MEETING.—

“(i) IN GENERAL.—A Federal agency of jurisdiction, project sponsor, or the Governor of a State in which a project is located may request an issue resolution meeting to be conducted by the lead agency.

“(ii) ACTION BY LEAD AGENCY.—The lead agency shall convene an issue resolution meeting under clause (i) with the relevant participating agencies and the project sponsor, including the Governor only if the meeting was requested by the Governor, to resolve issues that could—

“(I) delay completion of the environmental review process; or

“(II) result in denial of any approvals required for the project under applicable laws.

“(iii) DATE.—A meeting requested under this subparagraph shall be held by not later than 21 days after the date of receipt of the request for the meeting, unless the lead agency determines that there is good cause to extend the time for the meeting.

“(iv) NOTIFICATION.—On receipt of a request for a meeting under this subparagraph, the lead agency shall notify all relevant participating agencies of the request, including the issue to be resolved, and the date for the meeting.

“(v) DISPUTES.—If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has not been obtained and could not have been obtained within a reasonable time, but the lead agency disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

“(vi) CONVENTION BY LEAD AGENCY.—A lead agency may convene an issue resolution meeting under this subsection at any time without the request of the Federal agency of jurisdiction, project sponsor, or the Governor of a State.

“(B) ELEVATION OF ISSUE RESOLUTION.—

“(i) IN GENERAL.—If issue resolution is not achieved by not later than 30 days after the date of a relevant meeting under subparagraph (A), the

Deadline.

Deadline.  
Notification.

Secretary shall notify the lead agency, the heads of the relevant participating agencies, and the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor) that an issue resolution meeting will be convened.

“(ii) REQUIREMENTS.—The Secretary shall identify the issues to be addressed at the meeting and convene the meeting not later than 30 days after the date of issuance of the notice.

Meeting.  
Deadline.

“(C) REFERRAL OF ISSUE RESOLUTION.—

“(i) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

“(I) IN GENERAL.—If resolution is not achieved by not later than 30 days after the date of an issue resolution meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

“(II) MEETING.—Not later than 30 days after the date of receipt of a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies, and the project sponsor (including the Governor only if an initial request for an issue resolution meeting came from the Governor).

“(ii) REFERRAL TO THE PRESIDENT.—If a resolution is not achieved by not later than 30 days after the date of the meeting convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.

“(6) FINANCIAL PENALTY PROVISIONS.—

“(A) IN GENERAL.—A Federal agency of jurisdiction over an approval required for a project under applicable laws shall complete any required approval on an expeditious basis using the shortest existing applicable process.

“(B) FAILURE TO DECIDE.—

“(i) IN GENERAL.—If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), an amount of funding equal to the amounts specified in subclause (I) or (II) shall be rescinded from the applicable office of the head of the agency, or equivalent office to which the authority for rendering the decision has been delegated by law by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)—

“(I) \$20,000 for any project for which an annual financial plan under section 106(i) is required; or

“(II) \$10,000 for any other project requiring preparation of an environmental assessment or environmental impact statement.

Time period.

“(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

“(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

“(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(C) LIMITATIONS.—

“(i) IN GENERAL.—No rescission of funds under subparagraph (B) relating to an individual project shall exceed, in any fiscal year, an amount equal to 2.5 percent of the funds made available for the applicable agency office.

Deadline.

“(ii) FAILURE TO DECIDE.—The total amount rescinded in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 7 percent of the funds made available for the applicable agency office for that fiscal year.

“(D) NO FAULT OF AGENCY.—A rescission of funds under this paragraph shall not be made if the lead agency for the project certifies that—

“(i) the agency has not received necessary information or approvals from another entity, such as the project sponsor, in a manner that affects the ability of the agency to meet any requirements under State, local, or Federal law; or

“(ii) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application.

“(E) LIMITATION.—The Federal agency with jurisdiction for the decision from which funds are rescinded pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

“(F) AUDITS.—In any fiscal year in which any funds are rescinded from a Federal agency pursuant to this paragraph, the Inspector General of that agency shall—

“(i) conduct an audit to assess compliance with the requirements of this paragraph; and

“(ii) not later than 120 days after the end of the fiscal year during which the rescission occurred, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the reasons why the transfers were levied, including allocations of resources.

“(G) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

“(7) EXPEDIENT DECISIONS AND REVIEWS.—To ensure that Federal environmental decisions and reviews are expeditiously made—



“(A) adequate resources made available under this title shall be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are completed on an expeditious basis and that the shortest existing applicable process under that Act is implemented; and

“(B) the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, not less frequently than once every 120 days after the date of enactment of the MAP–21, a report on the status and progress of the following projects and activities funded under this title with respect to compliance with applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

President.  
Deadline.  
Reports.

“(i) Projects and activities required to prepare an annual financial plan under section 106(i).

“(ii) A sample of not less than 5 percent of the projects requiring preparation of an environmental impact statement or environmental assessment in each State.”.

#### **SEC. 1307. ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.**

Section 139(j) of title 23, United States Code, is amended by adding at the end the following:

“(6) MEMORANDUM OF UNDERSTANDING.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under paragraphs (1) and (2), the affected Federal agency and the State agency shall enter into a memorandum of understanding that establishes the projects and priorities to be addressed by the use of the funds.”.

#### **SEC. 1308. LIMITATIONS ON CLAIMS.**

Section 139(l) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking “180 days” and inserting “150 days”; and

(2) in paragraph (2) by striking “180 days” and inserting “150 days”.

#### **SEC. 1309. ACCELERATING COMPLETION OF COMPLEX PROJECTS WITHIN 4 YEARS.**

Section 139 of title 23, United States Code, is amended by adding at the end the following:

“(m) ENHANCED TECHNICAL ASSISTANCE AND ACCELERATED PROJECT COMPLETION.—

“(1) DEFINITION OF COVERED PROJECT.—In this subsection, the term ‘covered project’ means a project—

“(A) that has an ongoing environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(B) for which at least 2 years, beginning on the date on which a notice of intent is issued, have elapsed without the issuance of a record of decision.

“(2) TECHNICAL ASSISTANCE.—At the request of a project sponsor or the Governor of a State in which a project is located, the Secretary shall provide additional technical assistance to

resolve for a covered project any outstanding issues and project delay, including by—

- “(A) providing additional staff, training, and expertise;
- “(B) facilitating interagency coordination;
- “(C) promoting more efficient collaboration; and
- “(D) supplying specialized onsite assistance.

“(3) SCOPE OF WORK.—

“(A) IN GENERAL.—In providing technical assistance for a covered project under this subsection, the Secretary shall establish a scope of work that describes the actions that the Secretary will take to resolve the outstanding issues and project delays, including establishing a schedule under subparagraph (B).

“(B) SCHEDULE.—

Deadline.

“(i) IN GENERAL.—The Secretary shall establish and meet a schedule for the completion of any permit, approval, review, or study, required for the covered project by the date that is not later than 4 years after the date on which a notice of intent for the covered project is issued.

“(ii) INCLUSIONS.—The schedule under clause (i) shall—

“(I) comply with all applicable laws;

“(II) require the concurrence of the Council on Environmental Quality and each participating agency for the project with the State in which the project is located or the project sponsor, as applicable; and

“(III) reflect any new information that becomes available and any changes in circumstances that may result in new significant impacts that could affect the timeline for completion of any permit, approval, review, or study required for the covered project.

“(4) CONSULTATION.—In providing technical assistance for a covered project under this subsection, the Secretary shall consult, if appropriate, with resource and participating agencies on all methods available to resolve the outstanding issues and project delays for a covered project as expeditiously as possible.

“(5) ENFORCEMENT.—

“(A) IN GENERAL.—All provisions of this section shall apply to this subsection, including the financial penalty provisions under subsection (h)(6).

“(B) RESTRICTION.—If the Secretary enforces this subsection under subsection (h)(6), the Secretary may use a date included in a schedule under paragraph (3)(B) that is created pursuant to and is in compliance with this subsection in lieu of the dates under subsection (h)(6)(B)(ii).”.

**SEC. 1310. INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.**

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1115(a)), is amended by adding at the end the following:

**“§ 168. Integration of planning and environmental review**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ENVIRONMENTAL REVIEW PROCESS.—The term ‘environmental review process’ means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) PLANNING PRODUCT.—The term ‘planning product’ means a detailed and timely decision, analysis, study, or other documented information that—

“(A) is the result of an evaluation or decisionmaking process carried out during transportation planning, including a detailed corridor plan or a transportation plan developed under section 134 that fully analyzes impacts on mobility, adjacent communities, and the environment;

“(B) is intended to be carried into the transportation project development process; and

“(C) has been approved by the State, all local and tribal governments where the project is located, and by any relevant metropolitan planning organization.

“(3) PROJECT.—The term ‘project’ has the meaning given the term in section 139(a).

“(4) PROJECT SPONSOR.—The term ‘project sponsor’ has the meaning given the term in section 139(a).

“(b) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

“(1) IN GENERAL.—Subject to the conditions set forth in subsection (d), the Federal lead agency for a project may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the project.

“(2) IDENTIFICATION.—When the Federal lead agency makes a determination to adopt and use a planning product, the Federal lead agency shall identify those agencies that participated in the development of the planning products.

“(3) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

“(4) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product may be made at the time the lead agencies decide the appropriate scope of environmental review for the project but may also occur later in the environmental review process, as appropriate.

“(c) APPLICABILITY.—

“(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

“(A) whether tolling, private financial assistance, or other special financial measures are necessary to implement the project;

“(B) a decision with respect to modal choice, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

“(C) a basic description of the environmental setting;

“(D) a decision with respect to methodologies for analysis; and

“(E) an identification of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies, determines are most effectively addressed at a regional or national program level, including—

“(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation investments on environmental resources, including regional ecosystem and water resources; and

“(ii) potential mitigation activities, locations, and investments.

“(2) PLANNING ANALYSES.—Planning analyses that may be adopted pursuant to this section include studies with respect to—

“(A) travel demands;

“(B) regional development and growth;

“(C) local land use, growth management, and development;

“(D) population and employment;

“(E) natural and built environmental conditions;

“(F) environmental resources and environmentally sensitive areas;

“(G) potential environmental effects, including the identification of resources of concern and potential cumulative effects on those resources, identified as a result of a statewide or regional cumulative effects assessment; and

“(H) mitigation needs for a proposed action, or for programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.

“(d) CONDITIONS.—Adoption and use of a planning product under this section is subject to a determination by the Federal lead agency, with the concurrence of other participating agencies with relevant expertise and project sponsors as appropriate, and with an opportunity for public notice and comment and consideration of those comments by the Federal lead agency, that the following conditions have been met:

“(1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

“(2) The planning product was developed by engaging in active consultation with appropriate Federal and State resource agencies and Indian tribes.

“(3) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment.

“(4) During the planning process, notice was provided through publication or other means to Federal, State, local, and tribal governments that might have an interest in the proposed project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during any subsequent environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

“(5) After initiation of the environmental review process, but prior to determining whether to rely on and use the planning product, the lead Federal agency has made documentation relating to the planning product available to Federal, State, local, and tribal governments that may have an interest in the proposed action, and to members of the general public, and has considered any resulting comments.

“(6) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.

“(7) The planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

“(8) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

“(9) The planning product is appropriate for adoption and use in the environmental review process for the project.

“(10) The planning product was approved not later than 5 years prior to date on which the information is adopted pursuant to this section.

“(e) EFFECT OF ADOPTION.—Any planning product adopted by the Federal lead agency in accordance with this section may be incorporated directly into an environmental review process document or other environmental document and may be relied upon and used by other Federal agencies in carrying out reviews of the project.

“(f) RULES OF CONSTRUCTION.—

“(1) IN GENERAL.—This section shall not be construed to make the environmental review process applicable to the transportation planning process conducted under this title and chapter 53 of title 49.

“(2) TRANSPORTATION PLANNING ACTIVITIES.—Initiation of the environmental review process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the environmental review process.

“(3) PLANNING PRODUCTS.—This section shall not be construed to affect the use of planning products in the environmental review process pursuant to other authorities under any other provision of law or to restrict the initiation of the environmental review process during planning.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1115(b)), is amended by adding at end the following:

“Sec. 168. Integration of planning and environmental review.”.

**SEC. 1311. DEVELOPMENT OF PROGRAMMATIC MITIGATION PLANS.**

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1310(a)), is amended by adding at the end the following:

**“§ 169. Development of programmatic mitigation plans**

“(a) IN GENERAL.—As part of the statewide or metropolitan transportation planning process, a State or metropolitan planning organization may develop 1 or more programmatic mitigation plans

to address the potential environmental impacts of future transportation projects.

“(b) SCOPE.—

“(1) SCALE.—A programmatic mitigation plan may be developed on a regional, ecosystem, watershed, or statewide scale.

“(2) RESOURCES.—The plan may encompass multiple environmental resources within a defined geographic area or may focus on a specific resource, such as aquatic resources, parkland, or wildlife habitat.

“(3) PROJECT IMPACTS.—The plan may address impacts from all projects in a defined geographic area or may focus on a specific type of project.

“(4) CONSULTATION.—The scope of the plan shall be determined by the State or metropolitan planning organization, as appropriate, in consultation with the agency or agencies with jurisdiction over the resources being addressed in the mitigation plan.

“(c) CONTENTS.—A programmatic mitigation plan may include—

“(1) an assessment of the condition of environmental resources in the geographic area covered by the plan, including an assessment of recent trends and any potential threats to those resources;

“(2) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographic area covered by the plan, through strategic mitigation for impacts of transportation projects;

“(3) standard measures for mitigating certain types of impacts;

“(4) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;

“(5) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring; and

“(6) acknowledgment of specific statutory or regulatory requirements that must be satisfied when determining appropriate mitigation for certain types of resources.

“(d) PROCESS.—Before adopting a programmatic mitigation plan, a State or metropolitan planning organization shall—

Consultation.

“(1) consult with each agency with jurisdiction over the environmental resources considered in the programmatic mitigation plan;

“(2) make a draft of the plan available for review and comment by applicable environmental resource agencies and the public;

“(3) consider any comments received from such agencies and the public on the draft plan; and

“(4) address such comments in the final plan.

“(e) INTEGRATION WITH OTHER PLANS.—A programmatic mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

“(f) CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.—If a programmatic mitigation plan has been developed pursuant to this section, any Federal agency responsible for environmental reviews, permits, or approvals for a transportation project

may use the recommendations in a programmatic mitigation plan when carrying out the responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(g) **PRESERVATION OF EXISTING AUTHORITIES.**—Nothing in this section limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The analysis for chapter 1 of title 23, United States Code (as amended by section 1309(b)), is amended by adding at the end the following:

“Sec. 169. Development of programmatic mitigation plans.”.

**SEC. 1312. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.**

Section 326 of title 23, United States Code, is amended—

(1) in subsection (a) by adding at the end the following:

“(4) **PRESERVATION OF FLEXIBILITY.**—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for highway projects.”;

(2) by striking subsection (d) and inserting the following:

“(d) **TERMINATION.**—

“(1) **TERMINATION BY THE SECRETARY.**—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

“(2) **TERMINATION BY THE STATE.**—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.”; and

(3) by adding at the end the following:

“(f) **LEGAL FEES.**—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorney’s fees directly attributable to eligible activities associated with the project.”.

Notice.  
Deadline.

**SEC. 1313. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.**

(a) **PROGRAM NAME.**—Section 327 of title 23, United States Code, is amended—

(1) in the section heading by striking “**PILOT**”; and

(2) in subsection (a)(1) by striking “pilot”.

(b) **ASSUMPTION OF RESPONSIBILITY.**—Section 327(a)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in clause (i) by striking “but”; and

(B) by striking clause (ii) and inserting the following:

“(ii) at the request of the State, the Secretary may also assign to the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more railroad, public transportation, or multimodal projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(iii) in a State that has assumed the responsibilities of the Secretary under clause (ii), a recipient of assistance under chapter 53 of title 49 may request that the Secretary maintain the responsibilities of the Secretary with respect to 1 or more public transportation projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 13 4321 et seq.); but

“(iv) the Secretary may not assign—

“(I) any responsibility imposed on the Secretary by section 134 or 135 or section 5303 or 5304 of title 49; or

“(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506).”; and

(2) by adding at the end the following:

“(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for projects.

“(G) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys’ fees directly attributable to eligible activities associated with the project.”.

(c) STATE PARTICIPATION.—Section 327(b) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) PARTICIPATING STATES.—All States are eligible to participate in the program.”; and

(2) in paragraph (2) by striking “date of enactment of this section, the Secretary shall promulgate” and inserting “date on which amendments to this section by the MAP-21 take effect, the Secretary shall amend, as appropriate,”.

(d) WRITTEN AGREEMENT.—Section 327(c) of title 23, United States Code, is amended—

(1) in paragraph (3)(D) by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following:

“(4) require the State to provide to the Secretary any information the Secretary considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

“(5) have a term of not more than 5 years; and

“(6) be renewable.”.

(e) CONFORMING AMENDMENT.—Section 327(e) of title 23, United States Code, is amended by striking “subsection (i)” and inserting “subsection (j)”.

(f) AUDITS.—Section 327(g)(1)(B) of title 23, United States Code, is amended by striking “subsequent year” and inserting “of the third and fourth years”.

(g) MONITORING.—Section 327 of title 23, United States Code, is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:



“(h) MONITORING.—After the fourth year of the participation of a State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.”.

(h) TERMINATION.—Section 327(j) of title 23, United States Code (as so redesignated), is amended to read as follows:

“(j) TERMINATION.—

“(1) TERMINATION BY THE SECRETARY.—The Secretary may terminate the participation of any State in the program if—

“(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

“(B) the Secretary provides to the State—

“(i) notification of the determination of noncompliance; and

Notification.

“(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

Time period.

“(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by the Secretary.

“(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.”.

Notice.  
Deadline.

(i) CLERICAL AMENDMENT.—The item relating to section 327 in the analysis of title 23, United States Code, is amended to read as follows:

“327. Surface transportation project delivery program.”.

#### **SEC. 1314. APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.**

(a) IN GENERAL.—Section 304 of title 49, United States Code, is amended to read as follows:

#### **“§ 304. Application of categorical exclusions for multimodal projects**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) COOPERATING AUTHORITY.—The term ‘cooperating authority’ means a Department of Transportation operating authority that is not the lead authority with respect to a project.

“(2) LEAD AUTHORITY.—The term ‘lead authority’ means a Department of Transportation operating administration or secretarial office that—

“(A) is the lead authority over a proposed multimodal project; and

“(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

“(i) satisfy the conditions for a categorical exclusion under implementing regulations or procedures of the lead authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(ii) do not require the preparation of an environmental assessment or environmental impact statement under that Act.

“(3) MULTIMODAL PROJECT.—The term ‘multimodal project’ has the meaning given the term in section 139(a) of title 23.

“(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title.

“(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply a categorical exclusion designated under the implementing regulations or procedures of a cooperating authority for other components of the project, subject to the conditions that—

“(1) the multimodal project is funded under 1 grant agreement administered by the lead authority;

“(2) the multimodal project has components that require the expertise of a cooperating authority to assess the environmental impacts of the components;

“(3) the component of the project to be covered by the categorical exclusion of the cooperating authority has independent utility;

“(4) the cooperating authority, in consultation with the lead authority—

“(A) follows implementing regulations or procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(B) determines that a categorical exclusion under that Act applies to the components; and

“(5) the lead authority has determined that—

“(A) the project, using the categorical exclusions of the lead authority and each applicable cooperating authority, does not individually or cumulatively have a significant impact on the environment; and

“(B) extraordinary circumstances do not exist that merit additional analysis and documentation in an environmental impact statement or environmental assessment required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(d) MODAL COOPERATION.—

“(1) IN GENERAL.—A cooperating authority shall provide modal expertise to the lead authority on such aspects of the multimodal project in which the cooperating authority has expertise.

“(2) USE OF CATEGORICAL EXCLUSION.—In a case described in paragraph (1), the 1 or more categorical exclusions of a cooperating authority may be applied by the lead authority once the cooperating authority reviews the project on behalf of the lead authority and determines the project satisfies the conditions for a categorical exclusion under the implementing regulations or procedures of the cooperating authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section.”.

(b) **CONFORMING AMENDMENT.**—The item relating to section 304 in the analysis for title 49, United States Code, is amended to read as follows:

“304. Application of categorical exclusions for multimodal projects”.

**SEC. 1315. CATEGORICAL EXCLUSIONS IN EMERGENCIES.**

23 USC 109 note.

(a) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, for the repair or reconstruction of any road, highway, or bridge that is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall publish a notice of proposed rulemaking to treat any such repair or reconstruction activity as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act) if such repair or reconstruction activity is—

Deadline.  
Notice.  
Regulations.

(1) in the same location with the same capacity, dimensions, and design as the original road, highway, or bridge as before the declaration described in this section; and

(2) commenced within a 2-year period beginning on the date of a declaration described in this section.

(b) **RULEMAKING.**—

(1) **IN GENERAL.**—The Secretary shall ensure that the rulemaking helps to conserve Federal resources and protects public safety and health by providing for periodic evaluations to determine if reasonable alternatives exist to roads, highways, or bridges that repeatedly require repair and reconstruction activities.

(2) **REASONABLE ALTERNATIVES.**—The reasonable alternatives described in paragraph (1) include actions that could reduce the need for Federal funds to be expended on such repair and reconstruction activities, better protect public safety and health and the environment, and meet transportation needs as described in relevant and applicable Federal, State, local and tribal plans.

**SEC. 1316. CATEGORICAL EXCLUSIONS FOR PROJECTS WITHIN THE RIGHT-OF-WAY.**

23 USC 109 note.

(a) **IN GENERAL.**—The Secretary shall—

Deadlines.

(1) not later than 180 days after the date of enactment of this Act, designate any project (as defined in section 101(a) of title 23, United States Code) within an existing operational right-of-way as an action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(c) of title 23, Code of Federal Regulations; and

(2) not later than 150 days after the date of enactment of this Act, promulgate regulations to carry out paragraph (1).

(b) **DEFINITION OF AN OPERATIONAL RIGHT-OF-WAY.**—In this section, the term “operational right-of-way” means all real property

interests acquired for the construction, operation, or mitigation of a project (as defined in section 101(a) of title 23, United States Code), including the locations of the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access highway.

Deadline.  
23 USC 109 note.

**SEC. 1317. CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall—\*

(1) designate as an action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(c) of title 23, Code of Federal Regulations, any project—

(A) that receives less than \$5,000,000 of Federal funds;

or

(B) with a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost; and

(2) not later than 150 days after the date of enactment of this Act, promulgate regulations to carry out paragraph (1).

23 USC 109 note.

**SEC. 1318. PROGRAMMATIC AGREEMENTS AND ADDITIONAL CATEGORICAL EXCLUSIONS.**

Deadline.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall—

Survey.

(1) survey the use by the Department of categorical exclusions in transportation projects since 2005;

Publication.

(2) publish a review of the survey that includes a description of—

(A) the types of actions categorically excluded; and

(B) any requests previously received by the Secretary for new categorical exclusions; and

(3) solicit requests from State departments of transportation, transit authorities, metropolitan planning organizations, or other government agencies for new categorical exclusions.

Deadline.

(b) NEW CATEGORICAL EXCLUSIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to propose new categorical exclusions received by the Secretary under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations, and section 771.117(a) of title 23, Code of Federal Regulations (as those regulations are in effect on the date of the notice).

Regulations.

(c) ADDITIONAL ACTIONS.—The Secretary shall issue a proposed rulemaking to move the following types of actions from subsection (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to subsection (c) of that section, to the extent that such movement complies with the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act):

(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing).

(2) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting.

(3) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings.

(d) PROGRAMMATIC AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall seek opportunities to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews.

(2) INCLUSIONS.—Programmatic agreements authorized under paragraph (1) may include agreements that allow a State to determine on behalf of the Federal Highway Administration whether a project is categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) DETERMINATIONS.—An agreement described in paragraph (2) may include determinations by the Secretary of the types of projects categorically excluded (consistent with section 1508.4 of title 40, Code of Federal Regulations) in the State in addition to the types listed in subsections (c) and (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act).

**SEC. 1319. ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.**

42 USC 4332a  
note.

(a) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets—

(1) cite the sources, authorities, or reasons that support the position of the agency; and

(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(b) INCORPORATION.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

(1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(2) there are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.

**SEC. 1320. MEMORANDA OF AGENCY AGREEMENTS FOR EARLY COORDINATION.**

23 USC 139 note.

(a) IN GENERAL.—It is the sense of Congress that—

(1) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other and other agencies on environmental review and project delivery activities at the earliest practicable

time to avoid delays and duplication of effort later in the process, head off potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

(2) such cooperation should include the development of policies and the designation of staff that advise planning agencies or project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(b) **TECHNICAL ASSISTANCE.**—If requested at any time by a State or local planning agency, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or local planning agency on accomplishing the early coordination activities described in subsection (d).

(c) **MEMORANDUM OF AGENCY AGREEMENT.**—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State, and local governments and other appropriate entities to accomplish the early coordination activities described in subsection (d).

(d) **EARLY COORDINATION ACTIVITIES.**—Early coordination activities shall include, to the maximum extent practicable, the following:

(1) Technical assistance on identifying potential impacts and mitigation issues in an integrated fashion.

(2) The potential appropriateness of using planning products and decisions in later environmental reviews.

(3) The identification and elimination from detailed study in the environmental review process of the issues that are not significant or that have been covered by prior environmental reviews.

(4) The identification of other environmental review and consultation requirements so that the lead and cooperating agencies may prepare, as appropriate, other required analyses and studies concurrently with planning activities.

(5) The identification by agencies with jurisdiction over any permits related to the project of any and all relevant information that will reasonably be required for the project.

(6) The reduction of duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and State and local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law.

(7) Timelines for the completion of agency actions during the planning and environmental review processes.

(8) Other appropriate factors.

Review.  
Contracts.

#### **SEC. 1321. ENVIRONMENTAL PROCEDURES INITIATIVE.**

(a) **ESTABLISHMENT.**—For grant programs under which funds are distributed by formula by the Department, the Secretary shall establish an initiative to review and develop consistent procedures for environmental permitting and procurement requirements that

apply to a project carried out under title 23, United States Code, or chapter 53 of title 49, United States Code.

(b) **REPORT.**—The Secretary shall publish the results of the initiative described in subsection (a) in an electronically accessible format.

**SEC. 1322. REVIEW OF STATE ENVIRONMENTAL REVIEWS AND APPROVALS FOR THE PURPOSE OF ELIMINATING DUPLICATION OF ENVIRONMENTAL REVIEWS.**

For environmental reviews and approvals carried out on projects funded under title 23, United States Code, the Comptroller General of the United States shall—

(1) review State laws and procedures for conducting environmental reviews with regard to such projects and identify the States that have environmental laws that provide environmental protections and opportunities for public involvement that are equivalent to those provided by Federal environmental laws;

(2) determine the frequency and cost of environmental reviews carried out at the Federal level that are duplicative of State reviews that provide equivalent environmental protections and opportunities for public involvement; and

(3) not later than 2 years after the date of enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the results of the review and determination made under this section.

Determination.

Deadline.

**SEC. 1323. REVIEW OF FEDERAL PROJECT AND PROGRAM DELIVERY.**

(a) **COMPLETION TIME ASSESSMENTS AND REPORTS.**—

(1) **IN GENERAL.**—For projects funded under title 23, United States Code, the Secretary shall compare—

(A)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after calendar year 2005; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during a period prior to calendar year 2005; and

(B)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during the period beginning on January 1, 2005, and ending on the date of enactment of this Act; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after the date of enactment of this Act.

(2) **REPORT.**—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) not later than 1 year after the date of enactment of this Act, a report that—

(i) describes the results of the review conducted under paragraph (1)(A); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years; and  
 (B) not later than 5 years after the date of enactment of this Act, a report that—

(i) describes the results of the review conducted under paragraph (1)(B); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years.

(b) **ADDITIONAL REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the types and justification for the additional categorical exclusions granted under the authority provided under sections 1316 and 1317.

(c) **GAO REPORT.**—The Comptroller General of the United States shall—

(1) assess the reforms carried out under this subtitle (including the amendments made by this subtitle); and

(2) not later than 5 years after the date of enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the results of the assessment.

(d) **INSPECTOR GENERAL REPORT.**—The Inspector General of the Department of Transportation shall—

(1) assess the reforms carried out under this subtitle (including the amendments made by this subtitle); and

(2) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) not later than 2 years after the date of enactment of this Act, an initial report of the findings of the Inspector General; and

(B) not later than 4 years after the date of enactment of this Act, a final report of the findings.

## Subtitle D—Highway Safety

23 USC 137 note. **SEC. 1401. JASON'S LAW.**

(a) **IN GENERAL.**—It is the sense of Congress that it is a national priority to address projects under this section for the shortage of long-term parking for commercial motor vehicles on the National Highway System to improve the safety of motorized and non-motorized users and for commercial motor vehicle operators.

(b) **ELIGIBLE PROJECTS.**—Eligible projects under this section are those that—

(1) serve the National Highway System; and

(2) may include the following:

(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.



(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

(c) SURVEY AND COMPARATIVE ASSESSMENT.—

Deadline.

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with relevant State motor carrier safety personnel, shall conduct a survey of each State—

(A) to evaluate the capability of the State to provide adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation;

(B) to assess the volume of commercial motor vehicle traffic in the State; and

(C) to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the State.

(2) RESULTS.—The results of the survey under paragraph (1) shall be made available to the public on the website of the Department of Transportation.

Public information.  
Web posting.

(3) PERIODIC UPDATES.—The Secretary shall periodically update the survey under this subsection.

(d) ELECTRIC VEHICLE AND NATURAL GAS VEHICLE INFRASTRUCTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State may establish electric vehicle charging stations or natural gas vehicle refueling stations for the use of battery-powered or natural gas-fueled trucks or other motor vehicles at any parking facility funded or authorized under this Act or title 23, United States Code.

(2) EXCEPTION.—Electric vehicle battery charging stations or natural gas vehicle refueling stations may not be established or supported under paragraph (1) if commercial establishments serving motor vehicle users are prohibited by section 111 of title 23, United States Code.

(3) FUNDS.—Charging or refueling stations described in paragraph (1) shall be eligible for the same funds as are available for the parking facilities in which the stations are located.

(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded through the authority provided under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code.

**SEC. 1402. OPEN CONTAINER REQUIREMENTS.**

Section 154(c) of title 23, United States Code, is amended—  
 (1) by striking paragraph (2) and inserting the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—

“(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1) and paragraph (3).

“(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

“(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

“(ii) release the reserved funds identified by the State as described in paragraph (3).”;

(2) by striking paragraph (3) and inserting the following:

“(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

“(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

“(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.”; and

(3) by striking paragraph (5) and inserting the following:

“(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

“(A) The apportionment of the State under section 104(b)(1).

“(B) The apportionment of the State under section 104(b)(2).”.

**SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.**

(a) DEFINITIONS.—Section 164(a) of title 23, United States Code, is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(3) in paragraph (4) (as so redesignated) by striking subparagraph (A) and inserting the following:

“(A) receive—

“(i) a suspension of all driving privileges for not less than 1 year; or

“(ii) a suspension of unlimited driving privileges for 1 year, allowing for the reinstatement of limited

driving privileges subject to restrictions and limited exemptions as established by State law, if an ignition interlock device is installed for not less than 1 year on each of the motor vehicles owned or operated, or both, by the individual;”.

(b) **TRANSFER OF FUNDS.**—Section 164(b) of title 23, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) **FISCAL YEAR 2012 AND THEREAFTER.**—

“(A) **RESERVATION OF FUNDS.**—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

“(B) **TRANSFER OF FUNDS.**—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

“(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

“(ii) release the reserved funds identified by the State as described in paragraph (3).”;

(2) by striking paragraph (3) and inserting the following:

“(3) **USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.**—

“(A) **IN GENERAL.**—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

“(B) **STATE DEPARTMENTS OF TRANSPORTATION.**—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.”; and

(3) by striking paragraph (5) and inserting the following:

“(5) **DERIVATION OF AMOUNT TO BE TRANSFERRED.**—The amount to be transferred under paragraph (2) may be derived from the following:

“(A) The apportionment of the State under section 104(b)(1).

“(B) The apportionment of the State under section 104(b)(2).”.

#### **SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.**

(a) **VEHICLE WEIGHT LIMITATIONS.**—Section 127(a)(1) of title 23, United States Code, is amended by striking “No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to any State which” and inserting “The Secretary shall withhold 50 percent of the apportionment of a State under section 104(b)(1) in any fiscal year in which the State”.

(b) **CONTROL OF JUNKYARDS.**—Section 136 of title 23, United States Code, is amended—

(1) in subsection (b), in the first sentence—

(A) by striking “10 per centum” and inserting “7 percent”; and

(B) by striking “section 104 of this title” and inserting “paragraphs (1) through (5) of section 104(b)”; and

(2) by adding at the end the following:

“(n) DEFINITIONS.—For purposes of this section, the terms ‘primary system’ and ‘Federal-aid primary system’ mean any highway that is on the National Highway System, which includes the Interstate Highway System.”.

(c) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT LAWS.—Section 141(b)(2) of title 23, United States Code, is amended—

(1) by striking “10 per centum” and inserting “7 percent”; and

(2) by striking “section 104 of this title” and inserting “paragraphs (1) through (5) of section 104(b)”.

(d) PROOF OF PAYMENT OF THE HEAVY VEHICLE USE TAX.—Section 141(c) of title 23, United States Code, is amended—

(1) by striking “section 104(b)(4)” each place it appears and inserting “section 104(b)(1)”; and

(2) in the first sentence by striking “25 per centum” and inserting “8 percent”.

(e) USE OF SAFETY BELTS.—Section 153(h) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting “PRIOR TO FISCAL YEAR 2012”; and

(B) by inserting “and before October 1, 2011,” after “September 30, 1994.”; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer an amount equal to 2 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1) through (3) of section 104(b) to the apportionment of the State under section 402.”.

(f) NATIONAL MINIMUM DRINKING AGE.—Section 158(a)(1) of title 23, United States Code, is amended—

(1) by striking “The Secretary” and inserting the following:

“(A) FISCAL YEARS BEFORE 2012.—The Secretary”; and

(2) by adding at the end the following:

“(B) FISCAL YEAR 2012 AND THEREAFTER.—For fiscal year 2012 and each fiscal year thereafter, the amount to be withheld under this section shall be an amount equal to 8 percent of the amount apportioned to the noncompliant State, as described in subparagraph (A), under paragraphs (1) and (2) of section 104(b).”.

(g) DRUG OFFENDERS.—Section 159 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1);

(C) in paragraph (1) (as so redesignated) by striking “(including any amounts withheld under paragraph (1))”; and

(D) by inserting after paragraph (1) (as so redesignated) the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on the first day of each fiscal year beginning after September 30, 2011, if the State fails to meet the requirements of paragraph (3) on the first day of the fiscal year.”; and

(2) by striking subsection (b) and inserting the following:

“(b) EFFECT OF NONCOMPLIANCE.—No funds withheld under this section from apportionments to any State shall be available for apportionment to that State.”.

(h) ZERO TOLERANCE BLOOD ALCOHOL CONCENTRATION FOR MINORS.—Section 161(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting “PRIOR TO FISCAL YEAR 2012”; and

(B) by inserting “through fiscal year 2011” after “each fiscal year thereafter”; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on October 1, 2011, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.”.

(i) OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.—Section 163(e) of title 23, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) FISCAL YEARS 2007 THROUGH 2011.—On October 1, 2006, and October 1 of each fiscal year thereafter through fiscal year 2011, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 8 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).

“(2) FISCAL YEAR 2012 AND THEREAFTER.—On October 1, 2011, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 6 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b).”.

(j) COMMERCIAL DRIVER’S LICENSE.—Section 31314 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) PENALTIES IMPOSED IN FISCAL YEAR 2012 AND THEREAFTER.—Effective beginning on October 1, 2011—

“(1) the penalty for the first instance of noncompliance by a State under this section shall be not more than an amount equal to 4 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23; and

“(2) the penalty for subsequent instances of noncompliance shall be not more than an amount equal to 8 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23.”.

Deadline.

**SEC. 1405. HIGHWAY WORKER SAFETY.**

Not later than 60 days after the date of enactment of this Act, the Secretary shall modify section 630.1108(a) of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that—

(1) at a minimum, positive protective measures are used to separate workers on highway construction projects from motorized traffic in all work zones conducted under traffic in areas that offer workers no means of escape (such as tunnels and bridges), unless an engineering study determines otherwise;

(2) temporary longitudinal traffic barriers are used to protect workers on highway construction projects in long-duration stationary work zones when the project design speed is anticipated to be high and the nature of the work requires workers to be within 1 lane-width from the edge of a live travel lane, unless—

(A) an analysis by the project sponsor determines otherwise; or

(B) the project is outside of an urbanized area and the annual average daily traffic load of the applicable road is less than 100 vehicles per hour; and

(3) when positive protective devices are necessary for highway construction projects, those devices are paid for on a unit-pay basis, unless doing so would create a conflict with innovative contracting approaches, such as design-build or some performance-based contracts under which the contractor is paid to assume a certain risk allocation and payment is generally made on a lump-sum basis.

## Subtitle E—Miscellaneous

**SEC. 1501. REAL-TIME RIDESHARING.**

Paragraph (3) of section 101(a) of title 23, United States Code (as redesignated by section 1103(a)(2)), is amended by striking “and designating existing facilities for use for preferential parking for carpools” and inserting “designating existing facilities for use for preferential parking for carpools, and real-time ridesharing projects, such as projects where drivers, using an electronic transfer of funds, recover costs directly associated with the trip provided through the use of location technology to quantify those direct costs, subject to the condition that the cost recovered does not exceed the cost of the trip provided”.

**SEC. 1502. PROGRAM EFFICIENCIES.**

The first sentence of section 102(b) of title 23, United States Code, is amended by striking “made available for such engineering” and inserting “reimbursed for the preliminary engineering”.

**SEC. 1503. PROJECT APPROVAL AND OVERSIGHT.**

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by inserting “recipient” before “formalizing”;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the heading, by striking “NON-INTERSTATE”;

(ii) by striking “but not on the Interstate System”;

and inserting “, including projects on the Interstate System”; and

(iii) by striking “of projects” and all that follows through the period at the end and inserting “with respect to the projects unless the Secretary determines that the assumption is not appropriate.”; and

(B) by striking paragraph (4) and inserting the following:

“(4) LIMITATION ON INTERSTATE PROJECTS.—

“(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

“(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.”;

(3) in subsection (e)—

(A) in paragraph (1)(A)—

(i) in the matter preceding clause (i)—

(I) by striking “concept” and inserting “planning”; and

(II) by striking “multidisciplined” and inserting “multidisciplinary”; and

(ii) by striking clause (i) and inserting the following:

“(i) providing the needed functions safely, reliably, and at the lowest overall lifecycle cost;”;

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by striking “or other cost-reduction analysis”;

(ii) in subparagraph (A)—

(I) by striking “Federal-aid system” and inserting “National Highway System receiving Federal assistance”; and

(II) by striking “\$25,000,000” and inserting “\$50,000,000”; and

(iii) in subparagraph (B)—

(I) by inserting “on the National Highway System receiving Federal assistance” after “a bridge project”; and

(II) by striking “\$20,000,000” and inserting “\$40,000,000”; and

(C) by striking paragraph (4) and inserting the following:

“(4) REQUIREMENTS.—

“(A) VALUE ENGINEERING PROGRAM.—The State shall develop and carry out a value engineering program that—

“(i) establishes and documents value engineering program policies and procedures;

“(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

“(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

“(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

“(B) BRIDGE PROJECTS.—The value engineering analysis for a bridge project under paragraph (2) shall—

“(i) include bridge superstructure and substructure requirements based on construction material; and

“(ii) be evaluated by the State—

“(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

“(II) using an analysis of lifecycle costs and duration of project construction.

“(5) DESIGN-BUILD PROJECTS.—A requirement to provide a value engineering analysis under this subsection shall not apply to a project delivered using the design-build method of construction.”;

(4) in subsection (h)—

(A) in paragraph (1)(B) by inserting “, including a phasing plan when applicable” after “financial plan”; and

(B) by striking paragraph (3) and inserting the following:

“(3) FINANCIAL PLAN.—A financial plan—

“(A) shall be based on detailed estimates of the cost to complete the project;

“(B) shall provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project;

“(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135; and

Reports.



“(D) shall assess the appropriateness of a public-private partnership to deliver the project.”; and

(5) by adding at the end the following:

“(j) USE OF ADVANCED MODELING TECHNOLOGIES.—

“(1) DEFINITION OF ADVANCED MODELING TECHNOLOGY.—

In this subsection, the term ‘advanced modeling technology’ means an available or developing technology, including 3-dimensional digital modeling, that can—

“(A) accelerate and improve the environmental review process;

“(B) increase effective public participation;

“(C) enhance the detail and accuracy of project designs;

“(D) increase safety;

“(E) accelerate construction, and reduce construction costs; or

“(F) otherwise expedite project delivery with respect to transportation projects that receive Federal funding.

“(2) PROGRAM.—With respect to transportation projects that receive Federal funding, the Secretary shall encourage the use of advanced modeling technologies during environmental, planning, financial management, design, simulation, and construction processes of the projects.

“(3) ACTIVITIES.—In carrying out paragraph (2), the Secretary shall—

“(A) compile information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies;

“(B) disseminate to States information relating to advanced modeling technologies, including industry best practices with respect to the use of the technologies; and

“(C) promote the use of advanced modeling technologies.

“(4) COMPREHENSIVE PLAN.—The Secretary shall develop and publish on the public website of the Department of Transportation a detailed and comprehensive plan for the implementation of paragraph (2).”.

Web posting.

(b) REVIEW OF OVERSIGHT PROGRAM.—

(1) IN GENERAL.—The Secretary shall review the oversight program established under section 106(g) of title 23, United States Code, to determine the efficacy of the program in monitoring the effective and efficient use of funds authorized to carry out title 23, United States Code.

(2) MINIMUM REQUIREMENTS FOR REVIEW.—At a minimum, the review under paragraph (1) shall assess the capability of the program to—

(A) identify projects funded under title 23, United States Code, for which there are cost or schedule overruns; and

(B) evaluate the extent of such overruns.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the review conducted under paragraph (1), which shall include

recommendations for legislative changes to improve the oversight program established under section 106(g) of title 23, United States Code.

23 USC 104 note.  
Web posting.

(c) **TRANSPARENCY AND ACCOUNTABILITY.**—

(1) **DATA COLLECTION.**—The Secretary shall compile and make available on the public website of the Department of Transportation the annual expenditure data for funds made available under title 23 and chapter 53 of title 49, United States Code.

(2) **REQUIREMENTS.**—In carrying out paragraph (1), the Secretary shall ensure that the data made available on the public website of the Department of Transportation—

(A) is organized by project and State;

(B) to the maximum extent practicable, is updated regularly to reflect the current status of obligations, expenditures, and Federal-aid projects; and

(C) can be searched and downloaded by users of the website.

Time period.

(3) **REPORT TO CONGRESS.**—The Secretary shall annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing a summary of the data described in paragraph (1) for the 1-year period ending on the date on which the report is submitted.

**SEC. 1504. STANDARDS.**

Section 109 of title 23, United States Code, is amended by adding at the end the following:

“(r) **PAVEMENT MARKINGS.**—The Secretary shall not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C.”.

**SEC. 1505. JUSTIFICATION REPORTS FOR ACCESS POINTS ON THE INTERSTATE SYSTEM.**

Section 111 of title 23, United States Code, is amended by adding at the end the following:

“(e) **JUSTIFICATION REPORTS.**—If the Secretary requests or requires a justification report for a project that would add a point of access to, or exit from, the Interstate System, the Secretary may permit a State transportation department to approve the report.”.

**SEC. 1506. CONSTRUCTION.**

Section 114(b) of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

“(1) **LIMITATION ON CONVICT LABOR.**—Convict labor shall not be used in construction of Federal-aid highways or portions of Federal-aid highways unless the labor is performed by convicts who are on parole, supervised release, or probation.”; and

(B) in paragraph (3) by inserting “in existence during that period” after “located on a Federal-aid system”; and

(2) by adding at the end the following:

“(d) VETERANS EMPLOYMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), a recipient of Federal financial assistance under this chapter shall, to the extent practicable, encourage contractors working on a highway project funded using the assistance to make a best faith effort in the hiring or referral of laborers on any project for the construction of a highway to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. Contracts.

“(2) ADMINISTRATION.—This subsection shall not—

“(A) apply to projects subject to section 140(d); or

“(B) be administered or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, a female, or any equally qualified former employee.”.

#### SEC. 1507. MAINTENANCE.

Section 116 of title 23, United States Code, is amended—

(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively;

(2) by inserting before subsection (b) (as so redesignated) the following:

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) PREVENTIVE MAINTENANCE.—The term ‘preventive maintenance’ includes pavement preservation programs and activities.

“(2) PAVEMENT PRESERVATION PROGRAMS AND ACTIVITIES.—The term ‘pavement preservation programs and activities’ means programs and activities employing a network level, long-term strategy that enhances pavement performance by using an integrated, cost-effective set of practices that extend pavement life, improve safety, and meet road user expectations.”;

(3) in subsection (b) (as so redesignated)—

(A) in the first sentence, by inserting “or other direct recipient” before “to maintain”; and

(B) by striking the second sentence;

(4) by striking subsection (c) (as so redesignated) and inserting the following:

“(c) AGREEMENT.—In any State in which the State transportation department or other direct recipient is without legal authority to maintain a project described in subsection (b), the transportation department or direct recipient shall enter into a formal agreement with the appropriate officials of the county or municipality in which the project is located to provide for the maintenance of the project.”; and

(5) in the first sentence of subsection (d) (as so redesignated) by inserting “or other direct recipient” after “State transportation department”.

#### SEC. 1508. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c)(1)—

(A) by inserting “maintaining minimum levels of retroreflectivity of highway signs or pavement markings,” after “traffic control signalization,”;

(B) by inserting “shoulder and centerline rumble strips and stripes,” after “pavement marking,”; and

(C) by striking “Federal-aid systems” and inserting “Federal-aid programs”;

(2) by striking subsection (e) and inserting the following:

“(e) EMERGENCY RELIEF.—The Federal share payable for any repair or reconstruction provided for by funds made available under section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), except that—

Time period.

“(1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the cost of the repairs;

“(2) the Federal share payable for any repair or reconstruction of Federal land transportation facilities, Federal land access transportation facilities, and tribal transportation facilities may amount to 100 percent of the cost of the repair or reconstruction;

Extension.

“(3) the Secretary shall extend the time period in paragraph (1) taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair; and

“(4) the Federal share payable for eligible permanent repairs to restore damaged facilities to predisaster condition may amount to 90 percent of the cost of the repairs if the eligible expenses incurred by the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.”;

(3) by striking subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively;

(4) in subsection (i)(1)(A) (as redesignated by paragraph (3)) by striking “and the Appalachian development highway system program under section 14501 of title 40”; and

(5) by striking subsections (j) and (k) (as redesignated by paragraph (3)) and inserting the following:

“(j) USE OF FEDERAL AGENCY FUNDS.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title and title 49 may be used to pay the non-Federal share of the cost of any transportation project that is within, adjacent to, or provides access to Federal land, the Federal share of which is funded under this title or chapter 53 of title 49.

“(k) USE OF FEDERAL LAND AND TRIBAL TRANSPORTATION FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the tribal transportation program under section 202 and the Federal lands transportation program under section 203 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or tribal land.”.

**SEC. 1509. TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.**

(a) IN GENERAL.—Section 126 of title 23, United States Code, is amended to read as follows:

**“§ 126. Transferability of Federal-aid highway funds**

“(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), a State may transfer from an apportionment under section 104(b) not to exceed 50 percent of the amount apportioned for the fiscal year to any other apportionment of the State under that section.

“(b) APPLICATION TO CERTAIN SET-ASIDES.—

“(1) IN GENERAL.—Funds that are subject to sections 104(d) and 133(d) shall not be transferred under this section.

“(2) FUNDS TRANSFERRED BY STATES.—Funds transferred by a State under this section of the funding reserved for the State under section 213 for a fiscal year may only come from the portion of those funds that are available for obligation in any area of the State under section 213(c)(1)(B).”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126 and inserting the following:

“126. Transferability of Federal-aid highway funds.”.

**SEC. 1510. IDLE REDUCTION TECHNOLOGY.**

Section 127(a)(12) of title 23, United States Code, is amended—

(1) in subparagraph (B), by striking “400” and inserting “550”; and

(2) in subparagraph (C)(ii), by striking “400-pound” and inserting “550-pound”.

**SEC. 1511. SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.**

Section 127 of title 23, United States Code, is amended by inserting at the end the following:

“(i) SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if—

“(A) the President has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

“(B) the permits are issued in accordance with State law; and

“(C) the permits are issued exclusively to vehicles and loads that are delivering relief supplies.

“(2) EXPIRATION.—A permit issued under paragraph (1) shall expire not later than 120 days after the date of the declaration of emergency under subparagraph (A) of that paragraph.”.

**SEC. 1512. TOLLING.**

(a) AMENDMENT TO TOLLING PROVISION.—Section 129(a) of title 23, United States Code, is amended to read as follows:

“(a) BASIC PROGRAM.—

“(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the provisions of this section, Federal participation shall be permitted on the same basis and in the same manner as construction of toll-free highways is permitted under this chapter in the—

“(A) initial construction of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

“(B) initial construction of 1 or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free lanes, excluding auxiliary lanes, after the construction is not less than the number of toll-free lanes, excluding auxiliary lanes, before the construction;

“(C) initial construction of 1 or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction;

“(D) reconstruction, resurfacing, restoration, rehabilitation, or replacement of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

“(E) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

“(F) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility;

“(G) reconstruction, restoration, or rehabilitation of a highway on the Interstate System if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after reconstruction, restoration, or rehabilitation is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before reconstruction, restoration, or rehabilitation;

“(H) conversion of a high occupancy vehicle lane on a highway, bridge, or tunnel to a toll facility; and

“(I) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under this paragraph.

“(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach to the highway, bridge, or tunnel constructed under this subsection shall—

“(A) be publicly owned; or

“(B) be privately owned if the public authority with jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with 1 or more private persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

“(3) LIMITATIONS ON USE OF REVENUES.—

“(A) IN GENERAL.—A public authority with jurisdiction over a toll facility shall use all toll revenues received from operation of the toll facility only for—

“(i) debt service with respect to the projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing;

“(ii) a reasonable return on investment of any private person financing the project, as determined by the State or interstate compact of States concerned;

“(iii) any costs necessary for the improvement and proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation;

“(iv) if the toll facility is subject to a public-private partnership agreement, payments that the party holding the right to toll revenues owes to the other party under the public-private partnership agreement; and

“(v) if the public authority certifies annually that the tolled facility is being adequately maintained, any other purpose for which Federal funds may be obligated by a State under this title.

“(B) ANNUAL AUDIT.—

“(i) IN GENERAL.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of the audits to the Secretary.

“(ii) RECORDS.—On reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

“(C) NONCOMPLIANCE.—If the Secretary concludes that a public authority has not complied with the limitations on the use of revenues described in subparagraph (A), the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance with the limitation on the use of revenues described in subparagraph (A).

“(4) LIMITATIONS ON CONVERSION OF HIGH OCCUPANCY VEHICLE FACILITIES ON INTERSTATE SYSTEM.—

“(A) IN GENERAL.—A public authority with jurisdiction over a high occupancy vehicle facility on the Interstate System may undertake reconstruction, restoration, or rehabilitation under paragraph (1)(G) on the facility, and may levy tolls on vehicles, excluding high occupancy vehicles, using the reconstructed, restored, or rehabilitated facility, if the public authority—

“(i) in the case of a high occupancy vehicle facility that affects a metropolitan area, submits to the Secretary a written assurance that the metropolitan planning organization designated under section 5203 of title 49 for the area has been consulted concerning the placement and amount of tolls on the converted facility;

“(ii) develops, manages, and maintains a system that will automatically collect the toll; and

“(iii) establishes policies and procedures—

“(I) to manage the demand to use the facility by varying the toll amount that is charged; and

“(II) to enforce sanctions for violations of use of the facility.

“(B) EXEMPTION FROM TOLLS.—In levying tolls on a facility under subparagraph (A), a public authority may designate classes of vehicles that are exempt from the tolls or charge different toll rates for different classes of vehicles.

“(5) SPECIAL RULE FOR FUNDING.—

“(A) IN GENERAL.—In the case of a toll facility under the jurisdiction of a public authority of a State (other than the State transportation department), on request of the State transportation department and subject to such terms and conditions as the department and public authority may agree, the Secretary, working through the State department of transportation, shall reimburse the public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as the department would be reimbursed if the project was being carried out by the department.

“(B) SOURCE.—The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in the State on which the project is being carried out.

“(6) LIMITATION ON FEDERAL SHARE.—The Federal share payable for a project described in paragraph (1) shall be a percentage determined by the State, but not to exceed 80 percent.

“(7) MODIFICATIONS.—If a public authority (including a State transportation department) with jurisdiction over a toll facility subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1915), requests modification of the agreement, the Secretary shall modify the agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

“(8) LOANS.—

“(A) IN GENERAL.—

“(i) LOANS.—Using amounts made available under this title, a State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to the project.

“(ii) DEDICATED REVENUE SOURCES.—Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real



property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

“(B) COMPLIANCE WITH FEDERAL LAWS.—As a condition of receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the project will be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

“(C) SUBORDINATION OF DEBT.—The amount of any loan received for a project under this paragraph may be subordinated to any other debt financing for the project.

“(D) OBLIGATION OF FUNDS LOANED.—Funds loaned under this paragraph may only be obligated for projects under this paragraph.

“(E) REPAYMENT.—The repayment of a loan made under this paragraph shall commence not later than 5 years after date on which the facility that is the subject of the loan is open to traffic.

“(F) TERM OF LOAN.—The term of a loan made under this paragraph shall not exceed 30 years from the date on which the loan funds are obligated.

“(G) INTEREST.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible.

“(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

“(i) for any purpose for which the loan funds were available under this title; and

“(ii) for the purchase of insurance or for use as a capital reserve for other forms of credit enhancement for project debt in order to improve credit market access or to lower interest rates for projects eligible for assistance under this title.

“(I) GUIDELINES.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.

“(9) STATE LAW PERMITTING TOLLING.—If a State does not have a highway, bridge, or tunnel toll facility as of the date of enactment of the MAP-21, before commencing any activity authorized under this section, the State shall have in effect a law that permits tolling on a highway, bridge, or tunnel.

“(10) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) HIGH OCCUPANCY VEHICLE; HOV.—The term ‘high occupancy vehicle’ or ‘HOV’ means a vehicle with not fewer than 2 occupants.

“(B) INITIAL CONSTRUCTION.—

“(i) IN GENERAL.—The term ‘initial construction’ means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic.

“(ii) EXCLUSIONS.—The term ‘initial construction’ does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

“(C) PUBLIC AUTHORITY.—The term ‘public authority’ means a State, interstate compact of States, or public entity designated by a State.

“(D) TOLL FACILITY.—The term ‘toll facility’ means a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel constructed under this subsection.”.

Deadline.  
23 USC 129 note.

(b) ELECTRONIC TOLL COLLECTION INTEROPERABILITY REQUIREMENTS.—Not later than 4 years after the date of enactment of this Act, all toll facilities on the Federal-aid highways shall implement technologies or business practices that provide for the interoperability of electronic toll collection programs.

#### SEC. 1513. MISCELLANEOUS PARKING AMENDMENTS.

(a) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137 of title 23, United States Code, is amended—

(1) in subsection (f)(1)—

(A) by striking “104(b)(4)” and inserting “104(b)(1)”; and

(B) by inserting “including the addition of electric vehicle charging stations or natural gas vehicle refueling stations,” after “new facilities,”; and

(2) by adding at the end the following:

“(g) FUNDING.—The addition of electric vehicle charging stations or natural gas vehicle refueling stations to new or previously funded parking facilities shall be eligible for funding under this section.”.

(b) PUBLIC TRANSPORTATION.—Section 142(a)(1) of title 23, United States Code, is amended by inserting “, which may include electric vehicle charging stations or natural gas vehicle refueling stations,” after “parking facilities”.

(c) FOREST DEVELOPMENT ROADS AND TRAILS.—Section 205(d) of title 23, United States Code, is amended by inserting “, which may include electric vehicle charging stations or natural gas vehicle refueling stations,” after “parking areas”.

#### SEC. 1514. HOV FACILITIES.

Section 166 of title 23, United States Code, is amended—

(1) in subsection (b)(5)—

(A) in subparagraph (A) by striking “2009” and inserting “2017”; and

(B) in subparagraph (B) by striking “2009” and inserting “2017”; and

(C) in subparagraph (C)—

(i) by striking “subparagraph (B)” and inserting “this paragraph”; and

(ii) by inserting “or equal to” after “less than”;

(2) in subsection (c) by striking paragraph (3) and inserting the following:

“(3) TOLL REVENUE.—Toll revenue collected under this section is subject to the requirements of section 129(a)(3).”; and

(3) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “in a fiscal year shall certify” and inserting “shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify”; and

(ii) by striking “in the fiscal year”;

(B) in subparagraph (A) by inserting “and submitting to the Secretary annual reports of those impacts” after “adjacent highways”;

(C) in subparagraph (C) by striking “if the presence of the vehicles has degraded the operation of the facility” and inserting “whenever the operation of the facility is degraded”; and

(D) by adding at the end the following:

“(D) MAINTENANCE OF OPERATING PERFORMANCE.—Not later than 180 days after the date on which a facility is degraded pursuant to the standard specified in paragraph (2), the State agency with jurisdiction over the facility shall bring the facility into compliance with the minimum average operating speed performance standard through changes to operation of the facility, including—

Deadline.

“(i) increasing the occupancy requirement for HOV lanes;

“(ii) varying the toll charged to vehicles allowed under subsection (b) to reduce demand;

“(iii) discontinuing allowing non-HOV vehicles to use HOV lanes under subsection (b); or

“(iv) increasing the available capacity of the HOV facility.

“(E) COMPLIANCE.—If the State fails to bring a facility into compliance under subparagraph (D), the Secretary shall subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.”.

#### SEC. 1515. FUNDING FLEXIBILITY FOR TRANSPORTATION EMERGENCIES.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1311(a)), is amended by adding at the end the following:

##### “§ 170. Funding flexibility for transportation emergencies

“(a) IN GENERAL.—Notwithstanding any other provision of law, a State may use up to 100 percent of any covered funds of the State to repair or replace a transportation facility that has suffered serious damage as a result of a natural disaster or catastrophic failure from an external cause.

“(b) DECLARATION OF EMERGENCY.—Funds may be used under this section only for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(c) REPAYMENT.—Funds used under subsection (a) shall be repaid to the program from which the funds were taken in the event that such repairs or replacement are subsequently covered by a supplemental appropriation of funds.

“(d) DEFINITIONS.—In this section, the following definitions apply:

“(1) COVERED FUNDS.—The term ‘covered funds’ means any amounts apportioned to a State under section 104(b), other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d), but including any such amounts required to be set aside for a purpose other

than the repair or replacement of a transportation facility under this section.

“(2) TRANSPORTATION FACILITY.—The term ‘transportation facility’ means any facility eligible for assistance under section 125.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1311(b)), is amended by adding at the end the following:

“170. Funding flexibility for transportation emergencies.”.

**SEC. 1516. DEFENSE ACCESS ROAD PROGRAM ENHANCEMENTS TO ADDRESS TRANSPORTATION INFRASTRUCTURE IN THE VICINITY OF MILITARY INSTALLATIONS.**

The second sentence of section 210(a)(2) of title 23, United States Code, is amended by inserting “, in consultation with the Secretary of Transportation,” before “shall determine”.

**SEC. 1517. MAPPING.**

(a) IN GENERAL.—Section 306 of title 23, United States Code, is amended—

(1) in subsection (a) by striking “may” and inserting “shall”;

(2) in subsection (b) in the second sentence by striking “State and” and inserting “State government and”; and

(3) by adding at the end the following:

“(c) IMPLEMENTATION.—The Secretary shall develop a process for the oversight and monitoring, on an annual basis, of the compliance of each State with the guidance issued under subsection (b).”.

(b) SURVEY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a survey of all States to determine what percentage of projects carried out under title 23, United States Code, in each State utilize private sector sources for surveying and mapping services.

**SEC. 1518. BUY AMERICA PROVISIONS.**

Section 313 of title 23, United States Code, is amended by adding at the end the following:

“(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.”.

**SEC. 1519. CONSOLIDATION OF PROGRAMS; REPEAL OF OBSOLETE PROVISIONS.**

(a) CONSOLIDATION OF PROGRAMS.—From administrative funds made available under section 104(a) of title 23, United States Code, not less than \$3,000,000 for each of fiscal years 2013 and 2014 shall be made available—

(1) to carry out safety-related activities, including—

(A) to carry out the operation lifesaver program—

(i) to provide public information and education programs to help prevent and reduce motor vehicle accidents, injuries, and fatalities; and

(ii) to improve driver performance at railway-highway crossings; and

Compliance  
process.

Deadline.

(B) to provide work zone safety grants in accordance with subsections (a) and (b) of section 1409 of the SAFETEA–LU (23 U.S.C. 401 note; 119 Stat. 1232); and (2) to operate authorized safety-related clearinghouses, including—

(A) the national work zone safety information clearinghouse authorized by section 358(b)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625); and

(B) a public road safety clearinghouse in accordance with section 1411(a) of the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1234).

(b) REPEALS.—

(1) TITLE 23.—

(A) IN GENERAL.—Sections 105, 110, 117, 124, 151, 155, 157, 160, 212, 216, 303, and 309 of title 23, United States Code, are repealed.

(B) SET ASIDES.—Section 118 of title 23, United States Code, is amended—

(i) by striking subsection (c); and

(ii) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(2) SAFETEA–LU.—Sections 1302, 1305, 1306, 1803, 1804, 1907, and 1958 of SAFETEA–LU (Public Law 109–59) are repealed.

23 USC 101 note,  
103 note, 137  
note, 144 note.

(3) ADDITIONAL.—Section 1132 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1763) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) TITLE ANALYSIS.—

(A) CHAPTER 1.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 105, 110, 117, 124, 151, 155, 157, and 160.

(B) CHAPTER 2.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the items relating to sections 212 and 216.

(C) CHAPTER 3.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 303 and 309.

(2) TABLE OF CONTENTS.—The table of contents contained in section 1(b) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1144) is amended by striking the items relating to sections 1302, 1305, 1306, 1803, 1804, 1907, and 1958.

(3) SECTION 104.—Section 104(e) of title 23, United States Code, is amended by striking “, 105,”.

(4) SECTION 109.—Section 109(q) of title 23, United States Code, is amended by striking “in accordance with section 303 or”.

(5) SECTION 118.—Section 118(b) of title 23, United States Code, is amended—

(A) by striking paragraph (1) and all that follows through the heading of paragraph (2); and

(B) by striking “(other than for Interstate construction)”.

(6) SECTION 130.—Section 130 of title 23, United States Code, is amended—

(A) in subsection (e) by striking “section 104(b)(5)” and inserting “section 104(b)(3)”;

(B) in subsection (f)(1) by inserting “as in effect on the day before the date of enactment of the MAP-21” after “section 104(b)(3)(A)”; and

(C) in subsection (l) by striking paragraphs (3) and (4).

(7) SECTION 131.—Section 131(m) of title 23, United States Code, is amended by striking “Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State” and inserting “A State”.

(8) SECTION 133.—Paragraph (13) of section 133(b) of title 23, United States Code (as amended by section 1108(a)(3)), is amended by striking “under section 303.”

(9) SECTION 142.—Section 142 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking “motor vehicles (other than rail)” and inserting “buses”;

(II) by striking “(hereafter in this section referred to as ‘buses’)”;

(III) by striking “Federal-aid systems” and inserting “Federal-aid highways”; and

(IV) by striking “Federal-aid system” and inserting “Federal-aid highway”; and

(ii) in paragraph (2)—

(I) by striking “as a project on the the surface transportation program for”; and

(II) by striking “section 104(b)(3)” and inserting “section 104(b)(2)”;

(B) in subsection (b) by striking “104(b)(4)” and inserting “104(b)(1)”;

(C) in subsection (c)—

(i) by striking “system” in each place it appears and inserting “highway”; and

(ii) by striking “highway facilities” and inserting “highways eligible under the program that is the source of the funds”;

(D) in subsection (e)(2) by striking “Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects” and inserting “Projects authorized by subsection (a)(2)”;

(E) in subsection (f) by striking “exits” and inserting “exists”.

(10) SECTION 145.—Section 145(b) of title 23, United States Code, is amended by striking “section 117 of this title,”.

(11) SECTION 218.—Section 218 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking the first two sentences;

(ii) in the third sentence—

(I) by striking “, in addition to such funds,”; and

(II) by striking “such highway or”;

(iii) by striking the fourth sentence and fifth sentences;

(B) by striking subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

(12) SECTION 610.—Section 610(d)(1)(B) of title 23, United States Code, is amended by striking “under section 105”.

**SEC. 1520. DENALI COMMISSION.**

The Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended—

(1) in section 305, by striking subsection (c) and inserting the following:

“(c) GIFTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on behalf of the United States, may accept use, and dispose of gifts or donations of services, property, or money for purposes of carrying out this Act.

“(2) CONDITIONAL.—With respect to conditional gifts—

“(A)(i) the Commission, on behalf of the United States, may accept conditional gifts for purposes of carrying out this Act, if approved by the Federal Cochairperson; and

“(ii) the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with the condition applicable to the gift; but

“(B) no gift shall be accepted that is conditioned on any expenditure not to be funded from the gift or from the income generated by the gift unless the expenditure has been approved by Act of Congress.”; and

(2) by adding at the end the following:

**“SEC. 311. TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.**

“(a) IN GENERAL.—Subject to subsection (c), for purposes of this Act, the Commission may accept transfers of funds from other Federal agencies.

“(b) TRANSFERS.—Any Federal agency authorized to carry out an activity that is within the authority of the Commission may transfer to the Commission any appropriated funds for the activity.

“(c) TREATMENT.—Any funds transferred to the Commission under this subsection—

“(1) shall remain available until expended; and

“(2) may, to the extent necessary to carry out this Act, be transferred to, and merged with, the amounts made available by appropriations Acts for the Commission by the Federal Cochairperson.”.

**SEC. 1521. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AMENDMENTS.**

(a) MOVING AND RELATED EXPENSES.—Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4622) is amended—

(1) in subsection (a)(4) by striking “\$10,000” and inserting “\$25,000, as adjusted by regulation, in accordance with section 213(d)”; and

(2) in the second sentence of subsection (c) by striking “\$20,000” and inserting “\$40,000, as adjusted by regulation, in accordance with section 213(d)”.

(b) **REPLACEMENT HOUSING FOR HOMEOWNERS.**—The first sentence of section 203(a)(1) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—

(1) by striking “\$22,500” and inserting “\$31,000, as adjusted by regulation, in accordance with 213(d),”; and

(2) by striking “one hundred and eighty days prior to” and inserting “90 days before”.

(c) **REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.**—Section 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4624) is amended—

(1) in the second sentence of subsection (a) by striking “\$5,250” and inserting “\$7,200, as adjusted by regulation, in accordance with section 213(d),”; and

(2) in the second sentence of subsection (b) by striking “, except” and all that follows through the end of the subsection and inserting a period.

(d) **DUTIES OF LEAD AGENCY.**—Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended—

(1) in subsection (b)—

(A) in paragraph (2) by striking “and” at the end;

(B) in paragraph (3) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this Act shall provide to the lead agency an annual summary report that describes the activities conducted by the Federal agency.”; and

(2) by adding at the end the following:

“(d) **ADJUSTMENT OF PAYMENTS.**—The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 202(a)(4), 202(c), 203(a), and 204(a) if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this Act.”.

(e) **AGENCY COORDINATION.**—Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is amended by inserting after section 213 (42 U.S.C. 4633) the following:

42 USC 4634.

**“SEC. 214. AGENCY COORDINATION.**

“(a) **AGENCY CAPACITY.**—Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and oversee the relocation and acquisition program of the Federal agency in accordance with this Act.

Deadline.  
Memorandum.

“(b) **INTERAGENCY AGREEMENTS.**—Not later than 1 year after the date of enactment of this section, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

“(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that



provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;

“(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with the Act on a program or project basis; and

“(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

“(c) INTERAGENCY PAYMENTS.—

“(1) IN GENERAL.—For the fiscal year that begins 1 year after the date of enactment of this section, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than \$35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

“(2) INCLUDED COSTS.—The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.”.

(f) COOPERATION WITH FEDERAL AGENCIES.—Section 308 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—The Secretary may perform, by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Federal agencies, cooperating foreign countries, and State cooperating agencies.

“(2) INCLUSIONS.—Services authorized under paragraph (1) may include activities authorized under section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

“(3) REIMBURSEMENT.—Reimbursement for services carried out under this subsection (including depreciation on engineering and road-building equipment) shall be credited to the applicable appropriation.”.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) EXCEPTION.—The amendments made by subsections (a) through (c) shall take effect 2 years after the date of enactment of this Act.

23 USC 308 note.

**SEC. 1522. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.**

Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; Public Law 102–240) is amended—

(1) in the heading of paragraph (1) by striking “TEMPORARY EXEMPTION” and inserting “EXEMPTION”;

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by striking “, for the period beginning on October 6, 1992, and ending on October 1, 2009,”;

(B) in subparagraph (A) by striking “or” at the end;

(C) in subparagraph (B) by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(C) any motor home (as defined in section 571.3 of title 49, Code of Federal Regulations (or successor regulation)).”; and

(3) in paragraph (2)(A) by striking “For the period beginning on the date of enactment of this subparagraph and ending on September 30, 2009, a” and inserting “A”.

**SEC. 1523. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVER-PASSES.**

Section 1805(a) of the SAFETEA–LU (23 U.S.C. 144 note; 119 Stat. 1459) is amended by striking “highway bridge replacement and rehabilitation program under section 144” and inserting “national highway performance program under section 119”.

23 USC 206 note.

**SEC. 1524. USE OF YOUTH SERVICE AND CONSERVATION CORPS.**

Contracts.

(a) **IN GENERAL.**—The Secretary shall encourage the States and regional transportation planning agencies to enter into contracts and cooperative agreements with qualified youth service or conservation corps, as defined in sections 122(a)(2) of Public Law 101–610 (42 U.S.C. 12572(a)(2)) and 106(c)(3) of Public Law 103–82 (42 U.S.C. 12656(c)(3)) to perform appropriate projects eligible under sections 162, 206, 213, and 217 of title 23, United States Code, and under section 1404 of the SAFETEA–LU (119 Stat. 1228).

(b) **REQUIREMENTS.**—Under any contract or cooperative agreement entered into with a qualified youth service or conservation corps under this section, the Secretary shall—

(1) set the amount of a living allowance or rate of pay for each participant in such corps at—

(A) such amount or rate as required under State law in a State with such requirements; or

(B) for corps in States not described in subparagraph (A), at such amount or rate as determined by the Secretary, not to exceed the maximum living allowance authorized by section 140 of Public Law 101–610 (42 U.S.C. 12594); and

(2) not subject such corps to the requirements of section 112 of title 23, United States Code.

Deadline.

**SEC. 1525. STATE AUTONOMY FOR CULVERT PIPE SELECTION.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall modify section 635.411 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that States shall have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.

23 USC 104 note.

**SEC. 1526. EVACUATION ROUTES.**

Each State shall give adequate consideration to the needs of evacuation routes in the State, including such routes serving or adjacent to facilities operated by the Armed Forces, when allocating

funds apportioned to the State under title 23, United States Code, for the construction of Federal-aid highways.

**SEC. 1527. CONSOLIDATION OF GRANTS.**

23 USC 106 note.

(a) **DEFINITIONS.**—In this section, the term “recipient” means—

- (1) a State, local, or tribal government, including—
  - (A) a territory of the United States;
  - (B) a transit agency;
  - (C) a port authority;
  - (D) a metropolitan planning organization; or
  - (E) any other political subdivision of a State or local government;
- (2) a multistate or multijurisdictional group, if each member of the group is an entity described in paragraph (1); and
- (3) a public-private partnership, if both parties are engaged in building the project.

(b) **CONSOLIDATION.**—

(1) **IN GENERAL.**—A recipient that receives multiple grant awards from the Department to support 1 multimodal project may request that the Secretary designate 1 modal administration in the Department to be the lead administering authority for the overall project.

(2) **NEW STARTS.**—Any project that includes funds awarded under section 5309 of title 49, United States Code, shall be exempt from consolidation under this section unless the grant recipient requests the Federal Transit Administration to be the lead administering authority.

(3) **REVIEW.**—

(A) **IN GENERAL.**—Not later than 30 days after the date on which a request under paragraph (1) is made, the Secretary shall review the request and approve or deny the designation of a single modal administration as the lead administering authority and point of contact for the Department.

Deadline.

(B) **NOTIFICATION.**—

(i) **IN GENERAL.**—The Secretary shall notify the requestor of the decision of the Secretary under subparagraph (A) in such form and at such time as the Secretary and the requestor agree.

(ii) **DENIAL.**—If a request is denied, the Secretary shall provide the requestor with a detailed explanation of the reasoning of the Secretary with the notification under clause (i).

(c) **DUTIES.**—

(1) **IN GENERAL.**—A modal administration designated as a lead administering authority under this section shall—

(A) be responsible for leading and coordinating the integrated project management team, which shall consist of all of the other modal administrations in the Department relating to the multimodal project; and

(B) to the extent feasible during the first 30 days of carrying out the multimodal project, identify overlapping or duplicative regulatory requirements that exist for the project and propose a single, streamlined approach to meeting all of the applicable regulatory requirements through the activities described in subsection (d).

## (2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall transfer all amounts that have been awarded for the multimodal project to the modal administration designated as the lead administering authority.

## (B) OPTION.—

(i) IN GENERAL.—Participation under this section shall be optional for recipients, and no recipient shall be required to participate.

(ii) SECRETARIAL DUTIES.—The Secretary is not required to identify every recipient that may be eligible to participate under this section.

## (d) COOPERATION.—

(1) IN GENERAL.—The Secretary and modal administrations with relevant jurisdiction over a multimodal project should cooperate on project review and delivery activities at the earliest practicable time.

(2) PURPOSES.—The purposes of the cooperation under paragraph (1) are—

(A) to avoid delays and duplication of effort later in the process;

(B) to prevent potential conflicts; and

(C) to ensure that planning and project development decisions are made in a streamlined manner and consistent with applicable law.

## (e) APPLICABILITY.—Nothing in this section shall—

(1) supersede, amend, or modify the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law; or

(2) affect the responsibility of any Federal officer to comply with or enforce any law described in paragraph (1).

40 USC 14501  
note.

**SEC. 1528. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

(a) SENSE OF THE SENATE.—It is the Sense of the Senate that the timely completion of the Appalachian development highway system is a transportation priority in the national interest.

(b) MODIFIED FEDERAL SHARE FOR PROJECTS ON ADHS.—For fiscal years 2012 through 2021, the Federal share payable for the cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code, with funds made available to a State for fiscal year 2012 or a previous fiscal year for the Appalachian development highway system program, or with funds made available for fiscal year 2012 or a previous fiscal year for a specific project, route, or corridor on that system, shall be 100 percent.

(c) FEDERAL SHARE FOR OTHER FUNDS USED ON ADHS.—For fiscal years 2012 through 2021, the Federal share payable for the cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code, with Federal funds apportioned to a State for a program other than the Appalachian development highway system program shall be 100 percent.

## (d) COMPLETION PLAN.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 1 year after the date of enactment of the MAP–21, each State represented on the Appalachian Regional Commission shall establish a plan for the completion of the designated corridors

Deadline.

of the Appalachian development highway system within the State, including annual performance targets, with a target completion date.

(2) **SIGNIFICANT UNCOMPLETED MILES.**—If the percentage of remaining Appalachian development highway system needs for a State, according to the latest cost to complete estimate for the Appalachian development highway system, is greater than 15 percent of the total cost to complete estimate for the entire Appalachian development highway system, the State shall not establish a plan under paragraph (1) that would result in a reduction of obligated funds for the Appalachian development highway system within the State for any subsequent fiscal year.

**SEC. 1529. ENGINEERING JUDGMENT.**

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue guidance to State transportation departments clarifying that the standards, guidance, and options for design and application of traffic control devices provided in the Manual on Uniform Traffic Control Devices should not be considered a substitute for engineering judgment.

Deadline.  
Guidance.  
23 USC 109 note.

**SEC. 1530. TRANSPORTATION TRAINING AND EMPLOYMENT PROGRAMS.**

To encourage the development of careers in the transportation field, the Secretary of Education and the Secretary of Labor are encouraged to use funds for training and employment education programs—

- (1) to develop programs for transportation-related careers and trades; and
- (2) to work with the Secretary to carry out programs developed under paragraph (1).

**SEC. 1531. NOTICE OF CERTAIN GRANT AWARDS.**

(a) **DEFINITION OF COVERED GRANT AWARD.**—In this section, the term “covered grant award” means a grant award—

- (1) made—
  - (A) by the Department; and
  - (B) with funds made available under this Act; and
- (2) in an amount equal to or greater than \$500,000.

(b) **NOTICE.**—Except to the extent otherwise expressly provided in another provision of law, at least 3 business days before a covered grant award is announced, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice of the covered grant award.

Deadline.

**SEC. 1532. BUDGET JUSTIFICATION.**

The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification for each agency of the Department concurrently with the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code.

49 USC 301 note.

**SEC. 1533. PROHIBITION ON USE OF FUNDS FOR AUTOMATED TRAFFIC ENFORCEMENT.**

(a) **DEFINITION OF AUTOMATED TRAFFIC ENFORCEMENT SYSTEM.**—In this section, the term “automated traffic enforcement system” means any camera that captures an image of a vehicle for the purposes of traffic law enforcement.

(b) **USE OF FUNDS.**—Except as provided in subsection (c), for fiscal years 2013 and 2014, funds apportioned to a State under section 104(b)(3) of title 23, United States Code, may not be used for any program to purchase, operate, or maintain an automated traffic enforcement system.

(c) **EXCEPTION.**—Subsection (b) shall not apply to automated traffic enforcement systems used to improve safety in school zones.

49 USC 301 note.

Compilation.  
Public  
information.  
Web posting.

**SEC. 1534. PUBLIC-PRIVATE PARTNERSHIPS.**

(a) **BEST PRACTICES.**—The Secretary shall compile, and make available to the public on the website of the Department, best practices on how States, public transportation agencies, and other public officials can work with the private sector in the development, financing, construction, and operation of transportation facilities.

(b) **CONTENTS.**—The best practices compiled under subsection (a) shall include policies and techniques to ensure that the interests of the traveling public and State and local governments are protected in any agreement entered into with the private sector for the development, financing, construction, and operation of transportation facilities.

(c) **TECHNICAL ASSISTANCE.**—The Secretary, on request, may provide technical assistance to States, public transportation agencies, and other public officials regarding proposed public-private partnership agreements for the development, financing, construction, and operation of transportation facilities, including assistance in analyzing whether the use of a public-private partnership agreement would provide value compared with traditional public delivery methods.

Deadline.

(d) **STANDARD TRANSACTION CONTRACTS.**—

(1) **DEVELOPMENT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop standard public-private partnership transaction model contracts for the most popular types of public-private partnerships for the development, financing, construction, and operation of transportation facilities.

(2) **USE.**—The Secretary shall encourage States, public transportation agencies, and other public officials to use the model contracts as a base template when developing their own public-private partnership agreements for the development, financing, construction, and operation of transportation facilities.

23 USC 101 note.

**SEC. 1535. REPORT ON HIGHWAY TRUST FUND EXPENDITURES.**

(a) **INITIAL REPORT.**—Not later than 150 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the activities funded from the Highway Trust Fund during each of fiscal years 2009 through 2011, including for purposes other than construction and maintenance of highways and bridges.

Time period.

(b) **UPDATES.**—Not later than 5 years after the date on which the report is submitted under subsection (a) and every 5 years

thereafter, the Comptroller General of the United States shall submit to Congress a report that updates the information provided in the report under that subsection for the applicable 5-year period.

(c) INCLUSIONS.—A report submitted under subsection (a) or (b) shall include information similar to the information included in the report of the Government Accountability Office numbered “GAO-09-729R” and entitled “Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004–2008”.

**SEC. 1536. SENSE OF CONGRESS ON HARBOR MAINTENANCE.**

(a) FINDINGS.—Congress finds that—

(1) there are 926 coastal, Great Lakes, and inland harbors maintained by the Corps of Engineers;

(2) according to the Bureau of Transportation Statistics—

(A) in 2009, the ports and waterways of the United States handled more than 2,200,000,000 short tons of imports, exports, and domestic shipments; and

(B) in 2010, United States ports were responsible for more than \$1,400,000,000,000 in waterborne imports and exports;

(3) according to the Congressional Research Service, full channel dimensions are, on average, available approximately  $\frac{1}{3}$  of the time at the 59 harbors of the United States with the highest use rates;

(4) in 1986, Congress created the Harbor Maintenance Trust Fund to provide funds for the operation and maintenance of the navigation channels of the United States;

(5) in fiscal year 2012, the Harbor Maintenance Trust Fund is expected to grow from \$6,280,000,000 to \$7,011,000,000, an increase of approximately 13 percent;

(6) despite growth of the Harbor Maintenance Trust Fund, expenditures from the Harbor Maintenance Trust Fund have not been sufficiently spent; and

(7) inadequate investment in dredging needs is restricting access to the ports of the United States for domestic shipping, imports, and exports and therefore threatening the economic competitiveness of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Administration should request full use of the Harbor Maintenance Trust Fund for operating and maintaining the navigation channels of the United States;

(2) the amounts in the Harbor Maintenance Trust Fund should be fully expended to operate and maintain the navigation channels of the United States; and

(3) Congress should ensure that other programs, projects, and activities of the Civil Works Program of the Corps of Engineers, especially those programs, projects, and activities relating to inland navigation and flood control, are not adversely impacted.

**SEC. 1537. ESTIMATE OF HARBOR MAINTENANCE NEEDS.**

33 USC 2238a.

For fiscal year 2014 and each fiscal year thereafter, the President's budget request submitted pursuant to section 1105 of title 31, United States Code, shall include—

(1) an estimate of the nationwide average availability, expressed as a percentage, of the authorized depth and authorized width of all navigation channels authorized to be maintained using appropriations from the Harbor Maintenance Trust Fund that would result from harbor maintenance activities to be funded by the budget request; and

(2) an estimate of the average annual amount of appropriations from the Harbor Maintenance Trust Fund that would be required to increase that average availability to 95 percent over a 3-year period.

**SEC. 1538. ASIAN CARP.**

(a) **DEFINITIONS.**—In this section:

(1) **HYDROLOGICAL SEPARATION.**—The term “hydrological separation” means a physical separation on the Chicago Area Waterway System that—

(A) would disconnect the Mississippi River watershed from the Lake Michigan watershed; and

(B) shall be designed to be adequate in scope to prevent the transfer of all aquatic species between each of those bodies of water.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Army, acting through the Chief of Engineers.

(b) **EXPEDITED STUDY AND REPORT.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) expedite completion of the report for the study authorized by section 3061(d) of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1121); and

(B) if the Secretary determines a project is justified in the completed report, proceed directly to project preconstruction engineering and design.

(2) **FOCUS.**—In expediting the completion of the study and report under paragraph (1), the Secretary shall focus on—

(A) the prevention of the spread of aquatic nuisance species between the Great Lakes and Mississippi River Basins, such as through the permanent hydrological separation of the Great Lakes and Mississippi River Basins; and

(B) the watersheds of the following rivers and tributaries associated with the Chicago Area Waterway System:

(i) The Illinois River, at and in the vicinity of Chicago, Illinois.

(ii) The Chicago River, Calumet River, North Shore Channel, Chicago Sanitary and Ship Canal, and Cal-Sag Channel in the State of Illinois.

(iii) The Grand Calumet River and Little Calumet River in the States of Illinois and Indiana.

(3) **EFFICIENT USE OF FUNDS.**—The Secretary shall ensure the efficient use of funds to maximize the timely completion of the study and report under paragraph (1).

(4) **DEADLINE.**—The Secretary shall complete the report under paragraph (1) by not later than 18 months after the date of enactment of this Act.

(5) **INTERIM REPORT.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to



the Committees on Appropriations of the House of Representatives and Senate, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report describing—

(A) interim milestones that will be met prior to final completion of the study and report under paragraph (1); and

(B) funding necessary for completion of the study and report under paragraph (1), including funding necessary for completion of each interim milestone identified under subparagraph (A).

**SEC. 1539. REST AREAS.**

(a) AGREEMENTS RELATING TO USE OF AND ACCESS TO RIGHTS-OF-WAY—INTERSTATE SYSTEM.—Section 111 of title 23, United States Code, is amended—

(1) in subsection (a) in the second sentence by striking the period and inserting “and will not change the boundary of any right-of-way on the Interstate System to accommodate construction of, or afford access to, an automotive service station or other commercial establishment.”;

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following:

“(b) REST AREAS.—

“(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary shall permit a State to acquire, construct, operate, and maintain a rest area along a highway on the Interstate System in such State.

“(2) LIMITED ACTIVITIES.—The Secretary shall permit limited commercial activities within a rest area under paragraph (1), if the activities are available only to customers using the rest area and are limited to—

“(A) commercial advertising and media displays if such advertising and displays are—

“(i) exhibited solely within any facility constructed in the rest area; and

“(ii) not legible from the main traveled way;

“(B) items designed to promote tourism in the State, limited to books, DVDs, and other media;

“(C) tickets for events or attractions in the State of a historical or tourism-related nature;

“(D) travel-related information, including maps, travel booklets, and hotel coupon booklets; and

“(E) lottery machines, provided that the priority afforded to blind vendors under subsection (c) applies to this subparagraph.

“(3) PRIVATE OPERATORS.—A State may permit a private party to operate such commercial activities.

“(4) LIMITATION ON USE OF REVENUES.—A State shall use any revenues received from the commercial activities in a rest area under this section to cover the costs of acquiring, constructing, operating, and maintaining rest areas in the State.”.

(b) CONTROL OF OUTDOOR ADVERTISING.—Section 131(i) of title 23, United States Code, is amended by adding at the end the following:

Criteria. “A State may permit the installation of signs that acknowledge the sponsorship of rest areas within such rest areas or along the main traveled way of the system, provided that such signs shall not affect the safe and efficient utilization of the Interstate System and the primary system. The Secretary shall establish criteria for the installation of such signs on the main traveled way, including criteria pertaining to the placement of rest area sponsorship acknowledgment signs in relation to the placement of advance guide signs for rest areas.”.

Resources and  
Ecosystems  
Sustainability,  
Tourist  
Opportunities,  
and Revived  
Economies of the  
Gulf Coast States  
Act of 2012.  
33 USC 1321  
note.  
33 USC 1321  
note.

## Subtitle F—Gulf Coast Restoration

### SEC. 1601. SHORT TITLE.

This subtitle may be cited as the “Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012”.

### SEC. 1602. GULF COAST RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the “Gulf Coast Restoration Trust Fund” (referred to in this section as the “Trust Fund”), consisting of such amounts as are deposited in the Trust Fund under this Act or any other provision of law.

(b) TRANSFERS.—The Secretary of the Treasury shall deposit in the Trust Fund an amount equal to 80 percent of all administrative and civil penalties paid by responsible parties after the date of enactment of this Act in connection with the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon* pursuant to a court order, negotiated settlement, or other instrument in accordance with section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(c) EXPENDITURES.—Amounts in the Trust Fund, including interest earned on advances to the Trust Fund and proceeds from investment under subsection (d), shall—

(1) be available for expenditure, without further appropriation, solely for the purpose and eligible activities of this subtitle and the amendments made by this subtitle; and

(2) remain available until expended, without fiscal year limitation.

(d) INVESTMENT.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this subtitle and the amendments made by this subtitle.

(e) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, after providing notice and an opportunity for public comment, the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, shall establish such procedures as the Secretary determines to be necessary to deposit amounts in, and expend amounts from, the Trust Fund pursuant to this subtitle, including—

(1) procedures to assess whether the programs and activities carried out under this subtitle and the amendments made by this subtitle achieve compliance with applicable requirements, including procedures by which the Secretary of the Treasury may determine whether an expenditure by a Gulf

Deadline.  
Procedures.

Coast State or coastal political subdivision (as those terms are defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321)) pursuant to such a program or activity achieves compliance;

(2) auditing requirements to ensure that amounts in the Trust Fund are expended as intended; and

(3) procedures for identification and allocation of funds available to the Secretary under other provisions of law that may be necessary to pay the administrative expenses directly attributable to the management of the Trust Fund.

(f) SUNSET.—The authority for the Trust Fund shall terminate on the date all funds in the Trust Fund have been expended.

**SEC. 1603. GULF COAST NATURAL RESOURCES RESTORATION AND ECONOMIC RECOVERY.**

33 USC 1321  
note.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)—

(A) in paragraph (25)(B), by striking “and” at the end;

(B) in paragraph (26)(D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

Definitions.

“(27) the term ‘best available science’ means science that—

“(A) maximizes the quality, objectivity, and integrity of information, including statistical information;

“(B) uses peer-reviewed and publicly available data; and

“(C) clearly documents and communicates risks and uncertainties in the scientific basis for such projects;

“(28) the term ‘Chairperson’ means the Chairperson of the Council;

“(29) the term ‘coastal political subdivision’ means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico;

“(30) the term ‘Comprehensive Plan’ means the comprehensive plan developed by the Council pursuant to subsection (t);

“(31) the term ‘Council’ means the Gulf Coast Ecosystem Restoration Council established pursuant to subsection (t);

“(32) the term ‘Deepwater Horizon oil spill’ means the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment;

“(33) the term ‘Gulf Coast region’ means—

“(A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)), except that, in this section, the term ‘coastal zones’ includes land within the coastal zones that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government)) that border the Gulf of Mexico;

“(B) any adjacent land, water, and watersheds, that are within 25 miles of the coastal zones described in subparagraph (A) of the Gulf Coast States; and

“(C) all Federal waters in the Gulf of Mexico;

“(34) the term ‘Gulf Coast State’ means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas; and

“(35) the term ‘Trust Fund’ means the Gulf Coast Restoration Trust Fund established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.”;

(2) in subsection (s), by inserting “except as provided in subsection (t)” before the period at the end; and

(3) by adding at the end the following:

“(t) GULF COAST RESTORATION AND RECOVERY.—

“(1) STATE ALLOCATION AND EXPENDITURES.—

“(A) IN GENERAL.—Of the total amounts made available in any fiscal year from the Trust Fund, 35 percent shall be available, in accordance with the requirements of this section, to the Gulf Coast States in equal shares for expenditure for ecological and economic restoration of the Gulf Coast region in accordance with this subsection.

“(B) USE OF FUNDS.—

“(i) ELIGIBLE ACTIVITIES IN THE GULF COAST REGION.—Subject to clause (iii), amounts provided to the Gulf Coast States under this subsection may only be used to carry out 1 or more of the following activities in the Gulf Coast region:

“(I) Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

“(II) Mitigation of damage to fish, wildlife, and natural resources.

“(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.

“(IV) Workforce development and job creation.

“(V) Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon oil spill.

“(VI) Infrastructure projects benefitting the economy or ecological resources, including port infrastructure.

“(VII) Coastal flood protection and related infrastructure.

“(VIII) Planning assistance.

“(IX) Administrative costs of complying with this subsection.

“(ii) ACTIVITIES TO PROMOTE TOURISM AND SEAFOOD IN THE GULF COAST REGION.—Amounts provided to the Gulf Coast States under this subsection may be used to carry out 1 or more of the following activities:

“(I) Promotion of tourism in the Gulf Coast Region, including recreational fishing.

“(II) Promotion of the consumption of seafood harvested from the Gulf Coast Region.

“(iii) LIMITATION.—

“(I) IN GENERAL.—Of the amounts received by a Gulf Coast State under this subsection, not more

than 3 percent may be used for administrative costs eligible under clause (i)(IX).

“(II) CLAIMS FOR COMPENSATION.—Activities funded under this subsection may not be included in any claim for compensation paid out by the Oil Spill Liability Trust Fund after the date of enactment of this subsection.

“(C) COASTAL POLITICAL SUBDIVISIONS.—

“(i) DISTRIBUTION.—In the case of a State where the coastal zone includes the entire State—

“(I) 75 percent of funding shall be provided directly to the 8 disproportionately affected counties impacted by the Deepwater Horizon oil spill; and

“(II) 25 percent shall be provided directly to nondisproportionately impacted counties within the State.

“(ii) NONDISPROPORTIONATELY IMPACTED COUNTIES.—The total amounts made available to coastal political subdivisions in the State of Florida under clause (i)(II) shall be distributed according to the following weighted formula:

“(I) 34 percent based on the weighted average of the population of the county.

“(II) 33 percent based on the weighted average of the county per capita sales tax collections estimated for fiscal year 2012.

“(III) 33 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

“(D) LOUISIANA.—

“(i) IN GENERAL.—Of the total amounts made available to the State of Louisiana under this paragraph:

“(I) 70 percent shall be provided directly to the State in accordance with this subsection.

“(II) 30 percent shall be provided directly to parishes in the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the State of Louisiana according to the following weighted formula:

“(aa) 40 percent based on the weighted average of miles of the parish shoreline oiled.

“(bb) 40 percent based on the weighted average of the population of the parish.

“(cc) 20 percent based on the weighted average of the land mass of the parish.

“(ii) CONDITIONS.—

“(I) LAND USE PLAN.—As a condition of receiving amounts allocated under this paragraph, the chief executive of the eligible parish shall certify to the Governor of the State that the parish has completed a comprehensive land use plan.

“(II) OTHER CONDITIONS.—A coastal political subdivision receiving funding under this paragraph shall meet all of the conditions in subparagraph (E).

“(E) CONDITIONS.—As a condition of receiving amounts from the Trust Fund, a Gulf Coast State, including the entities described in subparagraph (F), or a coastal political subdivision shall—

Certification.

“(i) agree to meet such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund will be used in accordance with this subsection;

“(ii) certify in such form and in such manner as the Secretary of the Treasury determines necessary that the project or program for which the Gulf Coast State or coastal political subdivision is requesting amounts—

“(I) is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, or economy of the Gulf Coast;

“(II) carries out 1 or more of the activities described in clauses (i) and (ii) of subparagraph (B);

“(III) was selected based on meaningful input from the public, including broad-based participation from individuals, businesses, and nonprofit organizations; and

“(IV) in the case of a natural resource protection or restoration project, is based on the best available science;

Certification.

“(iii) certify that the project or program and the awarding of a contract for the expenditure of amounts received under this paragraph are consistent with the standard procurement rules and regulations governing a comparable project or program in that State, including all applicable competitive bidding and audit requirements; and

Implementation plan.

“(iv) develop and submit a multiyear implementation plan for the use of such amounts, which may include milestones, projected completion of each activity, and a mechanism to evaluate the success of each activity in helping to restore and protect the Gulf Coast region impacted by the Deepwater Horizon oil spill.

“(F) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The following Gulf Coast State entities, task forces, or agencies shall carry out the duties of a Gulf Coast State pursuant to this paragraph:

“(i) ALABAMA.—

“(I) IN GENERAL.—In the State of Alabama, the Alabama Gulf Coast Recovery Council, which shall be comprised of only the following:

“(aa) The Governor of Alabama, who shall also serve as Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council.

“(bb) The Director of the Alabama State Port Authority, who shall also serve as Vice Chairperson and preside over the meetings

of the Alabama Gulf Coast Recovery Council in the absence of the Chairperson.

“(cc) The Chairman of the Baldwin County Commission.

“(dd) The President of the Mobile County Commission.

“(ee) The Mayor of the city of Bayou La Batre.

“(ff) The Mayor of the town of Dauphin Island.

“(gg) The Mayor of the city of Fairhope.

“(hh) The Mayor of the city of Gulf Shores.

“(ii) The Mayor of the city of Mobile.

“(jj) The Mayor of the city of Orange Beach.

“(II) VOTE.—Each member of the Alabama Gulf Coast Recovery Council shall be entitled to 1 vote.

“(III) MAJORITY VOTE.—All decisions of the Alabama Gulf Coast Recovery Council shall be made by majority vote.

“(IV) LIMITATION ON ADMINISTRATIVE EXPENSES.—Administrative duties for the Alabama Gulf Coast Recovery Council may only be performed by public officials and employees that are subject to the ethics laws of the State of Alabama.

“(ii) LOUISIANA.—In the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana.

“(iii) MISSISSIPPI.—In the State of Mississippi, the Mississippi Department of Environmental Quality.

“(iv) TEXAS.—In the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

“(G) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury determines that an expenditure by a Gulf Coast State or coastal political subdivision of amounts made available under this subsection does not meet one of the activities described in clauses (i) and (ii) of subparagraph (B), the Secretary shall make no additional amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until such time as an amount equal to the amount expended for the unauthorized use—

“(i) has been deposited by the Gulf Coast State or coastal political subdivision in the Trust Fund; or

“(ii) has been authorized by the Secretary of the Treasury for expenditure by the Gulf Coast State or coastal political subdivision for a project or program that meets the requirements of this subsection.

“(H) COMPLIANCE WITH CONDITIONS.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this paragraph, including the conditions of subparagraph (E), where applicable, the Secretary of the Treasury shall make no amounts from the Trust Fund available to that

Gulf Coast State or coastal political subdivision until all conditions of this paragraph are met.

“(I) PUBLIC INPUT.—In meeting any condition of this paragraph, a Gulf Coast State may use an appropriate procedure for public consultation in that Gulf Coast State, including consulting with one or more established task forces or other entities, to develop recommendations for proposed projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

“(J) PREVIOUSLY APPROVED PROJECTS AND PROGRAMS.—A Gulf Coast State or coastal political subdivision shall be considered to have met the conditions of subparagraph (E) for a specific project or program if, before the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012—

“(i) the Gulf Coast State or coastal political subdivision has established conditions for carrying out projects and programs that are substantively the same as the conditions described in subparagraph (E); and

“(ii) the applicable project or program carries out 1 or more of the activities described in clauses (i) and (ii) of subparagraph (B).

Contracts.

“(K) LOCAL PREFERENCE.—In awarding contracts to carry out a project or program under this paragraph, a Gulf Coast State or coastal political subdivision may give a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in the State of project execution.

Plan.

“(L) UNUSED FUNDS.—Funds allocated to a State or coastal political subdivision under this paragraph shall remain in the Trust Fund until such time as the State or coastal political subdivision develops and submits a plan identifying uses for those funds in accordance with subparagraph (E)(iv).

“(M) JUDICIAL REVIEW.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this paragraph, including the conditions of subparagraph (E), the Gulf Coast State or coastal political subdivision may obtain expedited judicial review within 90 days after that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking the review.

“(N) COST-SHARING.—

“(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available under this paragraph to that Gulf Coast State or coastal political subdivision to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that is an eligible activity described in clauses (i) and (ii) of subparagraph (B).

“(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund to satisfy the



non-Federal share of the cost of a project or program that meets the requirements of clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

“(2) COUNCIL ESTABLISHMENT AND ALLOCATION.—

“(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, 30 percent shall be disbursed to the Council to carry out the Comprehensive Plan.

“(B) COUNCIL EXPENDITURES.—

“(i) IN GENERAL.—In accordance with this paragraph, the Council shall expend funds made available from the Trust Fund to undertake projects and programs, using the best available science, that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

“(ii) ALLOCATION AND EXPENDITURE PROCEDURES.— Audits.  
The Secretary of the Treasury shall develop such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund to the Council to implement the Comprehensive Plan will be used in accordance with this paragraph.

“(iii) ADMINISTRATIVE EXPENSES.—Of the amounts received by the Council under this paragraph, not more than 3 percent may be used for administrative expenses, including staff.

“(C) GULF COAST ECOSYSTEM RESTORATION COUNCIL.—

“(i) ESTABLISHMENT.—There is established as an independent entity in the Federal Government a council to be known as the ‘Gulf Coast Ecosystem Restoration Council’.

“(ii) MEMBERSHIP.—The Council shall consist of the following members, or in the case of a Federal agency, a designee at the level of the Assistant Secretary or the equivalent:

“(I) The Secretary of the Interior.

“(II) The Secretary of the Army.

“(III) The Secretary of Commerce.

“(IV) The Administrator of the Environmental Protection Agency.

“(V) The Secretary of Agriculture.

“(VI) The head of the department in which the Coast Guard is operating.

“(VII) The Governor of the State of Alabama.

“(VIII) The Governor of the State of Florida.

“(IX) The Governor of the State of Louisiana.

“(X) The Governor of the State of Mississippi.

“(XI) The Governor of the State of Texas.

“(iii) ALTERNATE.—A Governor appointed to the Council by the President may designate an alternate to represent the Governor on the Council and vote on behalf of the Governor.

“(iv) CHAIRPERSON.—From among the Federal President.  
agency members of the Council, the representatives Appointment.  
of States on the Council shall select, and the President

shall appoint, 1 Federal member to serve as Chairperson of the Council.

“(v) PRESIDENTIAL APPOINTMENT.—All Council members shall be appointed by the President.

“(vi) COUNCIL ACTIONS.—

“(I) IN GENERAL.—The following actions by the Council shall require the affirmative vote of the Chairperson and a majority of the State members to be effective:

“(aa) Approval of a Comprehensive Plan and future revisions to a Comprehensive Plan.

“(bb) Approval of State plans pursuant to paragraph (3)(B)(iv).

“(cc) Approval of reports to Congress pursuant to clause (vii)(VII).

“(dd) Approval of transfers pursuant to subparagraph (E)(ii)(I).

“(ee) Other significant actions determined by the Council.

“(II) QUORUM.—A majority of State members shall be required to be present for the Council to take any significant action.

“(III) AFFIRMATIVE VOTE REQUIREMENT CONSIDERED MET.—For approval of State plans pursuant to paragraph (3)(B)(iv), the certification by a State member of the Council that the plan satisfies all requirements of clauses (i) and (ii) of paragraph (3)(B), when joined by an affirmative vote of the Federal Chairperson of the Council, shall be considered to satisfy the requirements for affirmative votes under subclause (I).

“(IV) PUBLIC TRANSPARENCY.—Appropriate actions of the Council, including significant actions and associated deliberations, shall be made available to the public via electronic means prior to any vote.

“(vii) DUTIES OF COUNCIL.—The Council shall—

“(I) develop the Comprehensive Plan and future revisions to the Comprehensive Plan;

“(II) identify as soon as practicable the projects that—

“(aa) have been authorized prior to the date of enactment of this subsection but not yet commenced; and

“(bb) if implemented quickly, would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, and coastal wetlands of the Gulf Coast region;

“(III) establish such other 1 or more advisory committees as may be necessary to assist the Council, including a scientific advisory committee and a committee to advise the Council on public policy issues;

“(IV) collect and consider scientific and other research associated with restoration of the Gulf Coast ecosystem, including research, observation,

and monitoring carried out pursuant to sections 1604 and 1605 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

“(V) develop standard terms to include in contracts for projects and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in a Gulf Coast State;

“(VI) prepare an integrated financial plan and recommendations for coordinated budget requests for the amounts proposed to be expended by the Federal agencies represented on the Council for projects and programs in the Gulf Coast States; and

“(VII) submit to Congress an annual report that—

“(aa) summarizes the policies, strategies, plans, and activities for addressing the restoration and protection of the Gulf Coast region;

“(bb) describes the projects and programs being implemented to restore and protect the Gulf Coast region, including—

“(AA) a list of each project and program;

“(BB) an identification of the funding provided to projects and programs identified in subitem (AA);

“(CC) an identification of each recipient for funding identified in subitem (BB); and

“(DD) a description of the length of time and funding needed to complete the objectives of each project and program identified in subitem (AA);

“(cc) makes such recommendations to Congress for modifications of existing laws as the Council determines necessary to implement the Comprehensive Plan;

“(dd) reports on the progress on implementation of each project or program—

“(AA) after 3 years of ongoing activity of the project or program, if applicable; and

“(BB) on completion of the project or program;

“(ee) includes the information required to be submitted under section 1605(c)(4) of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012; and

“(ff) submits the reports required under item (dd) to—

“(AA) the Committee on Science, Space, and Technology, the Committee on

Natural Resources, the Committee on Transportation and Infrastructure, and the Committee on Appropriations of the House of Representatives; and

“(BB) the Committee on Environment and Public Works, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate.

“(viii) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Council, or any other advisory committee established under this subparagraph, shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

“(ix) SUNSET.—The authority for the Council, and any other advisory committee established under this subparagraph, shall terminate on the date all funds in the Trust Fund have been expended.

“(D) COMPREHENSIVE PLAN.—

“(i) PROPOSED PLAN.—

“(I) IN GENERAL.—Not later than 180 days after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, the Chairperson, on behalf of the Council and after appropriate public input, review, and comment, shall publish a proposed plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

“(II) INCLUSIONS.—The proposed plan described in subclause (I) shall include and incorporate the findings and information prepared by the President’s Gulf Coast Restoration Task Force.

“(ii) PUBLICATION.—

“(I) INITIAL PLAN.—Not later than 1 year after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 and after notice and opportunity for public comment, the Chairperson, on behalf of the Council and after approval by the Council, shall publish in the Federal Register the initial Comprehensive Plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

“(II) COOPERATION WITH GULF COAST RESTORATION TASK FORCE.—The Council shall develop the initial Comprehensive Plan in close coordination with the President’s Gulf Coast Restoration Task Force.

“(III) CONSIDERATIONS.—In developing the initial Comprehensive Plan and subsequent updates, the Council shall consider all relevant findings,

Deadline.  
Publication.

Deadline.  
Federal Register,  
publication.

reports, or research prepared or funded under section 1604 or 1605 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

“(IV) CONTENTS.—The initial Comprehensive Plan shall include—

“(aa) such provisions as are necessary to fully incorporate in the Comprehensive Plan the strategy, projects, and programs recommended by the President’s Gulf Coast Restoration Task Force;

“(bb) a list of any project or program authorized prior to the date of enactment of this subsection but not yet commenced, the completion of which would further the purposes and goals of this subsection and of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

“(cc) a description of the manner in which amounts from the Trust Fund projected to be made available to the Council for the succeeding 10 years will be allocated; and

“(dd) subject to available funding in accordance with clause (iii), a prioritized list of specific projects and programs to be funded and carried out during the 3-year period immediately following the date of publication of the initial Comprehensive Plan, including a table that illustrates the distribution of projects and programs by the Gulf Coast State.

“(V) PLAN UPDATES.—The Council shall update—

“(aa) the Comprehensive Plan every 5 years in a manner comparable to the manner established in this subparagraph for each 5-year period for which amounts are expected to be made available to the Gulf Coast States from the Trust Fund; and

“(bb) the 3-year list of projects and programs described in subclause (IV)(dd) annually.

“(iii) RESTORATION PRIORITIES.—Except for projects and programs described in clause (ii)(IV)(bb), in selecting projects and programs to include on the 3-year list described in clause (ii)(IV)(dd), based on the best available science, the Council shall give highest priority to projects that address 1 or more of the following criteria:

“(I) Projects that are projected to make the greatest contribution to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region, without regard to geographic location within the Gulf Coast region.

“(II) Large-scale projects and programs that are projected to substantially contribute to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

“(III) Projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

“(IV) Projects that restore long-term resiliency of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands most impacted by the Deepwater Horizon oil spill.

“(E) IMPLEMENTATION.—

“(i) IN GENERAL.—The Council, acting through the Federal agencies represented on the Council and Gulf Coast States, shall expend funds made available from the Trust Fund to carry out projects and programs adopted in the Comprehensive Plan.

“(ii) ADMINISTRATIVE RESPONSIBILITY.—

“(I) IN GENERAL.—Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency.

“(II) TRANSFER OF AMOUNTS.—Amounts necessary to carry out each project or program included in the Comprehensive Plan shall be transferred by the Secretary of the Treasury from the Trust Fund to that Federal agency or Gulf Coast State as the project or program is implemented, subject to such conditions as the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

“(III) LIMITATION ON TRANSFERS.—

“(aa) GRANTS TO NONGOVERNMENTAL ENTITIES.—In the case of funds transferred to a Federal or State agency under subclause (II), the agency shall not make 1 or more grants or cooperative agreements to a nongovernmental entity if the total amount provided to the entity would equal or exceed 10 percent of the total amount provided to the agency for that particular project or program, unless the 1 or more grants have been reported in accordance with item (bb).

“(bb) REPORTING OF GRANTEEES.—At least 30 days prior to making a grant or entering into a cooperative agreement described in item (aa), the name of each grantee, including the

Federal Register,  
publication.

Time period.

amount and purpose of each grant or cooperative agreement, shall be published in the Federal Register and delivered to the congressional committees listed in subparagraph (C)(vii)(VII)(ff).

“(cc) ANNUAL REPORTING OF GRANTEEES.—Annually, the name of each grantee, including the amount and purposes of each grant or cooperative agreement, shall be published in the Federal Register and delivered to Congress as part of the report submitted pursuant to subparagraph (C)(vii)(VII).

“(IV) PROJECT AND PROGRAM LIMITATION.—The Council, a Federal agency, or a State may not carry out a project or program funded under this paragraph outside of the Gulf Coast region.

“(F) COORDINATION.—The Council and the Federal members of the Council may develop memoranda of understanding establishing integrated funding and implementation plans among the member agencies and authorities.

“(3) OIL SPILL RESTORATION IMPACT ALLOCATION.—

“(A) IN GENERAL.—

“(i) DISBURSEMENT.—Of the total amount made available from the Trust Fund, 30 percent shall be disbursed pursuant to the formula in clause (ii) to the Gulf Coast States on the approval of the plan described in subparagraph (B)(i).

“(ii) FORMULA.—Subject to subparagraph (B), for each Gulf Coast State, the amount disbursed under this paragraph shall be based on a formula established by the Council by regulation that is based on a weighted average of the following criteria:

Regulations.

“(I) 40 percent based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling on or before April 10, 2011, compared to the total number of miles of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.

“(II) 40 percent based on the inverse proportion of the average distance from the mobile offshore drilling unit *Deepwater Horizon* at the time of the explosion to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State.

“(III) 20 percent based on the average population in the 2010 decennial census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

“(iii) MINIMUM ALLOCATION.—The amount disbursed to a Gulf Coast State for each fiscal year under clause (ii) shall be at least 5 percent of the total amounts made available under this paragraph.

“(B) DISBURSEMENT OF FUNDS.—

“(i) IN GENERAL.—The Council shall disburse amounts to the respective Gulf Coast States in accordance with the formula developed under subparagraph (A) for projects, programs, and activities that will

Expenditure plan.

improve the ecosystems or economy of the Gulf Coast region, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this paragraph that meets the following criteria:

“(I) All projects, programs, and activities included in the plan are eligible activities pursuant to clauses (i) and (ii) of paragraph (1)(B).

“(II) The projects, programs, and activities included in the plan contribute to the overall economic and ecological recovery of the Gulf Coast.

“(III) The plan takes into consideration the Comprehensive Plan and is consistent with the goals and objectives of the Plan, as described in paragraph (2)(B)(i).

“(ii) FUNDING.—

“(I) IN GENERAL.—Except as provided in subclause (II), the plan described in clause (i) may use not more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (VI) and (VII) of paragraph (1)(B)(i).

“(II) EXCEPTION.—The plan described in clause (i) may propose to use more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (VI) and (VII) of paragraph (1)(B)(i) if the plan certifies that—

“(aa) ecosystem restoration needs in the State will be addressed by the projects in the proposed plan; and

“(bb) additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

“(iii) DEVELOPMENT.—The plan described in clause (i) shall be developed by—

“(I) in the State of Alabama, the Alabama Gulf Coast Recovery Council established under paragraph (1)(F)(i);

“(II) in the State of Florida, a consortia of local political subdivisions that includes at a minimum 1 representative of each affected county;

“(III) in the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana;

“(IV) in the State of Mississippi, the Office of the Governor or an appointee of the Office of the Governor; and

“(V) in the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

“(iv) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under clause (i), the Council shall approve or disapprove the plan based on the conditions of clause (i).

“(C) DISAPPROVAL.—If the Council disapproves a plan pursuant to subparagraph (B)(iv), the Council shall—

“(i) provide the reasons for disapproval in writing; and

State listing.

Deadline.



“(ii) consult with the State to address any identified deficiencies with the State plan. Consultation.

“(D) FAILURE TO SUBMIT ADEQUATE PLAN.—If a State fails to submit an adequate plan under this paragraph, any funds made available under this paragraph shall remain in the Trust Fund until such date as a plan is submitted and approved pursuant to this paragraph.

“(E) JUDICIAL REVIEW.—If the Council fails to approve or take action within 60 days on a plan, as described in subparagraph (B)(iv), the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking the review. Deadlines.

“(F) COST-SHARING.—

“(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision under this paragraph to satisfy the non-Federal share of any project or program that—

“(I) is authorized by other Federal law; and

“(II) is an eligible activity described in clause (i) or (ii) of paragraph (1)(B).

“(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund under this paragraph to satisfy the non-Federal share of the cost of a project or program described in clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

“(4) AUTHORIZATION OF INTEREST TRANSFERS.—Of the total amount made available for any fiscal year from the Trust Fund that is equal to the interest earned by the Trust Fund and proceeds from investments made by the Trust Fund in the preceding fiscal year—

“(A) 50 percent shall be divided equally between—

“(i) the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology program authorized in section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012; and

“(ii) the centers of excellence research grants authorized in section 1605 of that Act; and

“(B) 50 percent shall be made available to the Gulf Coast Ecosystem Restoration Council to carry out the Comprehensive Plan pursuant to paragraph (2).”.

**SEC. 1604. GULF COAST ECOSYSTEM RESTORATION SCIENCE, OBSERVATION, MONITORING, AND TECHNOLOGY PROGRAM.**

33 USC 1321  
note.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

(2) COMMISSION.—The term “Commission” means the Gulf States Marine Fisheries Commission.

(3) DIRECTOR.—The term “Director” means the Director of the United States Fish and Wildlife Service.

(4) PROGRAM.—The term “program” means the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology program established under this section.

(b) ESTABLISHMENT OF PROGRAM.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with the Director, shall establish the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology program to carry out research, observation, and monitoring to support, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat, and the recreational, commercial, and charter fishing industry in the Gulf of Mexico.

(2) EXPENDITURE OF FUNDS.—For each fiscal year, amounts made available to carry out this subsection may be expended for, with respect to the Gulf of Mexico—

(A) marine and estuarine research;

(B) marine and estuarine ecosystem monitoring and ocean observation;

(C) data collection and stock assessments;

(D) pilot programs for—

(i) fishery independent data; and

(ii) reduction of exploitation of spawning aggregations; and

(E) cooperative research.

(3) COOPERATION WITH THE COMMISSION.—For each fiscal year, amounts made available to carry out this subsection may be transferred to the Commission to establish a fisheries monitoring and research program, with respect to the Gulf of Mexico.

(4) CONSULTATION.—The Administrator and the Director shall consult with the Regional Gulf of Mexico Fishery Management Council and the Commission in carrying out the program.

(c) SPECIES INCLUDED.—The research, monitoring, assessment, and programs eligible for amounts made available under the program shall include all marine, estuarine, aquaculture, and fish species in State and Federal waters of the Gulf of Mexico.

(d) RESEARCH PRIORITIES.—In distributing funding under this subsection, priority shall be given to integrated, long-term projects that—

(1) build on, or are coordinated with, related research activities; and

(2) address current or anticipated marine ecosystem, fishery, or wildlife management information needs.

(e) DUPLICATION.—In carrying out this section, the Administrator, in consultation with the Director, shall seek to avoid duplication of other research and monitoring activities.

Plan.  
State listing.

(f) COORDINATION WITH OTHER PROGRAMS.—The Administrator, in consultation with the Director, shall develop a plan for the coordination of projects and activities between the program and other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between the centers of excellence.

(g) LIMITATION ON EXPENDITURES.—

(1) IN GENERAL.—Not more than 3 percent of funds provided in subsection (h) shall be used for administrative expenses.

(2) NOAA.—The funds provided in subsection (h) may not be used—

(A) for any existing or planned research led by the National Oceanic and Atmospheric Administration, unless agreed to in writing by the grant recipient;

(B) to implement existing regulations or initiate new regulations promulgated or proposed by the National Oceanic and Atmospheric Administration; or

(C) to develop or approve a new limited access privilege program (as that term is used in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853a)) for any fishery under the jurisdiction of the South Atlantic, Mid-Atlantic, New England, or Gulf of Mexico Fishery Management Councils.

(h) FUNDING.—Of the total amount made available for each fiscal year for the Gulf Coast Restoration Trust Fund established under section 1602, 2.5 percent shall be available to carry out the program.

(i) SUNSET.—The program shall cease operations when all funds in the Gulf Coast Restoration Trust Fund established under section 1602 have been expended.

#### SEC. 1605. CENTERS OF EXCELLENCE RESEARCH GRANTS.

33 USC 1321  
note.

(a) IN GENERAL.—Of the total amount made available for each fiscal year from the Gulf Coast Restoration Trust Fund established under section 1602, 2.5 percent shall be made available to the Gulf Coast States (as defined in section 311(a) of the Federal Water Pollution Control Act (as added by section 1603 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012)), in equal shares, exclusively for grants in accordance with subsection (c) to establish centers of excellence to conduct research only on the Gulf Coast Region (as defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321)).

(b) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The duties of a Gulf Coast State under this section shall be carried out by the applicable Gulf Coast State entities, task forces, or agencies listed in section 311(t)(1)(F) of the Federal Water Pollution Control Act (as added by section 1603 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012), and for the State of Florida, a consortium of public and private research institutions within the State, which shall include the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, for that Gulf Coast State.

(c) GRANTS.—

(1) IN GENERAL.—A Gulf Coast State shall use the amounts made available to carry out this section to award competitive grants to nongovernmental entities and consortia in the Gulf Coast region (including public and private institutions of higher education) for the establishment of centers of excellence as described in subsection (d).

(2) APPLICATION.—To be eligible to receive a grant under this subsection, an entity or consortium described in paragraph

(1) shall submit to a Gulf Coast State an application at such time, in such manner, and containing such information as the Gulf Coast State determines to be appropriate.

(3) **PRIORITY.**—In awarding grants under this subsection, a Gulf Coast State shall give priority to entities and consortia that demonstrate the ability to establish the broadest cross-section of participants with interest and expertise in any discipline described in subsection (d) on which the proposal of the center of excellence will be focused.

(4) **REPORTING.**—

(A) **IN GENERAL.**—Each Gulf Coast State shall provide annually to the Gulf Coast Ecosystem Restoration Council established under section 311(t)(2)(C) of the Federal Water Pollution Control Act (as added by section 1603 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012) information regarding all grants, including the amount, discipline or disciplines, and recipients of the grants, and in the case of any grant awarded to a consortium, the membership of the consortium.

(B) **INCLUSION.**—The Gulf Coast Ecosystem Restoration Council shall include the information received under subparagraph (A) in the annual report to Congress of the Council required under section 311(t)(2)(C)(vii)(VII) of the Federal Water Pollution Control Act (as added by section 1603 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012).

(d) **DISCIPLINES.**—Each center of excellence shall focus on science, technology, and monitoring in at least 1 of the following disciplines:

(1) Coastal and deltaic sustainability, restoration and protection, including solutions and technology that allow citizens to live in a safe and sustainable manner in a coastal delta in the Gulf Coast Region.

(2) Coastal fisheries and wildlife ecosystem research and monitoring in the Gulf Coast Region.

(3) Offshore energy development, including research and technology to improve the sustainable and safe development of energy resources in the Gulf of Mexico.

(4) Sustainable and resilient growth, economic and commercial development in the Gulf Coast Region.

(5) Comprehensive observation, monitoring, and mapping of the Gulf of Mexico.

33 USC 1321  
note.

**SEC. 1606. EFFECT.**

(a) **DEFINITION OF DEEPWATER HORIZON OIL SPILL.**—In this section, the term “Deepwater Horizon oil spill” has the meaning given the term in section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)).

(b) **EFFECT AND APPLICATION.**—Nothing in this subtitle or any amendment made by this subtitle—

(1) supersedes or otherwise affects any other provision of Federal law, including, in particular, laws providing recovery for injury to natural resources under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and laws for the protection of public health and the environment; or

(2) applies to any fine collected under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) for any incident other than the Deepwater Horizon oil spill.

(c) **USE OF FUNDS.**—Funds made available under this subtitle may be used only for eligible activities specifically authorized by this subtitle and the amendments made by this subtitle.

**SEC. 1607. RESTORATION AND PROTECTION ACTIVITY LIMITATIONS.**

33 USC 1321  
note.

(a) **WILLING SELLER.**—Funds made available under this subtitle may only be used to acquire land or interests in land by purchase, exchange, or donation from a willing seller.

(b) **ACQUISITION OF FEDERAL LAND.**—None of the funds made available under this subtitle may be used to acquire land in fee title by the Federal Government unless—

(1) the land is acquired by exchange or donation; or

(2) the acquisition is necessary for the restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region and has the concurrence of the Governor of the State in which the acquisition will take place.

**SEC. 1608. INSPECTOR GENERAL.**

Audits.  
Investigations.  
33 USC 1321  
note.

The Office of the Inspector General of the Department of the Treasury shall have authority to conduct, supervise, and coordinate audits and investigations of projects, programs, and activities funded under this subtitle and the amendments made by this subtitle.

## TITLE II—AMERICA FAST FORWARD FINANCING INNOVATION

America Fast  
Forward  
Financing  
Innovation Act of  
2012.  
23 USC 101 note.

**SEC. 2001. SHORT TITLE.**

This title may be cited as the “America Fast Forward Financing Innovation Act of 2012”.

**SEC. 2002. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1998 AMENDMENTS.**

Sections 601 through 609 of title 23, United States Code, are amended to read as follows:

**“§ 601. Generally applicable provisions**

“(a) **DEFINITIONS.**—In this chapter, the following definitions apply:

“(1) **CONTINGENT COMMITMENT.**—The term ‘contingent commitment’ means a commitment to obligate an amount from future available budget authority that is—

“(A) contingent on those funds being made available in law at a future date; and

“(B) not an obligation of the Federal Government.

“(2) **ELIGIBLE PROJECT COSTS.**—The term ‘eligible project costs’ means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

“(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental

review, permitting, preliminary engineering and design work, and other preconstruction activities;

“(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

“(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

“(3) FEDERAL CREDIT INSTRUMENT.—The term ‘Federal credit instrument’ means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

“(4) INVESTMENT-GRADE RATING.—The term ‘investment-grade rating’ means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

“(5) LENDER.—The term ‘lender’ means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

“(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

“(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

“(6) LETTER OF INTEREST.—The term ‘letter of interest’ means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the TIFIA program that—

“(A) describes the project and the location, purpose, and cost of the project;

“(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;

“(C) provides a status of environmental review; and

“(D) provides information regarding satisfaction of other eligibility requirements of the TIFIA program.

“(7) LINE OF CREDIT.—The term ‘line of credit’ means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

“(8) LIMITED BUYDOWN.—The term ‘limited buydown’ means, subject to the conditions described in section 603(b)(4)(C), a buydown of the interest rate by the obligor if the interest rate has increased between—

“(A)(i) the date on which a project application acceptable to the Secretary is submitted; or

“(ii) the date on which the Secretary entered into a master credit agreement; and

“(B) the date on which the Secretary executes the Federal credit instrument.

“(9) LOAN GUARANTEE.—The term ‘loan guarantee’ means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

“(10) MASTER CREDIT AGREEMENT.—The term ‘master credit agreement’ means an agreement to extend credit assistance for a program of projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency), or for a single project covered under section 602(b)(2) that would—

“(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to the availability of future funds being made available to carry out this chapter;

“(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

“(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

“(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

“(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(ii) compliance with such other requirements as are specified in section 602(c); and

“(iii) the availability of funds to carry out this chapter; and

“(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

“(11) OBLIGOR.—The term ‘obligor’ means a party that—

“(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

“(B) may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

“(12) PROJECT.—The term ‘project’ means—

“(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

“(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

“(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

“(D) a project that—

“(i) is a project—

“(I) for a public freight rail facility or a private facility providing public benefit for highway users

by way of direct freight interchange between highway and rail carriers;

“(II) for an intermodal freight transfer facility;

“(III) for a means of access to a facility described in subclause (I) or (II);

“(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

“(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

“(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

“(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

“(iv) is composed of related highway, surface transportation, transit, rail, or intermodal capital improvement projects eligible for assistance under this section in order to meet the eligible project cost threshold under section 602, by grouping related projects together for that purpose, subject to the condition that the credit assistance for the projects is secured by a common pledge.

“(13) PROJECT OBLIGATION.—The term ‘project obligation’ means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

“(14) RATING AGENCY.—The term ‘rating agency’ means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

“(15) RURAL INFRASTRUCTURE PROJECT.—The term ‘rural infrastructure project’ means a surface transportation infrastructure project located in any area other than a city with a population of more than 250,000 inhabitants within the city limits.

“(16) SECURED LOAN.—The term ‘secured loan’ means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

“(17) STATE.—The term ‘State’ has the meaning given the term in section 101.

“(18) SUBSIDY AMOUNT.—The term ‘subsidy amount’ means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument—

“(A) calculated on a net present value basis; and

“(B) excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).



“(19) SUBSTANTIAL COMPLETION.—The term ‘substantial completion’ means—

“(A) the opening of a project to vehicular or passenger traffic; or

“(B) a comparable event, as determined by the Secretary and specified in the credit agreement.

“(20) TIFIA PROGRAM.—The term ‘TIFIA program’ means the transportation infrastructure finance and innovation program of the Department.

“(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

**“§ 602. Determination of eligibility and project selection**

“(a) ELIGIBILITY.—

“(1) IN GENERAL.—A project shall be eligible to receive credit assistance under this chapter if—

“(A) the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project; and

“(B) the project meets the criteria described in this subsection.

“(2) CREDITWORTHINESS.—

“(A) IN GENERAL.—To be eligible for assistance under this chapter, a project shall satisfy applicable creditworthiness standards, which, at a minimum, shall include—

“(i) a rate covenant, if applicable;

“(ii) adequate coverage requirements to ensure repayment;

“(iii) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

“(iv) a rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the total amount of the senior debt and the Federal credit instrument is less than \$75,000,000, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

“(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the credit instrument is for an amount less than \$75,000,000, in which case 1 rating agency opinion shall be sufficient.

“(3) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—A project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

“(4) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application that is acceptable to the Secretary.

“(5) ELIGIBLE PROJECT COSTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a

project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

“(i)(I) \$50,000,000; or

“(II) in the case of a rural infrastructure project, \$25,000,000; and

“(ii) 33 $\frac{1}{3}$  percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

“(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—

In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed \$15,000,000.

“(6) DEDICATED REVENUE SOURCES.—The applicable Federal credit instrument shall be repayable, in whole or in part, from—

“(A) tolls;

“(B) user fees;

“(C) payments owing to the obligor under a public-private partnership; or

“(D) other dedicated revenue sources that also secure or fund the project obligations.

“(7) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraph (3).

“(8) APPLICATIONS WHERE OBLIGOR WILL BE IDENTIFIED LATER.—A State, local government, agency or instrumentality of a State or local government, or public authority may submit to the Secretary an application under paragraph (4), under which a private party to a public-private partnership will be—

“(A) the obligor; and

“(B) identified later through completion of a procurement and selection of the private party.

Determination.

“(9) BENEFICIAL EFFECTS.—The Secretary shall determine that financial assistance for the project under this chapter will—

“(A) foster, if appropriate, partnerships that attract public and private investment for the project;

“(B) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the lifecycle costs (including debt service costs) of the project; and

“(C) reduce the contribution of Federal grant assistance for the project.

Deadline.

“(10) PROJECT READINESS.—To be eligible for assistance under this chapter, the applicant shall demonstrate a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under this chapter.

“(b) SELECTION AMONG ELIGIBLE PROJECTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish a rolling application process under which projects that are eligible to receive credit assistance under subsection (a) shall receive

credit assistance on terms acceptable to the Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

“(2) ADEQUATE FUNDING NOT AVAILABLE.—If the Secretary fully obligates funding to eligible projects in a fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait until the earlier of—

“(A) the following fiscal year; and

“(B) the fiscal year during which additional funds are available to receive credit assistance.

“(3) PRELIMINARY RATING OPINION LETTER.—The Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency—

“(A) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

“(B) including a preliminary rating opinion on the Federal credit instrument.

“(c) FEDERAL REQUIREMENTS.—

“(1) IN GENERAL.—In addition to the requirements of this title for highway projects, the requirements of chapter 53 of title 49 for transit projects, and the requirements of section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with those funds:

Applicability.

“(A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

“(B) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(C) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

“(2) NEPA.—No funding shall be obligated for a project that has not received an environmental categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(d) APPLICATION PROCESSING PROCEDURES.—

Deadlines.

“(1) NOTICE OF COMPLETE APPLICATION.—Not later than 30 days after the date of receipt of an application under this section, the Secretary shall provide to the applicant a written notice to inform the applicant whether—

“(A) the application is complete; or

“(B) additional information or materials are needed to complete the application.

“(2) APPROVAL OR DENIAL OF APPLICATION.—Not later than 60 days after the date of issuance of the written notice under paragraph (1), the Secretary shall provide to the applicant a written notice informing the applicant whether the Secretary has approved or disapproved the application.

Notification.

“(e) DEVELOPMENT PHASE ACTIVITIES.—Any credit instrument secured under this chapter may be used to finance up to 100 percent of the cost of development phase activities as described in section 601(a)(1)(A).

**“§ 603. Secured loans**

“(a) IN GENERAL.—

“(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

“(A) to finance eligible project costs of any project selected under section 602;

“(B) to refinance interim construction financing of eligible project costs of any project selected under section 602;

“(C) to refinance existing Federal credit instruments for rural infrastructure projects; or

“(D) to refinance long-term project obligations or Federal credit instruments, if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

“(i) is selected under section 602; or

“(ii) otherwise meets the requirements of section 602.

Time period.

“(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

Determination.

“(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by an agency under section 602(b)(3)(B).

“(b) TERMS AND LIMITATIONS.—

“(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

“(2) MAXIMUM AMOUNT.—The amount of a secured loan under this section shall not exceed the lesser of 49 percent of the reasonably anticipated eligible project costs or if the secured loan does not receive an investment grade rating, the amount of the senior project obligations.

“(3) PAYMENT.—A secured loan under this section—

“(A) shall—

“(i) be payable, in whole or in part, from—

“(I) tolls;

“(II) user fees;

“(III) payments owing to the obligor under a public-private partnership; or

“(IV) other dedicated revenue sources that also secure the senior project obligations; and

“(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

“(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

“(4) INTEREST RATE.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the interest rate on a secured loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

“(B) RURAL INFRASTRUCTURE PROJECTS.—

“(i) IN GENERAL.—The interest rate of a loan offered to a rural infrastructure project under this chapter shall be at  $\frac{1}{2}$  of the Treasury Rate in effect on the date of execution of the loan agreement.

“(ii) APPLICATION.—The rate described in clause (i) shall only apply to any portion of a loan the subsidy cost of which is funded by amounts set aside for rural infrastructure projects under section 608(a)(3)(A).

“(C) LIMITED BUYDOWNS.—The interest rate of a secured loan under this section may not be lowered by more than the lower of—

“(i)  $1\frac{1}{2}$  percentage points (150 basis points); or

“(ii) the amount of the increase in the interest rate.

“(5) MATURITY DATE.—The final maturity date of the secured loan shall be the lesser of—

“(A) 35 years after the date of substantial completion of the project; and

“(B) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

“(6) NONSUBORDINATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

“(B) PREEXISTING INDENTURE.—

“(i) IN GENERAL.—The Secretary shall waive the requirement under subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

Waiver authority.

“(I) the secured loan is rated in the A category or higher;

“(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

“(III) the TIFIA program share of eligible project costs is 33 percent or less.

“(ii) LIMITATION.—If the Secretary waives the non-subordination requirement under this subparagraph—

“(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

“(II) the obligor shall be responsible for paying the remainder of the subsidy cost, if any.

“(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

“(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this chapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

“(9) MAXIMUM FEDERAL INVOLVEMENT.—The total Federal assistance provided on a project receiving a loan under this chapter shall not exceed 80 percent of the total project cost.

“(c) REPAYMENT.—

“(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on—

“(A) the projected cash flow from project revenues and other repayment sources; and

“(B) the useful life of the project.

“(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

“(3) DEFERRED PAYMENTS.—

“(A) IN GENERAL.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

“(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

“(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

“(ii) be scheduled to be amortized over the remaining term of the loan.

“(C) CRITERIA.—

“(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

“(ii) REPAYMENT STANDARDS.—The criteria established pursuant to clause (i) shall include standards for reasonable assurance of repayment.

“(4) PREPAYMENT.—

“(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

“(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

“(d) SALE OF SECURED LOANS.—

“(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

“(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

“(e) LOAN GUARANTEES.—

“(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan under this section if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

“(2) TERMS.—The terms of a loan guarantee under paragraph (1) shall be consistent with the terms required under this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

#### “§ 604. Lines of credit

“(a) IN GENERAL.—

“(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available to 1 or more obligors lines of credit in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

“(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

“(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(3), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account the rating opinion letter.

Determination.

“(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the senior obligations of the project receiving an investment-grade rating from 2 rating agencies.

“(b) TERMS AND LIMITATIONS.—

“(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

“(2) MAXIMUM AMOUNTS.—The total amount of a line of credit under this section shall not exceed 33 percent of the reasonably anticipated eligible project costs.

“(3) DRAWS.—Any draw on a line of credit under this section shall—

“(A) represent a direct loan; and

“(B) be made only if net revenues from the project (including capitalized interest, but not including reasonably

required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

“(4) INTEREST RATE.—Except as provided in subparagraphs (B) and (C) of section 603(b)(4), the interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities, as of the date of execution of the line of credit agreement.

“(5) SECURITY.—A line of credit issued under this section—

“(A) shall—

“(i) be payable, in whole or in part, from—

“(I) tolls;

“(II) user fees;

“(III) payments owing to the obligor under a public-private partnership; or

“(IV) other dedicated revenue sources that also secure the senior project obligations; and

“(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

“(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

“(6) PERIOD OF AVAILABILITY.—The full amount of a line of credit under this section, to the extent not drawn upon, shall be available during the 10-year period beginning on the date of substantial completion of the project.

“(7) RIGHTS OF THIRD-PARTY CREDITORS.—

“(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on a line of credit under this section.

“(B) ASSIGNMENT.—An obligor may assign a line of credit under this section to—

“(i) 1 or more lenders; or

“(ii) a trustee on the behalf of such a lender.

“(8) NONSUBORDINATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

“(B) PRE-EXISTING INDENTURE.—

“(i) IN GENERAL.—The Secretary shall waive the requirement of subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

“(I) the line of credit is rated in the A category or higher;

“(II) the TIFIA program loan resulting from a draw on the line of credit is payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

“(III) the TIFIA program share of eligible project costs is 33 percent or less.

“(ii) LIMITATION.—If the Secretary waives the non-subordination requirement under this subparagraph—

Waiver authority.



“(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

“(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

“(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

“(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 603 in an amount that, combined with the amount of the line of credit, exceeds 49 percent of eligible project costs.

“(c) REPAYMENT.—

“(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on—

“(A) the projected cash flow from project revenues and other repayment sources; and

“(B) the useful life of the asset being financed.

“(2) TIMING.—All repayments of principal or interest on a direct loan under this section shall be scheduled—

“(A) to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6); and

“(B) to conclude, with full repayment of principal and interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

#### “§ 605. Program administration

“(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this chapter.

“(b) FEES.—The Secretary may collect and spend fees, contingent on authority being provided in appropriations Acts, at a level that is sufficient to cover—

“(1) the costs of services of expert firms retained pursuant to subsection (d); and

“(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

“(c) SERVICER.—

“(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

“(2) DUTIES.—A servicer appointed under paragraph (1) shall act as the agent for the Secretary.

“(3) FEE.—A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Secretary.

“(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

“(e) EXPEDITED PROCESSING.—The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under this chapter.

Procedures.

**“§ 606. State and local permits**

“The provision of credit assistance under this chapter with respect to a project shall not—

“(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

“(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

“(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

**“§ 607. Regulations**

“The Secretary may promulgate such regulations as the Secretary determines to be appropriate to carry out this chapter.

**“§ 608. Funding**

“(a) FUNDING.—

“(1) SPENDING AND BORROWING AUTHORITY.—Spending and borrowing authority for a fiscal year to enter into Federal credit instruments shall be promptly apportioned to the Secretary on a fiscal-year basis.

“(2) REESTIMATES.—If the subsidy cost of a Federal credit instrument is reestimated, the cost increase or decrease of the reestimate shall be borne by, or benefit, the general fund of the Treasury, consistent with section 504(f) the Congressional Budget Act of 1974 (2 U.S.C. 661c(f)).

“(3) RURAL SET-ASIDE.—

“(A) IN GENERAL.—Of the total amount of funds made available to carry out this chapter for each fiscal year, not more than 10 percent shall be set aside for rural infrastructure projects.

“(B) REOBLIGATION.—Any amounts set aside under subparagraph (A) that remain unobligated by June 1 of the fiscal year for which the amounts were set aside shall be available for obligation by the Secretary on projects other than rural infrastructure projects.

“(4) REDISTRIBUTION OF AUTHORIZED FUNDING.—

“(A) IN GENERAL.—Beginning in fiscal year 2014, on April 1 of each fiscal year, if the cumulative unobligated and uncommitted balance of funding available exceeds 75 percent of the amount made available to carry out this chapter for that fiscal year, the Secretary shall distribute to the States the amount of funds and associated obligation authority in excess of that amount.

“(B) DISTRIBUTION.—The amounts and obligation authority distributed under this paragraph shall be distributed, in the same manner as obligation authority is distributed to the States for the fiscal year, based on the proportion that—

“(i) the relative share of each State of obligation authority for the fiscal year; bears to

“(ii) the total amount of obligation authority distributed to all States for the fiscal year.

Effective date.

“(C) PURPOSE.—Funds distributed under subparagraph (B) shall be available for any purpose described in section 133(b).

“(5) AVAILABILITY.—Amounts made available to carry out this chapter shall remain available until expended.

“(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out this chapter, the Secretary may use not more than 0.50 percent for each fiscal year for the administration of this chapter.

“(b) CONTRACT AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under this chapter shall impose on the United States a contractual obligation to fund the Federal credit investment.

“(2) AVAILABILITY.—Amounts made available to carry out this chapter for a fiscal year shall be available for obligation on October 1 of the fiscal year.

#### “§ 609. Reports to Congress

“(a) IN GENERAL.—On June 1, 2012, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter (other than section 610), including a recommendation as to whether the objectives of this chapter (other than section 610) are best served by—

Effective date.

“(1) continuing the program under the authority of the Secretary;

“(2) establishing a Federal corporation or federally sponsored enterprise to administer the program; or

“(3) phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter (other than section 610) without Federal participation.

“(b) APPLICATION PROCESS REPORT.—

“(1) IN GENERAL.—Not later than December 1, 2012, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a list of all of the letters of interest and applications received from project sponsors for assistance under this chapter (other than section 610) during the preceding fiscal year.

List.

“(2) INCLUSIONS.—

“(A) IN GENERAL.—Each report under paragraph (1) shall include, at a minimum, a description of, with respect to each letter of interest and application included in the report—

“(i) the date on which the letter of interest or application was received;

“(ii) the date on which a notification was provided to the project sponsor regarding whether the application was complete or incomplete;

“(iii) the date on which a revised and completed application was submitted (if applicable);

“(iv) the date on which a notification was provided to the project sponsor regarding whether the project was approved or disapproved; and

“(v) if the project was not approved, the reason for the disapproval.

“(B) CORRESPONDENCE.—Each report under paragraph (1) shall include copies of any correspondence provided to the project sponsor in accordance with section 602(d).”.

Federal Public  
Transportation  
Act of 2012.  
49 USC 5101  
note.

## **DIVISION B—PUBLIC TRANSPORTATION**

### **SEC. 20001. SHORT TITLE.**

This division may be cited as the “Federal Public Transportation Act of 2012”.

### **SEC. 20002. REPEALS.**

(a) CHAPTER 53.—Chapter 53 of title 49, United States Code, is amended by striking sections 5308, 5316, 5317, 5320, and 5328.

(b) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) is repealed.

(c) SAFETEA-LU.—The following provisions are repealed:

(1) Section 3009(i) of SAFETEA-LU (Public Law 109–59; 119 Stat. 1572).

(2) Section 3011(c) of SAFETEA-LU (49 U.S.C. 5309 note).

(3) Section 3012(b) of SAFETEA-LU (49 U.S.C. 5310 note).

(4) Section 3045 of SAFETEA-LU (49 U.S.C. 5308 note).

(5) Section 3046 of SAFETEA-LU (49 U.S.C. 5338 note).

### **SEC. 20003. POLICIES AND PURPOSES.**

Section 5301 of title 49, United States Code, is amended to read as follows:

#### **“§ 5301. Policies and purposes**

“(a) DECLARATION OF POLICY.—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems with the cooperation of both public transportation companies and private companies engaged in public transportation.

“(b) GENERAL PURPOSES.—The purposes of this chapter are to—

“(1) provide funding to support public transportation;

“(2) improve the development and delivery of capital projects;

“(3) establish standards for the state of good repair of public transportation infrastructure and vehicles;

“(4) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

“(5) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

“(6) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

“(7) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service; and

“(8) promote the development of the public transportation workforce.”.

**SEC. 20004. DEFINITIONS.**

Section 5302 of title 49, United States Code, is amended to read as follows:

**“§ 5302. Definitions**

“Except as otherwise specifically provided, in this chapter the following definitions apply:

“(1) ASSOCIATED TRANSIT IMPROVEMENT.—The term ‘associated transit improvement’ means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

“(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

“(B) bus shelters;

“(C) landscaping and streetscaping, including benches, trash receptacles, and street lights;

“(D) pedestrian access and walkways;

“(E) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

“(F) signage; or

“(G) enhanced access for persons with disabilities to public transportation.

“(2) BUS RAPID TRANSIT SYSTEM.—The term ‘bus rapid transit system’ means a bus transit system—

“(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

“(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

“(i) defined stations;

“(ii) traffic signal priority for public transportation vehicles;

“(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

“(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

“(3) CAPITAL PROJECT.—The term ‘capital project’ means a project for—

“(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction

(including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

“(B) rehabilitating a bus;

“(C) remanufacturing a bus;

“(D) overhauling rail rolling stock;

“(E) preventive maintenance;

“(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

“(G) a joint development improvement that—

“(i) enhances economic development or incorporates private investment, such as commercial and residential development;

“(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

“(II) establishes new or enhanced coordination between public transportation and other transportation;

“(iii) provides a fair share of revenue that will be used for public transportation;

“(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means;

“(v) may include—

“(I) property acquisition;

“(II) demolition of existing structures;

“(III) site preparation;

“(IV) utilities;

“(V) building foundations;

“(VI) walkways;

“(VII) pedestrian and bicycle access to a public transportation facility;

“(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

“(IX) renovation and improvement of historic transportation facilities;

“(X) open space;

“(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

“(XII) facilities that incorporate community services such as daycare or health care;

“(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

“(XIV) construction of space for commercial uses; and

“(vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;

“(H) the introduction of new technology, through innovative and improved products, into public transportation;

“(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient’s annual formula apportionment under sections 5307 and 5311;

“(J) establishing a debt service reserve, made up of deposits with a bondholder’s trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

“(K) mobility management—

“(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

“(ii) excluding operating public transportation services; or

“(L) associated capital maintenance, including—

“(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

“(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

“(4) DESIGNATED RECIPIENT.—The term ‘designated recipient’ means—

“(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

“(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

“(5) DISABILITY.—The term ‘disability’ has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

“(6) EMERGENCY REGULATION.—The term ‘emergency regulation’ means a regulation—

“(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

“(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

“(i) would injure seriously an important public interest;

“(ii) would frustrate substantially legislative policy and intent; or

“(iii) would damage seriously a person or class without serving an important public interest.

“(7) FIXED GUIDEWAY.—The term ‘fixed guideway’ means a public transportation facility—

“(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

“(B) using rail;

“(C) using a fixed catenary system;

“(D) for a passenger ferry system; or

“(E) for a bus rapid transit system.

“(8) GOVERNOR.—The term ‘Governor’—

“(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

“(B) includes the designee of the Governor.

“(9) JOB ACCESS AND REVERSE COMMUTE PROJECT.—

“(A) IN GENERAL.—The term ‘job access and reverse commute project’ means a transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.

“(B) DEFINITIONS.—In this paragraph:

“(i) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term ‘eligible low-income individual’ means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Service Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

“(ii) WELFARE RECIPIENT.—The term ‘welfare recipient’ means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the 3-year period before the date on which the applicant applies for a grant under section 5307 or 5311.

“(10) LOCAL GOVERNMENTAL AUTHORITY.—The term ‘local governmental authority’ includes—

“(A) a political subdivision of a State;

“(B) an authority of at least 1 State or political subdivision of a State;



“(C) an Indian tribe; and

“(D) a public corporation, board, or commission established under the laws of a State.

“(11) LOW-INCOME INDIVIDUAL.—The term ‘low-income individual’ means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

“(12) NET PROJECT COST.—The term ‘net project cost’ means the part of a project that reasonably cannot be financed from revenues.

“(13) NEW BUS MODEL.—The term ‘new bus model’ means a bus model (including a model using alternative fuel)—

“(A) that has not been used in public transportation in the United States before the date of production of the model; or

“(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

“(14) PUBLIC TRANSPORTATION.—The term ‘public transportation’—

“(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

“(B) does not include—

“(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

“(ii) intercity bus service;

“(iii) charter bus service;

“(iv) school bus service;

“(v) sightseeing service;

“(vi) courtesy shuttle service for patrons of one or more specific establishments; or

“(vii) intra-terminal or intra-facility shuttle services.

“(15) REGULATION.—The term ‘regulation’ means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

“(16) RURAL AREA.—The term ‘rural area’ means an area encompassing a population of less than 50,000 people that has not been designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.

“(17) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(18) SENIOR.—The term ‘senior’ means an individual who is 65 years of age or older.

“(19) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(20) STATE OF GOOD REPAIR.—The term ‘state of good repair’ has the meaning given that term by the Secretary, by rule, under section 5326(b).

“(21) TRANSIT.—The term ‘transit’ means public transportation.

“(22) URBAN AREA.—The term ‘urban area’ means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

“(23) URBANIZED AREA.—The term ‘urbanized area’ means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.”.

**SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.**

(a) AMENDMENT.—Section 5303 of title 49, United States Code, is amended to read as follows:

**“§ 5303. Metropolitan transportation planning**

“(a) POLICY.—It is in the national interest—

“(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

“(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

“(b) DEFINITIONS.—In this section and section 5304, the following definitions apply:

“(1) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

“(2) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the policy board of an organization established as a result of the designation process under subsection (d).

“(3) NONMETROPOLITAN AREA.—The term ‘nonmetropolitan area’ means a geographic area outside designated metropolitan planning areas.

“(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term ‘nonmetropolitan local official’ means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

“(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term ‘regional transportation planning organization’ means a policy board of an organization established as the result of a designation under section 5304(l).

“(6) TIP.—The term ‘TIP’ means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

“(7) URBANIZED AREA.—The term ‘urbanized area’ means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

“(c) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

“(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

“(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) STRUCTURE.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

“(A) local elected officials;

“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

“(C) appropriate State officials.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

Deadline.

“(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

“(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

“(5) REDESIGNATION PROCEDURES.—

“(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

“(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

“(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

“(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

Time period.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

“(4) EXISTING METROPOLITAN PLANNING AREAS IN NON-ATTAINMENT.—

“(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA-LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

“(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the

Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

“(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA-LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in the manner described in subsection (d)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

“(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

“(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

“(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded under this chapter or title 23, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

“(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and

local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

“(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under this chapter;

“(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iii) recipients of assistance under section 204 of title 23.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and for freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

“(B) PERFORMANCE TARGETS.—

“(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described

in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

“(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

“(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

“(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed by recipients of assistance under this chapter, required as part of a performance-based program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

“(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

“(B) FREQUENCY.—

“(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

“(I) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

“(ii) OTHER AREAS.—In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

“(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

“(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

“(i) IN GENERAL.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

Time period.

“(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

“(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

“(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

“(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

“(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

“(D) MITIGATION ACTIVITIES.—

“(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

“(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(E) FINANCIAL PLAN.—

“(i) IN GENERAL.—A financial plan that—



“(I) demonstrates how the adopted transportation plan can be implemented;

“(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

“(III) recommends any additional financing strategies for needed projects and programs.

“(ii) INCLUSIONS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

“(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

“(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

“(4) OPTIONAL SCENARIO DEVELOPMENT.—

“(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

“(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

“(i) potential regional investment strategies for the planning horizon;

“(ii) assumed distribution of population and employment;

“(iii) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

“(iv) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

“(v) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

“(vi) estimated costs and potential revenues available to support each scenario.

“(C) METRICS.—In addition to the performance measures identified in section 150(c) of title 23, metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

“(5) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve, as appropriate—

“(i) comparison of transportation plans with State conservation plans or maps, if available; or

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

“(6) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

“(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

“(i) shall be developed in consultation with all interested parties; and

“(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

“(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(7) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily

available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

“(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

“(j) METROPOLITAN TIP.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the metropolitan planning area that—

“(i) contains projects consistent with the current metropolitan transportation plan;

“(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

“(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

“(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

“(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(D) UPDATING AND APPROVAL.—The TIP shall be—

“(i) updated at least once every 4 years; and

“(ii) approved by the metropolitan planning organization and the Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The TIP shall include a priority list of proposed Federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

Time period.

“(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

“(i) demonstrates how the TIP can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

“(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

“(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

“(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

“(3) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

“(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

“(5) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of Federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

“(i) by—

“(I) in the case of projects under title 23, the State; and

“(II) in the case of projects under this chapter, the designated recipients of public transportation funding; and

“(ii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

“(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

“(7) PUBLICATION.—

“(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

Public  
information.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

“(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

“(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

“(k) TRANSPORTATION MANAGEMENT AREAS.—

“(1) IDENTIFICATION AND DESIGNATION.—

“(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

“(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

“(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

“(3) CONGESTION MANAGEMENT PROCESS.—

“(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction and operational management strategies.

Time period.

“(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All Federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

“(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

“(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

“(C) EFFECT OF FAILURE TO CERTIFY.—

“(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

“(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary

Time period.

shall provide for public involvement appropriate to the metropolitan area under review.

“(1) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

“(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection

“(2) REPORT.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

“(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

“(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

“(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

“(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area of less than 200,000 and their ability to carry out the requirements of this section.

“(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

“(o) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning

organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.

“(p) FUNDING.—Funds set aside under section 104(f) of title 23 or section 5305(g) shall be available to carry out this section.

“(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under that Act.”.

49 USC 5303  
note.

(b) PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term “eligible project” means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

(B) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive planning associated with an eligible project that seeks to—

(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

(B) facilitate multimodal connectivity and accessibility;

(C) increase access to transit hubs for pedestrian and bicycle traffic;

(D) enable mixed-use development;

(E) identify infrastructure needs associated with the eligible project; and

(F) include private sector participation.

(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and process for the development of a comprehensive plan;

(C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;

(D) proposed performance criteria for the development and implementation of the comprehensive plan; and

(E) identification of—

(i) partners;

(ii) availability of and authority for funding; and



(iii) potential State, local or other impediments to the implementation of the comprehensive plan.

**SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.**

Section 5304 of title 49, United States Code, is amended to read as follows:

**“§ 5304. Statewide and nonmetropolitan transportation planning**

**“(a) GENERAL REQUIREMENTS.—**

**“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—**Subject to section 5303, to accomplish the objectives stated in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State.

**“(2) CONTENTS.—**The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

**“(3) PROCESS OF DEVELOPMENT.—**The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5303(a) and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

**“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—**A State shall—

**“(1)** coordinate planning carried out under this section with the transportation planning activities carried out under section 5303 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

**“(2)** develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

**“(c) INTERSTATE AGREEMENTS.—**

**“(1) IN GENERAL.—**Two or more States may enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

**“(2) RESERVATION OF RIGHTS.—**The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

**“(d) SCOPE OF PLANNING PROCESS.—**

**“(1) IN GENERAL.—**Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

“(B) PERFORMANCE TARGETS.—

“(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the State.

“(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

“(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

“(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph, in other State transportation plans and

transportation processes, as well as any plans developed pursuant to title 23 by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program.

“(D) USE OF PERFORMANCE MEASURES AND TARGETS.—

The performance measures and targets established under this paragraph shall be considered by a State when developing policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—“In carrying out planning under this section, each State shall, at a minimum—

“(1) with respect to nonmetropolitan areas, cooperate with affected local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l);

“(2) consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) consider coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

Time period.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

“(B) NONMETROPOLITAN AREAS.—

“(i) IN GENERAL.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in cooperation with affected nonmetropolitan officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

“(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the consultation process in each State.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal

government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

“(3) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide to—

“(i) nonmetropolitan local elected officials, or, if applicable, through regional transportation planning organizations described in subsection (1), an opportunity to participate in accordance with subparagraph (B)(i); and

“(ii) citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties a reasonable opportunity to comment on the proposed plan.

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);

“(ii) hold any public meetings at convenient and accessible locations and times;

“(iii) employ visualization techniques to describe plans; and

“(iv) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

Public  
information.

“(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(5) FINANCIAL PLAN.—The statewide transportation plan may include—

“(A) a financial plan that—

“(i) demonstrates how the adopted statewide transportation plan can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(B) for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

“(7) PERFORMANCE-BASED APPROACH.—The statewide transportation plan should include—

“(A) a description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (d)(2); and

“(B) a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2), including progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

“(8) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation improvement program for all areas of the State.

“(B) DURATION AND UPDATING OF PROGRAM.—Each program developed under subparagraph (A) shall cover a period of 4 years and shall be updated every 4 years or more frequently if the Governor of the State elects to update more frequently.

Time period.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

“(B) NONMETROPOLITAN AREAS.—

“(i) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in cooperation with affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

“(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the specific consultation process in the State.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

“(4) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

“(5) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include Federally supported surface transportation expenditures within the boundaries of the State.

“(B) LISTING OF PROJECTS.—

“(i) IN GENERAL.—An annual listing of projects for which funds have been obligated for the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review.

“(ii) FUNDING CATEGORIES.—The listing described in clause (i) shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

“(i) consistent with the statewide transportation plan developed under this section for the State;

“(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as a nonattainment area for ozone, particulate matter, or carbon monoxide under part D of title I of that Act (42 U.S.C. 7501 et seq.).

“(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(F) FINANCIAL PLAN.—

“(i) IN GENERAL.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs.

“(ii) ADDITIONAL PROJECTS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

“(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

“(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and

expenditures of funds, including transportation enhancement activities, required by this chapter and title 23.

“(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

“(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this chapter), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

“(B) OTHER PROJECTS.—Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this chapter shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

“(7) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

Time period.

“(8) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5303.

“(9) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

Criteria.

“(h) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

“(A) The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.

“(B) The extent to which the State has made transportation investments that are efficient and cost-effective.

Public information.

“(C) The extent to which the State—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

“(2) REPORT.—



“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each State.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5303, and sections 134 and 135 of title 23, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this this section and section 5303, and sections 134 and 135 of title 23, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 5303, and sections 134 and 135 of title 23, as appropriate.

“(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(k) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.

Guidance.

Deadline.

“(l) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvement programs, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

“(2) **STRUCTURE.**—A regional transportation planning organization shall be established as a multijurisdictional organization of nonmetropolitan local officials or their designees who volunteer for such organization and representatives of local transportation systems who volunteer for such organization.

“(3) **REQUIREMENTS.**—A regional transportation planning organization shall establish, at a minimum—

“(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

“(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.

“(4) **DUTIES.**—The duties of a regional transportation planning organization shall include—

“(A) developing and maintaining, in cooperation with the State, regional long-range multimodal transportation plans;

“(B) developing a regional transportation improvement program for consideration by the State;

“(C) fostering the coordination of local planning, land use, and economic development plans with State, regional, and local transportation plans and programs;

“(D) providing technical assistance to local officials;

“(E) participating in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas;

“(F) providing a forum for public participation in the statewide and regional transportation planning processes;

“(G) considering and sharing plans and programs with neighboring regional transportation planning organizations, metropolitan planning organizations, and, where appropriate, tribal organizations; and

“(H) conducting other duties, as necessary, to support and enhance the statewide planning process under subsection (d).

Consultation.

“(5) **STATES WITHOUT REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.**—If a State chooses not to establish or designate a regional transportation planning organization, the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.”.

#### **SEC. 20007. URBANIZED AREA FORMULA GRANTS.**

Section 5307 of title 49, United States Code, is amended to read as follows:

##### **“§ 5307. Urbanized area formula grants**

“(a) **GENERAL AUTHORITY.**—

“(1) **GRANTS.**—The Secretary may make grants under this section for—

“(A) capital projects;

“(B) planning;

“(C) job access and reverse commute projects; and

“(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

“(2) SPECIAL RULE.—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

“(A) for public transportation systems that operate 75 or fewer buses in fixed route service during peak service hours, in an amount not to exceed 75 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

“(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses in fixed route service during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

“(b) PROGRAM OF PROJECTS.—Each recipient of a grant shall—  
“(1) make available to the public information on amounts available to the recipient under this section;

Public  
information.

“(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

“(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

Publication.

“(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

“(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

“(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

“(7) make the final program of projects available to the public.

“(c) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

“(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (b) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

Certification.

“(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

“(B) has or will have satisfactory continuing control over the use of equipment and facilities;

“(C) will maintain equipment and facilities;

“(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

“(i) senior;

“(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

“(iii) individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq. and 1395 et seq.);

“(E) in carrying out a procurement under this section, will comply with sections 5323 and 5325;

“(F) has complied with subsection (b) of this section;

“(G) has available and will provide the required amounts as provided by subsection (d) of this section;

“(H) will comply with sections 5303 and 5304;

“(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

“(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

“(ii) has decided that the expenditure for security projects is not necessary;

“(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

“(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

“(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

“(L) will comply with section 5329(d); and

“(2) the Secretary accepts the certification.

“(d) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost

Public comment.

Reports.

of the project. The recipient may provide additional local matching amounts.

“(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

“(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

“(A) in cash from non-Government sources other than revenues from providing public transportation services;

“(B) from revenues from the sale of advertising and concessions;

“(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

“(D) from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

“(4) USE OF CERTAIN FUNDS.—For purposes of subparagraphs (D) and (E) of paragraph (3), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(e) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the recipient applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out any part of the project, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

“(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

“(A) the recipient’s expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

“(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

“(3) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON THE AMOUNT OF INTEREST.—The amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(f) REVIEWS, AUDITS, AND EVALUATIONS.—

“(1) ANNUAL REVIEW.—

“(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

“(i) the activities proposed under subsection (c) of this section in a timely and effective way and can continue to do so; and

“(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

“(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

“(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient’s program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (c) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

“(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

“(g) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

“(h) PASSENGER FERRY GRANTS.—

“(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

“(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

“(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.”.

**SEC. 20008. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.**

(a) IN GENERAL.—Section 5309 of title 49, United States Code, is amended to read as follows:

**“§ 5309. Fixed guideway capital investment grants**

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) APPLICANT.—The term ‘applicant’ means a State or local governmental authority that applies for a grant under this section.

“(2) CORE CAPACITY IMPROVEMENT PROJECT.—The term ‘core capacity improvement project’ means a substantial corridor-based capital investment in an existing fixed guideway system that increases the capacity of a corridor by not less than 10 percent. The term does not include project elements designed to maintain a state of good repair of the existing fixed guideway system.

“(3) CORRIDOR-BASED BUS RAPID TRANSIT PROJECT.—The term ‘corridor-based bus rapid transit project’ means a small start project utilizing buses in which the project represents a substantial investment in a defined corridor as demonstrated by features that emulate the services provided by rail fixed guideway public transportation systems, including defined stations; traffic signal priority for public transportation vehicles; short headway bidirectional services for a substantial part of weekdays and weekend days; and any other features the Secretary may determine support a long-term corridor investment, but the majority of which does not operate in a separated right-of-way dedicated for public transportation use during peak periods.

“(4) FIXED GUIDEWAY BUS RAPID TRANSIT PROJECT.—The term ‘fixed guideway bus rapid transit project’ means a bus capital project—

“(A) in which the majority of the project operates in a separated right-of-way dedicated for public transportation use during peak periods;

“(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

“(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

“(i) defined stations;

“(ii) traffic signal priority for public transportation vehicles;

“(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

“(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

“(5) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term ‘new fixed guideway capital project’ means—

“(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

“(B) a fixed guideway bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

“(6) PROGRAM OF INTERRELATED PROJECTS.—The term ‘program of interrelated projects’ means the simultaneous development of—

“(A) 2 or more new fixed guideway capital projects or core capacity improvement projects; or

“(B) 1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects.

“(7) SMALL START PROJECT.—The term ‘small start project’ means a new fixed guideway capital project or corridor-based bus rapid transit project for which—

“(A) the Federal assistance provided or to be provided under this section is less than \$75,000,000; and

“(B) the total estimated net capital cost is less than \$250,000,000.

“(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to State and local governmental authorities to assist in financing—

“(1) new fixed guideway capital projects or small start projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

“(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock associated with corridor improvements increasing capacity, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate to increase the capacity of an existing fixed guideway system corridor by at least 10 percent. Core capacity improvement projects do not include elements to improve general station facilities or parking, or acquisition of rolling stock alone.

“(c) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects, small start projects, or core capacity improvement projects, if the Secretary determines that—

“(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

“(B) the applicant has, or will have—

“(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

“(ii) satisfactory continuing control over the use of the equipment or facilities; and

“(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

“(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(c)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

“(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new fixed



guideway capital project, or core capacity improvement project, if—

“(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

“(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

“(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

“(d) NEW FIXED GUIDEWAY GRANTS.—

“(1) PROJECT DEVELOPMENT PHASE.—

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.— Notifications.

A new fixed guideway capital project shall enter into the project development phase when—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary—

“(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient; and

“(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the new fixed guideway capital project is entering the project development phase.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

“(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

“(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary. Deadline.

“(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period

under clause (i), if the applicant submits to the Secretary—

“(I) a reasonable plan for completing the activities required under this paragraph; and

“(II) an estimated time period within which the applicant will complete such activities.

“(2) ENGINEERING PHASE.—

Determination.

“(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

“(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(ii) is adopted into the metropolitan transportation plan required under section 5303;

“(iii) is justified based on a comprehensive review of the project’s mobility improvements, the project’s environmental benefits, congestion relief associated with the project, economic development effects associated with the project, policies and land use patterns of the project that support public transportation, and the project’s cost-effectiveness as measured by cost per rider;

“(iv) is supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; and

“(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

Evaluation.

“(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient; and

“(ii) population density and current public transportation ridership in the transportation corridor.

“(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

Notifications.

“(1) PROJECT DEVELOPMENT PHASE.—

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act

of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary—

“(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient; and

Deadline.

“(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the core capacity improvement project is entering the project development phase.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

“(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

“(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

Deadline.

“(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

“(I) a reasonable plan for completing the activities required under this paragraph; and

“(II) an estimated time period within which the applicant will complete such activities.

“(2) ENGINEERING PHASE.—

“(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

Determination.

“(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

“(ii) is adopted into the metropolitan transportation plan required under section 5303;

“(iii) is in a corridor that is—

“(I) at or over capacity; or

“(II) projected to be at or over capacity within the next 5 years;

Evaluation.

“(iv) is justified based on a comprehensive review of the project’s mobility improvements, the project’s environmental benefits, congestion relief associated with the project, economic development effects associated with the project, the capacity needs of the corridor, and the project’s cost-effectiveness as measured by cost per rider; and

“(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

“(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

“(ii) whether the project will increase capacity at least 10 percent in a corridor;

“(iii) whether the project will improve interconnectivity among existing systems; and

“(iv) whether the project will improve environmental outcomes.

“(f) FINANCING SOURCES.—

“(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—

“(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

“(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

“(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—

“(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

“(B) existing grant commitments;

“(C) the degree to which financing sources are dedicated to the proposed purposes;

“(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose;

“(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project; and

“(F) private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private partnership strategies.

“(g) PROJECT ADVANCEMENT AND RATINGS.—

“(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

Determination.

“(A) the project meets the applicable requirements under this section; and

“(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

“(2) RATINGS.—

“(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

Evaluation.

“(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), the policies and land use patterns that support public transportation, and the degree of local financial commitment; and

“(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

“(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

“(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

“(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

“(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a ‘medium’ rating in order to advance the project from one phase to another.

“(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

“(A) the share of the cost of the project to be provided under this section does not exceed—

“(i) \$100,000,000; or

“(ii) 50 percent of the total cost of the project;

“(B) the applicant requests the use of the warrants;

Certification.

“(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

“(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

“(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

“(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

Deadline.

“(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

“(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

Deadline.

“(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

“(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

“(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

“(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(h) SMALL START PROJECTS.—

“(1) IN GENERAL.—A small start project shall be subject to the requirements of this subsection.

“(2) PROJECT DEVELOPMENT PHASE.—

Notifications.

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new small starts project shall enter into the project development phase when—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary—

Deadline.

“(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient; and

“(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the small starts project is entering the project development phase.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

“(3) SELECTION CRITERIA.—The Secretary may provide Federal assistance for a small start project under this subsection only if the Secretary determines that the project—

Determination.

“(A) has been adopted as the locally preferred alternative as part of the metropolitan transportation plan required under section 5303;

“(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (4); and

“(C) is supported by an acceptable degree of local financial commitment.

“(4) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a small start project under paragraph (3)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative): mobility improvements, environmental benefits, congestion relief, economic development effects associated with the project, policies and land use patterns that support public transportation and cost-effectiveness as measured by cost per rider.

“(5) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (3)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

“(6) RATINGS.—In carrying out paragraphs (4) and (5) for a small start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

Evaluation.

“(7) GRANTS AND EXPEDITED GRANT AGREEMENTS.—

“(A) IN GENERAL.—The Secretary, to the maximum extent practicable, shall provide Federal assistance under this subsection in a single grant. If the Secretary cannot provide such a single grant, the Secretary may execute

an expedited grant agreement in order to include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

“(B) TERMS OF EXPEDITED GRANT AGREEMENTS.—In executing an expedited grant agreement under this subsection, the Secretary may include in the agreement terms similar to those established under subsection (k)(2).

Time period.

“(C) NOTICE OF PROPOSED GRANTS AND EXPEDITED GRANT AGREEMENTS.—At least 10 days before making a grant award or entering into a grant agreement for a project under this subsection, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed grant or expedited grant agreement, as well as the evaluations and ratings for the project.

“(i) PROGRAMS OF INTERRELATED PROJECTS.—

“(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in subsection (d) or (e), as applicable.

Determination.

“(2) ENGINEERING PHASE.—A federally funded project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

“(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

“(B) the project is adopted into the metropolitan transportation plan required under section 5303;

“(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

“(D) the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;

“(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

“(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f).

“(3) PROJECT ADVANCEMENT AND RATINGS.—

Determination.

“(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section



and there is a reasonable likelihood that the program will continue to meet such requirements.

“(B) RATINGS.—

“(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the criteria described in paragraph (2). Evaluation.

“(ii) INDIVIDUAL RATING FOR EACH CRITERION.—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria described in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

“(iii) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a ‘medium’ rating in order to advance the program of interrelated projects from one phase to another.

“(4) ANNUAL REVIEW.—

“(A) REVIEW REQUIRED.—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

“(B) EXTENSION OF TIME.—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

“(i) evidence of continued adequate funding; and

“(ii) an estimated time frame for completing the program of interrelated projects.

“(C) SATISFACTORY PROGRESS REQUIRED.—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

“(5) FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.—

“(A) REPAYMENT REQUIRED.—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided for the program, and any reasonable interest and penalty charges that the Secretary may establish.

“(B) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

“(6) NON-FEDERAL FUNDS.—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the

Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

“(7) PRIORITY.—In making grants under this section, the Secretary may give priority to programs of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (l).

“(8) NON-GOVERNMENT PROJECTS.—Including a project not financed by the Government in a program of interrelated projects does not impose Government requirements that would not otherwise apply to the project.

“(j) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, approved entry into final design, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(k) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

“(1) LETTERS OF INTENT.—

“(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new fixed guideway capital project or core capacity improvement project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for a capital project under this section, the amount shall be sufficient to complete at least an operable segment.

“(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31 or an administrative commitment.

“(2) FULL FUNDING GRANT AGREEMENTS.—

“(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

“(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (i), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (i)(3)(B), as applicable.

“(C) TERMS.—A full funding grant agreement shall—

“(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

“(ii) establish the maximum amount of Federal financial assistance for the project;

“(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

“(iv) make timely and efficient management of the project easier according to the law of the United States.

“(D) SPECIAL FINANCIAL RULES.—

“(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

“(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

Certification.

“(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a new fixed guideway capital project shall be sufficient to complete at least an operable segment.

“(E) BEFORE AND AFTER STUDY.—

“(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new fixed guideway capital project or core capacity improvement project on public transportation services and public transportation ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies reasons for differences between predicted and actual outcomes.

“(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

“(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project or core capacity improvement project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

“(aa) collection of data on the current public transportation system regarding public

transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

“(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

“(F) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(3) EARLY SYSTEMS WORK AGREEMENTS.—

“(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

“(i) a full funding grant agreement for the project will be made; and

“(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

“(B) CONTENTS.—

“(i) IN GENERAL.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

“(ii) CONTINGENT COMMITMENT.—An early systems work agreement may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(iii) PERIOD COVERED.—An early systems work agreement under this paragraph shall cover the period

of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

“(iv) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the early systems work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

Certification.

“(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

“(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

“(4) LIMITATION ON AMOUNTS.—

“(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

“(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

“(5) NOTIFICATION TO CONGRESS.—At least 30 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

Deadline.

Records.

“(1) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

“(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost. A grant for a fixed guideway project or small start project shall not exceed 80 percent of the net capital project cost. A grant for a core capacity project shall not exceed 80 percent of the net capital project cost of the incremental cost of increasing the capacity in the corridor.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (i) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(A) the Secretary determines that the net capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time the project was approved for advancement into the engineering phase; and

“(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into the engineering phase.

“(4) REMAINDER OF NET CAPITAL PROJECT COST.—The remainder of the net capital project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

“(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts provided by the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

“(7) LIMITATION ON APPLICABILITY.—This subsection shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(8) SPECIAL RULE FOR FIXED GUIDEWAY BUS RAPID TRANSIT PROJECTS.—For up to three fixed-guideway bus rapid transit projects each fiscal year the Secretary shall—

“(A) establish a Government share of at least 80 percent; and

“(B) not lower the project’s rating for degree of local financial commitment for purposes of subsections (d)(2)(A)(v) or (h)(3)(C) as a result of the Government share specified in this paragraph.

“(m) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) IN GENERAL.—The Secretary may pay the Government share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the State or local governmental authority applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

“(2) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(n) AVAILABILITY OF AMOUNTS.—

“(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 5 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 5-fiscal-year period may be used by the Secretary for any purpose under this section.

“(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

“(o) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

“(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

“(B) evaluations and ratings, as required under subsections (d), (e), and (i), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

“(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

“(2) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a

report containing a summary of the results of any studies conducted under subsection (k)(2)(E).

“(3) BIENNIAL GAO REVIEW.—The Comptroller General of the United States shall—

“(A) conduct a biennial review of—

“(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects and core capacity improvement projects; and

“(ii) the Secretary’s implementation of such processes and procedures; and

“(B) report to Congress on the results of such review by May 31 of each year.”.

49 USC 5309  
note.

(b) PILOT PROGRAM FOR EXPEDITED PROJECT DELIVERY.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term “eligible project” means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this section, that has not entered into a full funding grant agreement with the Federal Transit Administration before the date of enactment of the Federal Public Transportation Act of 2012.

(B) PROGRAM.—The term “program” means the pilot program for expedited project delivery established under this subsection.

(C) RECIPIENT.—The term “recipient” means a recipient of funding under chapter 53 of title 49, United States Code.

(D) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) ESTABLISHMENT.—The Secretary shall establish and implement a pilot program to demonstrate whether innovative project development and delivery methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects.

(3) LIMITATION ON NUMBER OF PROJECTS.—The Secretary shall select 3 eligible projects to participate in the program, of which—

(A) at least 1 shall be an eligible project requesting more than \$100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code; and

(B) at least 1 shall be an eligible project requesting less than \$100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code.

(4) GOVERNMENT SHARE.—The Government share of the total cost of an eligible project that participates in the program may not exceed 50 percent.

(5) ELIGIBILITY.—A recipient that desires to participate in the program shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and finance plan for the construction and operation of the eligible project;



(C) an analysis of the efficiencies of the proposed project development and delivery methods or innovative financing arrangement for the eligible project; and

(D) a certification that the recipient's existing public transportation system is in a state of good repair.

(6) **SELECTION CRITERIA.**—The Secretary may award a full funding grant agreement under this subsection if the Secretary determines that—

(A) the recipient has completed planning and the activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the recipient has the necessary legal, financial, and technical capacity to carry out the eligible project.

(7) **BEFORE AND AFTER STUDY AND REPORT.**—

(A) **STUDY REQUIRED.**—A full funding grant agreement under this paragraph shall require a recipient to conduct a study that—

(i) describes and analyzes the impacts of the eligible project on public transportation services and public transportation ridership;

(ii) describes and analyzes the consistency of predicted and actual benefits and costs of the innovative project development and delivery methods or innovative financing for the eligible project; and

(iii) identifies reasons for any differences between predicted and actual outcomes for the eligible project.

(B) **SUBMISSION OF REPORT.**—Not later than 9 months after an eligible project selected to participate in the program begins revenue operations, the recipient shall submit to the Secretary a report on the results of the study under subparagraph (A).

#### **SEC. 20009. MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.**

Section 5310 of title 49, United States Code, is amended to read as follows:

#### **“§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities**

“(a) **DEFINITIONS.**—In this section, the following definitions shall apply:

“(1) **RECIPIENT.**—The term ‘recipient’ means a designated recipient or a State that receives a grant under this section directly.

“(2) **SUBRECIPIENT.**—The term ‘subrecipient’ means a State or local governmental authority, a private nonprofit organization, or an operator of public transportation that receives a grant under this section indirectly through a recipient.

“(b) **GENERAL AUTHORITY.**—

“(1) **GRANTS.**—The Secretary may make grants under this section to recipients for—

“(A) public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

“(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

“(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

“(2) LIMITATIONS FOR CAPITAL PROJECTS.—

“(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

“(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

“(i) a private nonprofit organization; or

“(ii) a State or local governmental authority that—

“(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

“(II) certifies that there are no private nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

“(3) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

“(5) COORDINATION.—

“(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

“(B) OTHER FEDERAL AGENCIES AND NONPROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(ii) participate in the planning for the transportation services described in clause (i).

“(6) PROGRAM OF PROJECTS.—

“(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

“(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

“(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

“(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

“(c) APPORTIONMENT AND TRANSFERS.—

“(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

“(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

“(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

“(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

“(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

“(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

“(C) RURAL AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of seniors and individuals with disabilities in rural areas in each State; bears to

“(ii) the number of seniors and individuals with disabilities in rural areas in all States.

“(2) AREAS SERVED BY PROJECTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B)—

“(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

“(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

“(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

“(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

“(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

“(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

“(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

“(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B) only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

“(d) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

“(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

“(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated or otherwise made available—

“(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

“(ii) to carry out the Federal lands highways program under section 204 of title 23.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

“(e) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

“(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

“(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

“(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services.

“(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

“(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants under this section.

“(2) STATEWIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

“(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

“(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

“(1) the recipient in possession of the facility or equipment consents to the transfer; and

“(2) the facility or equipment will continue to be used as required under this section.

“(h) PERFORMANCE MEASURES.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives making recommendations on the establishment of performance measures for grants under this section. Such report shall be developed in consultation with national nonprofit organizations that provide technical assistance and advocacy on issues related to transportation services for seniors and individuals with disabilities.

Deadline.  
Reports.

“(2) MEASURES.—The performance measures to be considered in the report under paragraph (1) shall require the collection of quantitative and qualitative information, as available, concerning—

“(A) modifications to the geographic coverage of transportation service, the quality of transportation service, or service times that increase the availability of transportation services for seniors and individuals with disabilities;

“(B) ridership;

“(C) accessibility improvements; and

“(D) other measures, as the Secretary determines is appropriate.”.

#### **SEC. 20010. FORMULA GRANTS FOR RURAL AREAS.**

Section 5311 of title 49, United States Code, is amended to read as follows:

##### **“§ 5311. Formula grants for rural areas**

“(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in rural areas for—

“(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of rural areas in the State;

“(B) public transportation capital projects;

“(C) operating costs of equipment and facilities for use in public transportation;

“(D) job access and reverse commute projects; and

“(E) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

“(2) STATE PROGRAM.—

“(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

“(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

“(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

“(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

“(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

“(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in rural areas.

“(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(E) to make grants and contracts for transportation research, technical assistance, training, and related support services in rural areas.

“(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out competitively selected projects of a national scope, with the remaining balance provided to the States.

“(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

“(A) total annual revenue;

“(B) sources of revenue;

“(C) total annual operating costs;

“(D) total annual capital costs;

“(E) fleet size and type, and related facilities;

“(F) vehicle revenue miles; and

“(G) ridership.

“(c) APPORTIONMENTS.—

“(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(E) to carry out this paragraph, the following amounts shall be apportioned each fiscal year for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

“(A) \$5,000,000 shall be distributed on a competitive basis by the Secretary.

“(B) \$25,000,000 shall be apportioned as formula grants, as provided in subsection (j).

“(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) DEFINITIONS.—In this paragraph—

“(i) the term ‘Appalachian region’ has the same meaning as in section 14102 of title 40; and

“(ii) the term ‘eligible recipient’ means a State that participates in a program established under subtitle IV of title 40.

“(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

“(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(E) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the guidelines established under

section 9.5(b) of the Appalachian Regional Commission Code.

“(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

“(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

“(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

“(3) REMAINING AMOUNTS.—

“(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(E) that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

“(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

“(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

“(ii) LAND AREA.—

“(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

“(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

“(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of rural areas in that State and divided by the population of all rural areas in the United States, as shown by the most recent decennial census of population.

“(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NON-URBANIZED AREAS.—

“(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

“(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

“(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal



to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in rural areas in that State and divided by the vehicle revenue miles in all rural areas in the United States, as determined by national transit database reporting.

“(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in rural areas in that State and divided by the number of low-income individuals in all rural areas in the United States, as shown by the Bureau of the Census.

“(v) MAXIMUM APPORTIONMENT.—No State shall receive—

“(I) more than 5 percent of the amount apportioned under clause (ii); or

“(II) more than 5 percent of the amount apportioned under clause (iii).

“(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in a rural area.

“(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 10 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to a rural area.

“(f) INTERCITY BUS TRANSPORTATION.—

“(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

“(A) planning and marketing for intercity bus transportation;

“(B) capital grants for intercity bus facilities;

“(C) joint-use facilities;

“(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

“(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

“(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

“(g) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent

of the net costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

“(2) OPERATING ASSISTANCE.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

“(3) REMAINDER.—The remainder of net project costs—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

“(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation;

“(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23; and

“(D) in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under subsection (f), if the private operator agrees in writing to the use of the costs of the private operator for the unsubsidized segment of intercity bus service as an in-kind match.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

“(h) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

“(i) RELATIONSHIP TO OTHER LAWS.—

“(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees. Applicability.

“(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

“(j) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

“(1) APPORTIONMENT.—

“(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

“(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

“(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

“(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands (as defined by the Bureau of the Census) on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe’s lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

“(B) LIMITATION.—No recipient shall receive more than \$300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

“(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than \$300,000 in a fiscal year according to the formula specified in that clause.

“(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term ‘low-income individual’ means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

“(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities,

improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.”.

**SEC. 20011. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.**

Section 5312 of title 49, United States Code, is amended to read as follows:

**“§ 5312. Research, development, demonstration, and deployment projects**

**“(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—**

**“(1) IN GENERAL.—**The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

**“(2) AGREEMENTS.—**In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

**“(A) departments, agencies, and instrumentalities of the Government, including Federal laboratories;**

**“(B) State and local governmental entities;**

**“(C) providers of public transportation;**

**“(D) private or non-profit organizations;**

**“(E) institutions of higher education; and**

**“(F) technical and community colleges.**

**“(3) APPLICATION.—**

**“(A) IN GENERAL.—**To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the Secretary.

**“(B) FORM AND CONTENTS.—**An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

**“(i) a statement of purpose detailing the need being addressed;**

**“(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and**

**“(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.**

**“(b) RESEARCH.—**

**“(1) IN GENERAL.—**The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

**“(2) PROJECT ELIGIBILITY.—**A public transportation research project that receives assistance under paragraph (1) shall focus on—

**“(A) providing more effective and efficient public transportation service, including services to—**

- “(i) seniors;
  - “(ii) individuals with disabilities; and
  - “(iii) low-income individuals;
  - “(B) mobility management and improvements and travel management systems;
  - “(C) data and communication system advancements;
  - “(D) system capacity, including—
    - “(i) train control;
    - “(ii) capacity improvements; and
    - “(iii) performance management;
  - “(E) capital and operating efficiencies;
  - “(F) planning and forecasting modeling and simulation;
  - “(G) advanced vehicle design;
  - “(H) advancements in vehicle technology;
  - “(I) asset maintenance and repair systems advancement;
  - “(J) construction and project management;
  - “(K) alternative fuels;
  - “(L) the environment and energy efficiency;
  - “(M) safety improvements; or
  - “(N) any other area that the Secretary determines is important to advance the interests of public transportation.
- “(c) INNOVATION AND DEVELOPMENT.—
- “(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.
- “(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—
- “(A) the development of public transportation research projects that received assistance under subsection (b) that the Secretary determines were successful;
  - “(B) planning and forecasting modeling and simulation;
  - “(C) capital and operating efficiencies;
  - “(D) advanced vehicle design;
  - “(E) advancements in vehicle technology;
  - “(F) the environment and energy efficiency;
  - “(G) system capacity, including train control and capacity improvements; or
  - “(H) any other area that the Secretary determines is important to advance the interests of public transportation.
- “(d) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—
- “(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.
- “(2) PARTICIPANTS.—An entity described in this paragraph is—
- “(A) an entity described in subsection (a)(2); or

“(B) a consortium of entities described in subsection (a)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

“(3) PROJECT ELIGIBILITY.—A project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

“(A) the deployment of research and technology development resulting from private efforts or Federally funded efforts; and

“(B) the implementation of research and technology development to advance the interests of public transportation.

Deadline.

“(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

“(5) LOW OR NO EMISSION VEHICLE DEPLOYMENT.—

“(A) DEFINITIONS.—In this paragraph, the following definitions shall apply:

“(i) ELIGIBLE AREA.—The term ‘eligible area’ means an area that is—

“(I) designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

“(II) a maintenance area, as defined in section 5303, for ozone or carbon monoxide.

“(ii) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project or program of projects in an eligible area for—

“(I) acquiring or leasing low or no emission vehicles;

“(II) constructing or leasing facilities and related equipment for low or no emission vehicles;

“(III) constructing new public transportation facilities to accommodate low or no emission vehicles; or

“(IV) rehabilitating or improving existing public transportation facilities to accommodate low or no emission vehicles.

“(iii) DIRECT CARBON EMISSIONS.—The term ‘direct carbon emissions’ means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency.

“(iv) LOW OR NO EMISSION BUS.—The term ‘low or no emission bus’ means a bus that is a low or no emission vehicle.

“(v) LOW OR NO EMISSION VEHICLE.—The term ‘low or no emission vehicle’ means—

“(I) a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption or reduces

harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or

“(II) a zero emission bus used to provide public transportation.

“(vi) RECIPIENT.—The term ‘recipient’ means—

“(I) for an eligible area that is an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, the State in which the eligible area is located; and

“(II) for an eligible area not described in subparagraph (A), the designated recipient for the eligible area.

“(vii) ZERO EMISSION BUS.—The term ‘zero emission bus’ means a low or no emission bus that produces no carbon or particulate matter.

“(B) AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this paragraph.

“(C) GRANT REQUIREMENTS.—

“(i) IN GENERAL.—A grant under this paragraph shall be subject to the requirements of section 5307.

“(ii) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(j) applies to projects carried out under this paragraph, unless the grant recipient requests a lower grant percentage.

Applicability.

“(iii) COMBINATION OF FUNDING SOURCES.—

“(I) COMBINATION PERMITTED.—A project carried out under this paragraph may receive funding under section 5307, or any other provision of law.

“(II) GOVERNMENT SHARE.—Nothing in this clause may be construed to alter the Government share required under this section, section 5307, or any other provision of law.

“(D) MINIMUM AMOUNTS.—Of amounts made available by or appropriated under section 5338(b) in each fiscal year to carry out this paragraph—

“(i) not less than 65 percent shall be made available to fund eligible projects relating to low or no emission buses; and

“(ii) not less than 10 percent shall be made available for eligible projects relating to facilities and related equipment for low or no emission buses.

“(E) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(F) PRIORITY CONSIDERATION.—In making grants under this paragraph, the Secretary shall give priority to projects relating to low or no emission buses that make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than comparable standard buses or other low or no emission buses.

“(G) AVAILABILITY OF FUNDS.—Any amounts made available or appropriated to carry out this paragraph—

“(i) shall remain available to an eligible project for 2 years after the fiscal year for which the amount is made available or appropriated; and

“(ii) that remain unobligated at the end of the period described in clause (i) shall be added to the amount made available to an eligible project in the following fiscal year.

“(e) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report that includes—

“(1) a description of each project that received assistance under this section during the preceding fiscal year;

“(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (d)(4) for the preceding fiscal year; and

“(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

“(f) GOVERNMENT SHARE OF COSTS.—

“(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

“(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

“(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.”.

#### **SEC. 20012. TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.**

Section 5314 of title 49, United States Code, is amended to read as follows:

##### **“§ 5314. Technical assistance and standards development**

“(a) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

“(A) more effectively and efficiently provide public transportation service;

“(B) administer funds received under this chapter in compliance with Federal law; and

“(C) improve public transportation.

“(2) ELIGIBLE ACTIVITIES.—The activities carried out under paragraph (1) may include—

“(A) technical assistance; and

“(B) the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for safety,



fare collection, Intelligent Transportation Systems, accessibility, procurement, security, asset management to maintain a state of good repair, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

“(b) TECHNICAL ASSISTANCE.—The Secretary, through a competitive bid process, may enter into contracts, cooperative agreements, and other agreements with national nonprofit organizations that have the appropriate demonstrated capacity to provide public transportation-related technical assistance under this section. The Secretary may enter into such contracts, cooperative agreements, and other agreements to assist providers of public transportation to—

“(1) comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act;

“(2) comply with human services transportation coordination requirements and to enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation through technical assistance, training, and support services related to complying with such requirements;

“(3) meet the transportation needs of elderly individuals;

“(4) increase transit ridership in coordination with metropolitan planning organizations and other entities through development around public transportation stations through technical assistance and the development of tools, guidance, and analysis related to market-based development around transit stations;

“(5) address transportation equity with regard to the effect that transportation planning, investment and operations have for low-income and minority individuals; and

“(6) any other technical assistance activity that the Secretary determines is necessary to advance the interests of public transportation.

“(c) ANNUAL REPORT ON TECHNICAL ASSISTANCE.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report that includes—

“(1) a description of each project that received assistance under this section during the preceding fiscal year;

“(2) an evaluation of the activities carried out by each organization that received assistance under this section during the preceding fiscal year; and

“(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

“(d) GOVERNMENT SHARE OF COSTS.—

“(1) IN GENERAL.—The Government share of the cost of an activity carried out using a grant under this section may not exceed 80 percent.

“(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity carried out using a grant under this section may be derived from in-kind contributions.”.

**SEC. 20013. PRIVATE SECTOR PARTICIPATION.**

(a) IN GENERAL.—Section 5315 of title 49, United States Code, is amended to read as follows:

**“§ 5315. Private sector participation**

“(a) GENERAL PURPOSES.—In the interest of fulfilling the general purposes of this chapter under section 5301(b), the Secretary shall—

“(1) better coordinate public and private sector-provided public transportation services;

“(2) promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects; and

“(3) promote transparency and public understanding of public-private partnerships affecting public transportation.

“(b) ACTIONS TO PROMOTE BETTER COORDINATION BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF PUBLIC TRANSPORTATION.—The Secretary shall—

“(1) provide technical assistance to recipients of Federal transit grant assistance, at the request of a recipient, on practices and methods to best utilize private providers of public transportation; and

“(2) educate recipients of Federal transit grant assistance on laws and regulations under this chapter that impact private providers of public transportation.

“(c) ACTIONS TO PROVIDE TECHNICAL ASSISTANCE FOR ALTERNATIVE PROJECT DELIVERY METHODS.—Upon request by a sponsor of a new fixed guideway capital project, the Secretary shall—

“(1) identify best practices for public-private partnerships models in the United States and in other countries;

“(2) develop standard public-private partnership transaction model contracts; and

“(3) perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction.”.

(b) PUBLIC-PRIVATE PARTNERSHIP PROCEDURES AND APPROACHES.—

(1) IDENTIFY IMPEDIMENTS.—The Secretary shall—

(A) except as provided in paragraph (6), identify any provisions of chapter 53 of title 49, United States Code, and any regulations or practices thereunder, that impede greater use of public-private partnerships and private investment in public transportation capital projects; and

(B) develop and implement on a project basis procedures and approaches that—

(i) address such impediments in a manner similar to the Special Experimental Project Number 15 of the Federal Highway Administration (commonly referred to as “SEP-15”); and

(ii) protect the public interest and any public investment in public transportation capital projects that involve public-private partnerships or private investment in public transportation capital projects.

(2) TRANSPARENCY.—The Secretary shall develop guidance to promote greater transparency and public access to public-private partnership agreements involving recipients of Federal

49 USC 5315  
note.

Guidance.

assistance under chapter 53 of title 49, United States Code, including—

(A) any conflict of interest involving any party involved in the public-private partnership;

(B) tax and financing aspects related to a public-private partnership agreement;

(C) changes in the workforce and wages, benefits, or rules as a result of a public-private partnership;

(D) estimates of the revenue or savings the public-private partnership will produce for the private entity and public entity;

(E) any impacts on other developments and transportation modes as a result of non-compete clauses contained in public-private partnership agreements; and

(F) any other issues the Secretary believes will increase transparency of public-private partnership agreements and protect the public interest.

(3) ASSESSMENT.—In developing and implementing the guidance under paragraph (2), the Secretary shall encourage project sponsors to conduct assessments to determine whether use of a public-private partnership represents a better public and financial benefit than a similar transaction using public funding or public project delivery.

(4) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of the procedures, approaches, and guidance developed and implemented under paragraphs (1) and (2).

(5) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue rules to carry out the procedures and approaches developed under paragraph (1).

Deadline.

(6) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to allow the Secretary to waive any requirement under—

(A) section 5333 of title 49, United States Code;

(B) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(C) any other provision of Federal law.

(c) CONTRACTING OUT STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a comprehensive report on the effect of contracting out public transportation operations and administrative functions on cost, availability and level of service, efficiency, and quality of service.

Deadline.  
Reports.

(2) CONSIDERATIONS.—In developing the report, the Comptroller General shall consider—

(A) the number of grant recipients that have contracted out services and the types of public transportation services that are performed under contract, including paratransit service, fixed route bus service, commuter rail operations, and administrative functions;

(B) the size of the populations served by such grant recipients;

(C) the basis for decisions regarding contracting out such services;

(D) comparative costs of providing service under contract to providing the same service through public transit agency employees, using to the greatest extent possible a standard cost allocation model;

(E) the extent of unionization among privately contracted employees;

(F) the impact to wages and benefits of employees when publicly provided public transportation services are contracted out to a private for-profit entity;

(G) the level of transparency and public access to agreements and contracts related to contracted out public transportation services;

(H) the extent of Federal law, regulations and guidance prohibiting any conflicts of interest for contractor employees and businesses;

(I) the extent to which grant recipients evaluate contracted out services before selecting them and the extent to which grant recipients conduct oversight of those services; and

(J) barriers to contracting out public transportation operations and administrative functions.

Deadline.  
Federal Register,  
publication.  
49 USC 5303  
note.

(d) **GUIDANCE ON DOCUMENTING COMPLIANCE.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish in the Federal Register policy guidance regarding how to best document compliance by recipients of Federal assistance under chapter 53 of title 49, United States Code, with the requirements regarding private enterprise participation in public transportation planning and transportation improvement programs under sections 5303(i)(6), 5306(a), and 5307(c) of such title 49.

#### **SEC. 20014. BUS TESTING FACILITIES.**

Section 5318 of title 49, United States Code, is amended by striking subsection (e) and inserting the following:

“(e) **ACQUIRING NEW BUS MODELS.**—

“(1) **IN GENERAL.**—Amounts appropriated or otherwise made available under this chapter may be obligated or expended to acquire a new bus model only if—

“(A) a bus of that model has been tested at a facility authorized under subsection (a); and

“(B) the bus tested under subparagraph (A) met—

“(i) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

“(ii) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).

Deadline.  
Regulations.

“(2) **BUS TEST ‘PASS/FAIL’ STANDARD.**—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule under subparagraph (B)(i). The final rule issued under paragraph (B)(i) shall include a bus model scoring system that results

in a weighted, aggregate score that uses the testing categories under subsection (a) and considers the relative importance of each such testing category. The final rule issued under subparagraph (B)(i) shall establish a ‘pass/fail’ standard that uses the aggregate score described in the preceding sentence. Amounts appropriated or otherwise made available under this chapter may be obligated or expended to acquire a new bus model only if the new bus model has received a passing aggregate test score. The Secretary shall work with the bus testing facility, bus manufacturers, and transit agencies to develop the bus model scoring system under this paragraph. A passing aggregate test score under the rule issued under subparagraph (B)(i) indicates only that amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model and shall not be interpreted as a warranty or guarantee that the new bus model will meet a purchaser’s specific requirements.”.

**SEC. 20015. HUMAN RESOURCES AND TRAINING.**

Section 5322 of title 49, United States Code, is amended to read as follows:

**“§ 5322. Human resources and training**

“(a) IN GENERAL.—The Secretary may undertake, or make grants and contracts for, programs that address human resource needs as they apply to public transportation activities. A program may include—

- “(1) an employment training program;
- “(2) an outreach program to increase minority and female employment in public transportation activities;
- “(3) research on public transportation personnel and training needs; and
- “(4) training and assistance for minority business opportunities.

“(b) INNOVATIVE PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAM.—

“(1) PROGRAM ESTABLISHED.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subsection (a).

Grants.

“(2) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

- “(A) are geographically diverse;
- “(B) address the workforce and human resources needs of large public transportation providers;
- “(C) address the workforce and human resources needs of small public transportation providers;
- “(D) address the workforce and human resources needs of urban public transportation providers;
- “(E) address the workforce and human resources needs of rural public transportation providers;
- “(F) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;
- “(G) target areas with high rates of unemployment; and

“(H) address current or projected workforce shortages in areas that require technical expertise.

“(c) GOVERNMENT’S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under subsection (a) or (b) shall be 50 percent.

“(d) NATIONAL TRANSIT INSTITUTE.—

“(1) ESTABLISHMENT.—The Secretary shall establish a national transit institute and award grants to a public 4-year degree-granting institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), in order to carry out the duties of the institute.

“(2) DUTIES.—

“(A) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under paragraph (1) shall develop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

“(B) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under subparagraph (A) may include courses in recent developments, techniques, and procedures related to—

- “(i) intermodal and public transportation planning;
- “(ii) management;
- “(iii) environmental factors;
- “(iv) acquisition and joint use rights-of-way;
- “(v) engineering and architectural design;
- “(vi) procurement strategies for public transportation systems;
- “(vii) turnkey approaches to delivering public transportation systems;
- “(viii) new technologies;
- “(ix) emission reduction technologies;
- “(x) ways to make public transportation accessible to individuals with disabilities;
- “(xi) construction, construction management, insurance, and risk management;
- “(xii) maintenance;
- “(xiii) contract administration;
- “(xiv) inspection;
- “(xv) innovative finance;
- “(xvi) workplace safety; and
- “(xvii) public transportation security.

“(3) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this subsection shall be provided—

“(A) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

“(B) when the education and training are paid under paragraph (4) of this subsection, by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

“(4) AVAILABILITY OF AMOUNTS.—Not more than .5 percent of the amounts made available for a fiscal year beginning after September 30, 1991, to a State or public transportation authority in the State to carry out sections 5307 and 5309 of this title is available for expenditure by the State and public transportation authorities in the State, with the approval of the Secretary, to pay not more than 80 percent of the cost of tuition and direct educational expenses related to educating and training State and local transportation employees under this subsection.

“(e) REPORT.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the measurable outcomes and impacts of the programs funded under subsections (a) and (b).”.

#### SEC. 20016. GENERAL PROVISIONS.

Section 5323 of title 49, United States Code, is amended to read as follows:

#### “§ 5323. General provisions

“(a) INTERESTS IN PROPERTY.—

“(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

Determinations.

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

“(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.

“(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

“(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

Applicability.

“(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

“(1) COOPERATION AND CONSULTATION.—The Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on

Applicability.

each project that may have a substantial impact on the environment.

“(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

“(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

“(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

“(2) VIOLATIONS.—

“(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

“(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

“(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

“(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

“(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

“(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

“(f) SCHOOLBUS TRANSPORTATION.—



“(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

“(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

“(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

“(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

“(g) BUYING BUSES UNDER OTHER LAWS.—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23. Applicability.

“(h) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

“(1) pay ordinary governmental or nonproject operating expenses; or

“(2) support a procurement that uses an exclusionary or discriminatory specification.

“(i) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—

“(1) ACQUIRING VEHICLES AND VEHICLE-RELATED EQUIPMENT OR FACILITIES.—

“(A) VEHICLES.—A grant for a project to be assisted under this chapter that involves acquiring vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or the Clean Air Act is for 85 percent of the net project cost.

“(B) VEHICLE-RELATED EQUIPMENT OR FACILITIES.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

“(2) COSTS INCURRED BY PROVIDERS OF PUBLIC TRANSPORTATION BY VANPOOL.—

“(A) LOCAL MATCHING SHARE.—The local matching share provided by a recipient of assistance for a capital project under this chapter may include any amounts expended by a provider of public transportation by vanpool

for the acquisition of rolling stock to be used by such provider in the recipient's service area, excluding any amounts the provider may have received in Federal, State, or local government assistance for such acquisition.

“(B) USE OF REVENUES.—A private provider of public transportation by vanpool may use revenues it receives in the provision of public transportation service in the service area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the private provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

“(C) DEFINITIONS.—In this paragraph, the following definitions apply:

“(i) PRIVATE PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.—The term ‘private provider of public transportation by vanpool’ means a private entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

“(ii) COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.—The term ‘commuter highway vehicle or vanpool vehicle’ means any vehicle—

“(I) the seating capacity of which is at least 6 adults (not including the driver); and

“(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

“(j) BUY AMERICA.—

“(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

“(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

“(A) applying paragraph (1) would be inconsistent with the public interest;

“(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

“(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

“(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

“(ii) final assembly of the rolling stock has occurred in the United States; or

“(D) including domestic material will increase the cost of the overall project by more than 25 percent.

“(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

“(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

“(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

“(ii) provide the public with a reasonable period of time for notice and comment.

“(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

“(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

“(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

“(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

“(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

“(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

“(A) affixed a ‘Made in America’ label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

“(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

“(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

“(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests

Federal Register,  
publication.  
Public  
information.  
Web posting.  
Public  
information.

under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

“(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

“(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(2) be included in the planning for those services.

“(l) RELATIONSHIP TO OTHER LAWS.—

Applicability.

“(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

“(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

Regulations.

“(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving rural areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser’s requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

“(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

Applicability.

“(o) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter

that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

“(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

“(1) the incidental use does not interfere with the recipient’s public transportation operations;

“(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

“(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

“(4) private entities pay all applicable excise taxes on fuel.

“(q) CORRIDOR PRESERVATION.—

“(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(r) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—A recipient of assistance under this chapter may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes. In determining reasonable access, capacity requirements of the recipient of assistance and the extent to which access would be detrimental to existing public transportation services must be considered.”.

#### **SEC. 20017. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.**

(a) IN GENERAL.—Section 5324 of title 49, United States Code, is amended to read as follows:

##### **“§ 5324. Public transportation emergency relief program**

“(a) DEFINITION.—In this section the following definitions shall apply:

“(1) ELIGIBLE OPERATING COSTS.—The term ‘eligible operating costs’ means costs relating to—

“(A) evacuation services;

“(B) rescue operations;

“(C) temporary public transportation service; or

“(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

“(2) EMERGENCY.—The term ‘emergency’ means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

“(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

“(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

“(b) GENERAL AUTHORITY.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

“(1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and

“(2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

“(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

“(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

“(c) COORDINATION OF EMERGENCY FUNDS.—

“(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available under this chapter.

“(2) NO EFFECT ON OTHER GOVERNMENT ACTIVITY.—The provision of funds under this section shall not affect the ability of any other agency of the Government, including the Federal Emergency Management Agency, or a State agency, a local governmental entity, organization, or person, to provide any other funds otherwise authorized by law.

“(3) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

“(d) GRANT REQUIREMENTS.—A grant awarded under this section or under section 5307 or 5311 that is made to address an emergency defined under subsection (a)(2) shall be—

“(1) subject to the terms and conditions the Secretary determines are necessary; and

“(2) made only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(e) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

“(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under—

Time periods.

“(A) paragraph (2); or

“(B) section 5307 or 5311, in the case of a grant made available under section 5307 or 5311, respectively, to address an emergency.”.

(b) MEMORANDUM OF AGREEMENT.—

49 USC 5324  
note.

(1) PURPOSES.—The purposes of this subsection are—

(A) to improve coordination between the Department of Transportation and the Department of Homeland Security; and

(B) to expedite the provision of Federal assistance for public transportation systems for activities relating to a major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (referred to in this subsection as a “major disaster or emergency”).

(2) AGREEMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall enter into a memorandum of agreement to coordinate the roles and responsibilities of the Department of Transportation and the Department of Homeland Security in providing assistance for public transportation, including the provision of public transportation services and the repair and restoration of public transportation systems in areas for which the President has declared a major disaster or emergency.

Deadline.

(3) CONTENTS OF AGREEMENT.—The memorandum of agreement required under paragraph (2) shall—

(A) provide for improved coordination and expeditious use of public transportation, as appropriate, in response to and recovery from a major disaster or emergency;

(B) establish procedures to address—

(i) issues that have contributed to delays in the reimbursement of eligible transportation-related expenses relating to a major disaster or emergency;

(ii) any challenges identified in the review under paragraph (4); and

(iii) the coordination of assistance for public transportation provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5324 of title 49, United States Code, as amended by this Act, as appropriate; and

(C) provide for the development and distribution of clear guidelines for State, local, and tribal governments, including public transportation systems, relating to—

(i) assistance available for public transportation systems for activities relating to a major disaster or emergency—

(I) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

(II) under section 5324 of title 49, United States Code, as amended by this Act; and

(III) from other sources, including other Federal agencies; and

(ii) reimbursement procedures that speed the process of—

(I) applying for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5324 of title 49, United States Code, as amended by this Act; and

(II) distributing assistance for public transportation systems under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5324 of title 49, United States Code, as amended by this Act.

(4) **AFTER ACTION REVIEW.**—Before entering into a memorandum of agreement under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security (acting through the Administrator of the Federal Emergency Management Agency), in consultation with State, local, and tribal governments (including public transportation systems) that have experienced a major disaster or emergency, shall review after action reports relating to major disasters, emergencies, and exercises, to identify areas where coordination between the Department of Transportation and the Department of Homeland Security and the provision of public transportation services should be improved.

(5) **FACTORS FOR DECLARATIONS OF MAJOR DISASTERS AND EMERGENCIES.**—The Administrator of the Federal Emergency Management Agency shall make available to State, local, and tribal governments, including public transportation systems, a description of the factors that the President considers in declaring a major disaster or emergency, including any pre-disaster emergency declaration policies.

(6) **BRIEFINGS.**—

Deadline.

(A) **INITIAL BRIEFING.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the memorandum of agreement required under paragraph (2).

(B) **QUARTERLY BRIEFINGS.**—Each quarter of the 1-year period beginning on the date on which the Secretary of Transportation and the Secretary of Homeland Security enter into the memorandum of agreement required under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of the memorandum of agreement.

#### **SEC. 20018. CONTRACT REQUIREMENTS.**

Section 5325 of title 49, United States Code, is amended—

(1) in subsection (e), by striking paragraph (1) and inserting the following:

“(1) **CONTRACTS.**—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for—



“(A) not more than 5 years after the date of the original contract for bus procurements; and

“(B) not more than 7 years after the date of the original contract for rail procurements, provided that such option does not allow for significant changes or alterations to the rolling stock.”.

(2) in subsection (h), by striking “Federal Public Transportation Act of 2005” and inserting “Federal Public Transportation Act of 2012”;

(3) in subsection (j)(2)(C), by striking “, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(l)(2)”;

(4) by adding at the end the following:

“(k) **VETERANS EMPLOYMENT.**—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.”.

#### **SEC. 20019. TRANSIT ASSET MANAGEMENT.**

Section 5326 of title 49, United States Code, is amended to read as follows:

##### **“§ 5326. Transit asset management**

“(a) **DEFINITIONS.**—In this section the following definitions shall apply:

“(1) **CAPITAL ASSET.**—The term ‘capital asset’ includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned or leased by a recipient or subrecipient of Federal financial assistance under this chapter.

“(2) **TRANSIT ASSET MANAGEMENT PLAN.**—The term ‘transit asset management plan’ means a plan developed by a recipient of funding under this chapter that—

“(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

“(B) the recipient certifies complies with the rule issued under this section.

“(3) **TRANSIT ASSET MANAGEMENT SYSTEM.**—The term ‘transit asset management system’ means a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

“(b) **TRANSIT ASSET MANAGEMENT SYSTEM.**—The Secretary shall establish and implement a national transit asset management system, which shall include—

“(1) a definition of the term ‘state of good repair’ that includes objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities;

“(2) a requirement that recipients and subrecipients of Federal financial assistance under this chapter develop a transit asset management plan;

“(3) a requirement that each designated recipient of Federal financial assistance under this chapter report on the condition of the system of the recipient and provide a description of any change in condition since the last report;

“(4) an analytical process or decision support tool for use by public transportation systems that—

“(A) allows for the estimation of capital investment needs of such systems over time; and

“(B) assists with asset investment prioritization by such systems; and

“(5) technical assistance to recipients of Federal financial assistance under this chapter.

Deadlines.  
Regulations.

“(c) PERFORMANCE MEASURES AND TARGETS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures based on the state of good repair standards established under subsection (b)(1).

“(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient of Federal financial assistance under this chapter shall establish performance targets in relation to the performance measures established by the Secretary.

“(3) REPORTS.—Each designated recipient of Federal financial assistance under this chapter shall submit to the Secretary an annual report that describes—

“(A) the progress of the recipient during the fiscal year to which the report relates toward meeting the performance targets established under paragraph (2) for that fiscal year; and

“(B) the performance targets established by the recipient for the subsequent fiscal year.

Deadline.

“(d) RULEMAKING.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to implement the transit asset management system described in subsection (b).”.

#### SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.

Section 5327 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “United States” and all that follows through “Secretary of Transportation” and inserting the following: “Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan”; and

(B) in paragraph (12), by striking “each month” and inserting “quarterly”;

(2) by striking subsections (c), (d), and (f);

(3) by inserting after subsection (b) the following:

“(c) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section 5338(i) with access to the construction sites and records of the recipient when reasonably necessary.”;

(4) by redesignating subsection (e) as subsection (d); and  
(5) in subsection (d), as so redesignated—

(A) in paragraph (1), by striking “subsection (c) of this section” and inserting “section 5338(i)”; and

(B) in paragraph (2)—

(i) by striking “preliminary engineering stage” and inserting “project development phase”; and

(ii) by striking “another stage” and inserting “another phase”.

**SEC. 20021. PUBLIC TRANSPORTATION SAFETY.**

(a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—Section 5329 of title 49, United States Code, is amended to read as follows:

**“§ 5329. Public transportation safety program**

“(a) DEFINITION.—In this section, the term ‘recipient’ means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

“(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

“(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

“(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

“(A) safety performance criteria for all modes of public transportation;

“(B) the definition of the term ‘state of good repair’ established under section 5326(b);

“(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

“(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

“(ii) to the extent practicable, take into consideration—

“(I) relevant recommendations of the National Transportation Safety Board; and

“(II) recommendations of, and best practices standards developed by, the public transportation industry; and

“(D) a public transportation safety certification training program, as described in subsection (c).

“(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation

systems and employees of public transportation agencies directly responsible for safety oversight.

Deadline.

“(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

Effective date.  
Certification.

“(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

“(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient or State, as described in paragraph (3), shall certify that the recipient or State has established a comprehensive agency safety plan that includes, at a minimum—

“(A) a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

“(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

“(C) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;

“(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

“(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

“(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

“(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

“(i) the completion of a safety training program; and

“(ii) continuing safety education and training.

“(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

“(3) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN DRAFTING AND CERTIFICATION.—

“(A) SECTION 5311.—For a recipient receiving assistance under section 5311, a State safety plan may be drafted and certified by the recipient or a State.

Deadline.  
Regulations.

“(B) SECTION 5307.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule designating recipients of assistance under section 5307 that are small public transportation providers or systems that may have their State safety plans drafted or certified by a State.

“(e) STATE SAFETY OVERSIGHT PROGRAM.—

“(1) APPLICABILITY.—This subsection applies only to eligible States.

“(2) DEFINITION.—In this subsection, the term ‘eligible State’ means a State that has—

“(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

“(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

“(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

Effective date.

“(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

“(B) adopts and enforces Federal and relevant State laws on rail fixed guideway public transportation safety;

“(C) establishes a State safety oversight agency;

“(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

Determination.

“(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

“(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

“(4) STATE SAFETY OVERSIGHT AGENCY.—

“(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

“(i) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

“(ii) does not directly provide public transportation services in an area with a rail fixed guideway public transportation system subject to the requirements of this section;

“(iii) does not employ any individual who is also responsible for the administration of rail fixed guideway public transportation programs subject to the requirements of this section;

“(iv) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

- Audits. “(v) has investigative and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;  
“(vi) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and
- Deadline. Reports. “(vii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—  
“(I) the Federal Transit Administration;  
“(II) the Governor of the eligible State; and  
“(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.
- “(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—  
“(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or  
“(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.
- “(5) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—  
“(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or  
“(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.
- “(6) GRANTS.—  
“(A) IN GENERAL.—The Secretary shall make grants to eligible States to develop or carry out State safety oversight programs under this subsection. Grant funds may be used for program operational and administrative expenses, including employee training activities.  
“(B) APPORTIONMENT.—  
“(i) FORMULA.—The amount made available for State safety oversight under section 5336(h) shall be apportioned among eligible States under a formula to be established by the Secretary. Such formula shall take into account fixed guideway vehicle revenue miles,

fixed guideway route miles, and fixed guideway vehicle passenger miles attributable to all rail fixed guideway systems not subject to regulation by the Federal Railroad Administration within each eligible State.

“(ii) ADMINISTRATIVE REQUIREMENTS.—Grant funds apportioned to States under this paragraph shall be subject to uniform administrative requirements for grants and cooperative agreements to State and local governments under part 18 of title 49, Code of Federal Regulations, and shall be subject to the requirements of this chapter as the Secretary determines appropriate.

“(C) GOVERNMENT SHARE.—

“(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

“(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

“(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

“(I) any Federal funds;

“(II) any funds received from a public transportation agency; or

“(III) any revenues earned by a public transportation agency.

“(iv) SAFETY TRAINING PROGRAM.—Recipients of funds made available to carry out sections 5307 and 5311 may use not more than 0.5 percent of their formula funds to pay not more than 80 percent of the cost of participation in the public transportation safety certification training program established under subsection (c), by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

“(7) CERTIFICATION PROCESS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall determine whether or not each State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

Deadline.  
Determination.

“(B) ISSUANCE OF CERTIFICATIONS AND DENIALS.—The Secretary shall issue a certification to each eligible State that the Secretary determines under subparagraph (A) adequately meets the requirements of this subsection, and shall issue a denial of certification to each eligible State that the Secretary determines under subparagraph (A) does not adequately meet the requirements of this subsection.

Notification.

“(C) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection and denies certification, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

“(D) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to certify the program, the Secretary—

Notification.

“(i) shall notify the Governor of the eligible State of such denial of certification and failure to adequately modify the program, and shall request that the Governor take all possible actions to correct deficiencies in the program to ensure the certification of the program; and

“(ii) may—

“(I) withhold funds available under paragraph (6) in an amount determined by the Secretary;

“(II) withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 of this title, until the State safety oversight program has been certified; or

“(III) require fixed guideway public transportation systems under such State safety oversight program to provide up to 100 percent of Federal assistance made available under this chapter only for safety-related improvements on such systems, until the State safety oversight program has been certified.

“(8) EVALUATION OF PROGRAM AND ANNUAL REPORT.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, and shall submit on or before July 1 of each year to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on—

“(A) the amount of funds apportioned to each eligible State; and

“(B) the certification status of each State safety oversight program, including what steps a State program that has been denied certification must take in order to be certified.

“(9) FEDERAL OVERSIGHT.—The Secretary shall—

“(A) oversee the implementation of each State safety oversight program under this subsection;

Audits.

“(B) audit the operations of each State safety oversight agency at least once triennially; and

Regulations.

“(C) issue rules to carry out this subsection.

“(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

“(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;



“(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient;

“(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

Determination.

“(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

“(B) the Attorney General—

“(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

“(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

Time period.

“(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

“(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

“(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

“(7) issue rules to carry out this section.

“(g) ENFORCEMENT ACTIONS.—

“(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against an eligible State, as defined in subsection (e), that does not comply with Federal law with respect to the safety of the public transportation system, including—

“(A) issuing directives;

“(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

“(C) imposing more frequent reporting requirements; and

“(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects.

“(2) USE OR WITHHOLDING OF FUNDS.—

“(A) IN GENERAL.—The Secretary may require the use of funds in accordance with paragraph (1)(D) only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

“(B) NOTICE.—Before withholding funds from a recipient, the Secretary shall provide to the recipient—

“(i) written notice of a violation and the amount proposed to be withheld; and

“(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

“(h) COST-BENEFIT ANALYSIS.—

“(1) ANALYSIS REQUIRED.—In carrying out this section, the Secretary shall take into consideration the costs and benefits of each action the Secretary proposes to take under this section.

“(2) WAIVER.—The Secretary may waive the requirement under this subsection if the Secretary determines that such a waiver is in the public interest.

“(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

“(j) ACTIONS UNDER STATE LAW.—

“(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

“(A) a Federal standard of care established by a regulation or order issued by the Secretary under this section; or

“(B) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary.

“(2) EFFECTIVE DATE.—This subsection shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

“(3) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

“(k) NATIONAL PUBLIC TRANSPORTATION SAFETY REPORT.—Not later than 3 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

“(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

“(2) describes the effect on public transportation safety of activities carried out using grants under this section.”.

(b) BUS SAFETY STUDY.—

(1) DEFINITION.—In this subsection, the term “highway route” means a route where 50 percent or more of the route is on roads having a speed limit of more than 45 miles per hour.

(2) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

Applicability.

Deadline.  
Reports.

(A) examines the safety of public transportation buses that travel on highway routes;

(B) examines laws and regulations that apply to commercial over-the-road buses; and

(C) makes recommendations as to whether additional safety measures should be required for public transportation buses that travel on highway routes.

**SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

Section 5331 of title 49, United States Code, is amended by striking subsection (g) and inserting the following:

“(g) CONDITIONS ON FEDERAL ASSISTANCE.—

“(1) INELIGIBILITY FOR ASSISTANCE.—A person that receives funds under this chapter is not eligible for financial assistance under section 5307, 5309, or 5311 of this title if the person is required, under regulations the Secretary prescribes under this section, to establish a program of alcohol and controlled substances testing and does not establish the program in accordance with this section.

Regulations.

“(2) ADDITIONAL REMEDIES.—If the Secretary determines that a person that receives funds under this chapter is not in compliance with regulations prescribed under this section, the Secretary may bar the person from receiving Federal transit assistance in an amount the Secretary considers appropriate.”.

**SEC. 20023. NONDISCRIMINATION.**

(a) AMENDMENTS.—Section 5332 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “creed” and inserting “religion”; and

(B) by inserting “disability,” after “sex,”; and

(2) in subsection (d)(3), by striking “and” and inserting “or”.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Comptroller General of the United States shall evaluate the progress and effectiveness of the Federal Transit Administration in assisting recipients of assistance under chapter 53 of title 49, United States Code, to comply with section 5332(b) of title 49, including—

(A) by reviewing discrimination complaints, reports, and other relevant information collected or prepared by the Federal Transit Administration or recipients of assistance from the Federal Transit Administration pursuant to any applicable civil rights statute, regulation, or other requirement; and

(B) by reviewing the process that the Federal Transit Administration uses to resolve discrimination complaints filed by members of the public.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the evaluation under paragraph (1) that includes—

(A) a description of the ability of the Federal Transit Administration to address discrimination and foster equal opportunities in federally funded public transportation projects, programs, and activities;

(B) recommendations for improvements if the Comptroller General determines that improvements are necessary; and

(C) information upon which the evaluation under paragraph (1) is based.

#### SEC. 20024. ADMINISTRATIVE PROVISIONS.

Section 5334 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking “under sections 5307 and 5309–5311 of this title” and inserting “that receives Federal financial assistance under this chapter”;

(2) in subsection (b)(1)—

(A) by inserting after “emergency,” the following: “or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States as described in section 5329,”; and

(B) by striking “chapter, nor may the Secretary” and inserting “chapter. The Secretary may not”;

(3) in subsection (c)(4), by striking “section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f)” and inserting “subsection”;

(4) in subsection (h)(3), by striking “another” and inserting “any other”;

(5) in subsection (i)(1), by striking “title 23 shall” and inserting “title 23 may”;

(6) by striking subsection (j); and

(7) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

#### SEC. 20025. NATIONAL TRANSIT DATABASE.

(a) AMENDMENTS.—Section 5335 of title 49, United States Code, is amended—

(1) in subsection (a), by striking “public transportation financial and operating information” and inserting “public transportation financial, operating, and asset condition information”; and

(2) by adding at the end the following:

“(c) DATA REQUIRED TO BE REPORTED.—The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to a transit asset inventory or condition assessment conducted by the recipient.”.

(b) DATA ACCURACY AND RELIABILITY.—The Secretary shall—

(1) develop and implement appropriate internal control activities to ensure that public transportation safety incident data is reported accurately and reliably by public transportation systems and State safety oversight agencies to the State Safety Oversight Rail Accident Database; and

(2) report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives within 1 year of enactment of the Federal Public Transportation Act of 2012 on the steps taken to improve the accuracy and reliability of public transportation safety incident data reported to the State Safety Oversight Rail Accident Database.

49 USC 5335  
note.

Reports.  
Deadline.

**SEC. 20026. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.**

Section 5336 of title 49, United States Code, is amended to read as follows:

**“§ 5336. Apportionment of appropriations for formula grants**

“(a) **BASED ON URBANIZED AREA POPULATION.**—Of the amount apportioned under subsection (h)(4) to carry out section 5307—

“(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

“(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

“(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

“(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

“(b) **BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.**—(1) In this subsection, ‘fixed guideway vehicle revenue miles’ and ‘fixed guideway directional route miles’ include passenger ferry operations directly or under contract by the designated recipient.

“(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

“(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

“(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

“(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway

vehicle passenger miles traveled for each dollar of operating cost in an area; divided by

“(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

“(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

“(D) A recipient’s apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

“(E) For purposes of subparagraph (A) and section 5337(c)(3), the Secretary shall deem to be attributable to an urbanized area not less than 22.27 percent of the fixed guideway vehicle revenue miles or fixed guideway directional route miles in the public transportation system of a recipient that are located outside the urbanized area for which the recipient receives funds, in addition to the fixed guideway vehicle revenue miles or fixed guideway directional route miles of the recipient that are located inside the urbanized area.

“(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

“(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

“(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

“(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

“(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

“(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

“(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

“(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

“(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

“(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

“(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

“(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.

“(d) DATE OF APPORTIONMENT.—The Secretary shall—

Deadline.

“(1) apportion amounts appropriated under section 5338(a)(2)(C) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

“(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

Publication.

“(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—

The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

“(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State’s apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and

Consultation.

publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

“(2) The Governor of a State may transfer any part of the State’s apportionment under section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

Time period.

“(3) The Governor of a State may use throughout the State amounts of a State’s apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

“(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

Applicability.

“(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

Deadline.

“(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

“(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

“(1) \$30,000,000 shall be set aside to carry out section 5307(h);

“(2) 3.07 percent shall be apportioned to urbanized areas in accordance with subsection (j);

“(3) of amounts not apportioned under paragraphs (1) and (2), 1.5 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i);

“(4) 0.5 percent shall be apportioned to eligible States for State safety oversight program grants in accordance with section 5329(e)(6); and

“(5) any amount not apportioned under paragraphs (1), (2), (3), and (4) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

“(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) ELIGIBLE AREA.—The term ‘eligible area’ means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

“(B) PERFORMANCE CATEGORY.—The term ‘performance category’ means each of the following:

“(i) Passenger miles traveled per vehicle revenue mile.

“(ii) Passenger miles traveled per vehicle revenue hour.



- “(iii) Vehicle revenue miles per capita.
- “(iv) Vehicle revenue hours per capita.
- “(v) Passenger miles traveled per capita.
- “(vi) Passengers per capita.

“(2) APPORTIONMENT.—

“(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

“(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

“(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

“(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

“(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

“(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

“(A) the number of eligible low-income individuals in each such urbanized area; bears to

“(B) the number of eligible low-income individuals in all such urbanized areas.

“(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

“(A) the number of eligible low-income individuals in each such urbanized area; bears to

“(B) the number of eligible low-income individuals in all such urbanized areas.”.

**SEC. 20027. STATE OF GOOD REPAIR GRANTS.**

Section 5337 of title 49, United States Code, is amended to read as follows:

**“§ 5337. State of good repair grants**

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) FIXED GUIDEWAY.—The term ‘fixed guideway’ means a public transportation facility—

“(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

“(B) using rail;

“(C) using a fixed catenary system;

“(D) for a passenger ferry system; or

“(E) for a bus rapid transit system.

“(2) STATE.—The term ‘State’ means the 50 States, the District of Columbia, and Puerto Rico.

“(3) STATE OF GOOD REPAIR.—The term ‘state of good repair’ has the meaning given that term by the Secretary, by rule, under section 5326(b).

“(4) TRANSIT ASSET MANAGEMENT PLAN.—The term ‘transit asset management plan’ means a plan developed by a recipient of funding under this chapter that—

“(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

“(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

“(b) GENERAL AUTHORITY.—

“(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

“(A) rolling stock;

“(B) track;

“(C) line equipment and structures;

“(D) signals and communications;

“(E) power equipment and substations;

“(F) passenger stations and terminals;

“(G) security equipment and systems;

“(H) maintenance facilities and equipment;

“(I) operational support equipment, including computer hardware and software;

“(J) development and implementation of a transit asset management plan; and

“(K) other replacement and rehabilitation projects the Secretary determines appropriate.

“(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

“(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

“(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(I), 97.15 percent shall be apportioned to recipients in accordance with this subsection.

“(2) AREA SHARE.—

“(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

“(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with section 5336(b)(1) and using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

“(C) RECIPIENT.—For purposes of this paragraph, the term ‘recipient’ means an entity that received funding under this section, as in effect for fiscal year 2011.

Definition.

“(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

“(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

“(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

“(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

“(4) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

“(B) SPECIAL RULE FOR FISCAL YEAR 2013.—In fiscal year 2013, the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

“(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

“(6) RECEIVING APPORTIONMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this subsection shall be apportioned to the designated recipient for the urbanized area in which the system operates.

“(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

“(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue

Deadline.

service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

“(d) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

“(1) DEFINITION.—For purposes of this subsection, the term ‘high intensity motorbus’ means public transportation that is provided on a facility with access for other high-occupancy vehicles.

“(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(I), 2.85 percent shall be apportioned to urbanized areas for high intensity motorbus state of good repair in accordance with this subsection.

“(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

“(A) IN GENERAL.—The amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

“(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus vehicle revenue miles attributable to all areas.

“(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus directional route miles attributable to all areas.

Deadline.

“(4) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of high intensity motorbus vehicle revenue miles or high intensity motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of high intensity motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.”.

#### SEC. 20028. AUTHORIZATIONS.

Section 5338 of title 49, United States Code, is amended to read as follows:

##### “§ 5338. Authorizations

“(a) FORMULA GRANTS.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5318, 5322(d), 5335, 5337, 5339, and 5340, and section 20005(b) of the Federal Public Transportation Act of 2012, \$8,478,000,000 for fiscal year 2013 and \$8,595,000,000 for fiscal year 2014.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

“(A) \$126,900,000 for fiscal year 2013 and \$128,800,000 for fiscal year 2014 shall be available to carry out section 5305;

“(B) \$10,000,000 for each of fiscal years 2013 and 2014 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

“(C) \$4,397,950,000 for fiscal year 2013 and \$4,458,650,000 for fiscal year 2014 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

“(D) \$254,800,000 for fiscal year 2013 and \$258,300,000 for fiscal year 2014 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

“(E) \$599,500,000 for fiscal year 2013 and \$607,800,000 for fiscal year 2014 shall be available to provide financial assistance for rural areas under section 5311, of which not less than \$30,000,000 for fiscal year 2013 and \$30,000,000 for fiscal year 2014 shall be available to carry out section 5311(c)(1) and \$20,000,000 for fiscal year 2013 and \$20,000,000 for fiscal year 2014 shall be available to carry out section 5311(c)(2);

“(F) \$3,000,000 for each of fiscal years 2013 and 2014 shall be available for bus testing under section 5318;

“(G) \$5,000,000 for each of fiscal years 2013 and 2014 shall be available for the national transit institute under section 5322(d);

“(H) \$3,850,000 for each of fiscal years 2013 and 2014 shall be available to carry out section 5335;

“(I) \$2,136,300,000 for fiscal year 2013 and \$2,165,900,000 for fiscal year 2014 shall be available to carry out section 5337;

“(J) \$422,000,000 for fiscal year 2013 and \$427,800,000 for fiscal year 2014 shall be available for the bus and bus facilities program under section 5339; and

“(K) \$518,700,000 for fiscal year 2013 and \$525,900,000 for fiscal year 2014 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and rural areas under section 5311.

“(b) RESEARCH, DEVELOPMENT DEMONSTRATION AND DEPLOYMENT PROJECTS.—There are authorized to be appropriated to carry out section 5312, \$70,000,000 for fiscal year 2013 and \$70,000,000 for fiscal year 2014.

“(c) TRANSIT COOPERATIVE RESEARCH PROGRAM.—There are authorized to be appropriated to carry out section 5313, \$7,000,000 for fiscal year 2013 and \$7,000,000 for fiscal year 2014.

“(d) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—There are authorized to be appropriated to carry out section 5314, \$7,000,000 for fiscal year 2013 and \$7,000,000 for fiscal year 2014.

“(e) HUMAN RESOURCES AND TRAINING.—There are authorized to be appropriated to carry out subsections (a), (b), (c), and (e) of section 5322, \$5,000,000 for fiscal year 2013 and \$5,000,000 for fiscal year 2014.

“(f) EMERGENCY RELIEF PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out section 5324.

“(g) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309, \$1,907,000,000 for fiscal year 2013 and \$1,907,000,000 for fiscal year 2014.

“(h) ADMINISTRATION.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, \$104,000,000 for fiscal year 2013 and \$104,000,000 for fiscal year 2014.

“(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than \$5,000,000 shall be available to carry out section 5329.

“(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than \$1,000,000 shall be available to carry out section 5326.

“(i) OVERSIGHT.—

“(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

“(A) 0.5 percent of amounts made available to carry out section 5305.

“(B) 0.75 percent of amounts made available to carry out section 5307.

“(C) 1 percent of amounts made available to carry out section 5309.

“(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 126 Stat. 4968).

“(E) 0.5 percent of amounts made available to carry out section 5310.

“(F) 0.5 percent of amounts made available to carry out section 5311.

“(G) 0.75 percent of amounts made available to carry out section 5337(c).

“(2) ACTIVITIES.—The activities described in this paragraph are as follows:

“(A) Activities to oversee the construction of a major capital project.

“(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

“(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

Contracts.

“(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

“(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

“(j) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

“(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(k) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.”.

**SEC. 20029. BUS AND BUS FACILITIES FORMULA GRANTS.**

(a) IN GENERAL.—Section 5339 of title 49, United States Code, is amended to read as follows:

**“§ 5339. Bus and bus facilities formula grants**

“(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist eligible recipients described in subsection (c)(1) in financing capital projects—

“(1) to replace, rehabilitate, and purchase buses and related equipment; and

“(2) to construct bus-related facilities.

“(b) GRANT REQUIREMENTS.—The requirements of section 5307 apply to recipients of grants made under this section.

“(c) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

“(1) RECIPIENTS.—Eligible recipients under this section are designated recipients that operate fixed route bus service or that allocate funding to fixed route bus operators.

“(2) SUBRECIPIENTS.—A designated recipient that receives a grant under this section may allocate amounts of the grant to subrecipients that are public agencies or private nonprofit organizations engaged in public transportation.

“(d) DISTRIBUTION OF GRANT FUNDS.—Funds allocated under section 5338(a)(2)(J) shall be distributed as follows:

“(1) NATIONAL DISTRIBUTION.—\$65,500,000 shall be allocated to all States and territories, with each State receiving \$1,250,000 and each territory receiving \$500,000.

“(2) DISTRIBUTION USING POPULATION AND SERVICE FACTORS.—The remainder of the funds not otherwise distributed under paragraph (1) shall be allocated pursuant to the formula set forth in section 5336 other than subsection (b).

“(e) TRANSFERS OF APPORTIONMENTS.—

“(1) TRANSFER FLEXIBILITY FOR NATIONAL DISTRIBUTION FUNDS.—The Governor of a State may transfer any part of the State’s apportionment under subsection (d)(1) to supplement amounts apportioned to the State under section 5311(c) of this title or amounts apportioned to urbanized areas under subsections (a) and (c) of section 5336 of this title.

“(2) TRANSFER FLEXIBILITY FOR POPULATION AND SERVICE FACTORS FUNDS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 any amounts apportioned under subsection (d)(2) that are not allocated to designated recipients in urbanized areas with a population of 200,000 or more.

“(f) GOVERNMENT’S SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs

of the project. A recipient of a grant under this section may provide additional local matching amounts.

“(2) REMAINING COSTS.—The remainder of the net project cost shall be provided—

“(A) in cash from non-Government sources other than revenues from providing public transportation services;

“(B) from revenues derived from the sale of advertising and concessions;

“(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; or

“(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.

Deadline. “(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—Amounts made available under this section may be obligated by a recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period described in the preceding sentence, any amount that is not obligated on the last day of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

Deadline. “(h) DEFINITIONS.—For purposes of this section:

“(1) The term ‘State’ means a State of the United States.

“(2) The term ‘territory’ means the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands.”.

#### SEC. 20030. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SECTION 5305.—Section 5305 of title 49, United States Code, is amended—

(1) in subsection (e)(1)(A), by striking “sections 5304, 5306, 5315, and 5322” and inserting “section 5304 and 5306”;

(2) in subsection (f)—

(A) in the heading, by striking “GOVERNMENT’S” and inserting “GOVERNMENT”; and

(B) by striking “Government’s” and inserting “Government”; and

(3) in subsection (g), by striking “section 5338(c) for fiscal years 2005 through 2012” and inserting “section 5338(a)(2)(A) for a fiscal year”.

(b) SECTION 5313.—Section 5313(a) of title 49, United States Code, is amended—

(1) in the first sentence, by striking “subsections (a)(5)(C)(iii) and (d)(1) of section 5338” and inserting section “5338(c)”; and

(2) in the second sentence, by striking “of Transportation”.

(c) SECTION 5319.—Section 5319 of title 49, United States Code, is amended, in the second sentence—

(1) by striking “sections 5307(e), 5309(h), and 5311(g) of this title” and inserting “sections 5307(d), 5309(l), and 5311(g)”; and

(2) by striking “of the United States” and inserting “made by the”.

(d) SECTION 5325.—Section 5325(b)(2)(A) of title 49, United States Code, is amended by striking “title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation)” and inserting “the Federal Acquisition Regulation, or any successor thereto”.



(e) SECTION 5330.—Effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of title 49, United States Code, as amended by this division, section 5330 of title 49, United States Code, is repealed. Effective date.  
Repeal.

(f) SECTION 5331.—Section 5331 of title 49, United States Code, is amended by striking “Secretary of Transportation” each place that term appears and inserting “Secretary”.

(g) SECTION 5332.—Section 5332(c)(1) of title 49, United States Code, is amended by striking “of Transportation”.

(h) SECTION 5333.—Section 5333(a) of title 49, United States Code, is amended by striking “sections 3141–3144” and inserting “sections 3141 through 3144”.

(i) SECTION 5334.—Section 5334 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by striking “Secretary of Transportation” each place that term appears and inserting “Secretary”; and

(B) in paragraph (1), by striking “Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate” and inserting “Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives”;

(2) in subsection (d), by striking “of Transportation”;

(3) in subsection (e), by striking “of Transportation”;

(4) in subsection (f), by striking “of Transportation”;

(5) in subsection (g), in the matter preceding paragraph

(1)—

(A) by striking “of Transportation”; and

(B) by striking “subsection (a)(3) or (4) of this section” and inserting “paragraph (3) or (4) of subsection (a)”;

(6) in subsection (h)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “of Transportation”; and

(B) in paragraph (2), by striking “of this section”;

(7) in subsection (i)(1), by striking “of Transportation”;

and

(8) in subsection (j), as so redesignated by section 20025 of this division, by striking “Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives” and inserting “Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives”.

(j) SECTION 5335.—Section 5335(a) of title 49, United States Code, is amended by striking “of Transportation”.

(k) ANALYSIS.—The analysis for chapter 53 of title 49, United States Code, is amended to read as follows:

“Sec.

“5301. Policies and purposes.

“5302. Definitions.

- “5303. Metropolitan transportation planning.
- “5304. Statewide and nonmetropolitan transportation planning.
- “5305. Planning programs.
- “5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations.
- “5307. Urbanized area formula grants.
- “[5308. Repealed.]
- “5309. Fixed guideway capital investment grants.
- “5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities.
- “5311. Formula grants for rural areas.
- “5312. Research, development, demonstration, and deployment projects.
- “5313. Transit cooperative research program.
- “5314. Technical assistance and standards development.
- “5315. Private sector participation.
- “[5316. Repealed.]
- “[5317. Repealed.]
- “5318. Bus testing facility.
- “5319. Bicycle facilities.
- “[5320. Repealed.]
- “5321. Crime prevention and security.
- “5322. Human resources and training.
- “5323. General provisions.
- “5324. Public transportation emergency relief program.
- “5325. Contract requirements.
- “5326. Transit asset management.
- “5327. Project management oversight.
- “[5328. Repealed.]
- “5329. Public transportation safety program.
- “5330. State safety oversight.
- “5331. Alcohol and controlled substances testing.
- “5332. Nondiscrimination.
- “5333. Labor standards.
- “5334. Administrative provisions.
- “5335. National transit database.
- “5336. Apportionment of appropriations for formula grants.
- “5337. State of good repair grants.
- “5338. Authorizations.
- “5339. Bus and bus facilities formula grants.
- “5340. Apportionments based on growing States and high density States formula factors.”.

## DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY

Motor Vehicle  
and Highway  
Safety  
Improvement Act  
of 2012.

## TITLE I—MOTOR VEHICLE AND HIGH- WAY SAFETY IMPROVEMENT ACT OF 2012

23 USC 101 note.

### SEC. 31001. SHORT TITLE.

This title may be cited as the “Motor Vehicle and Highway Safety Improvement Act of 2012” or “Mariah’s Act”.

23 USC 101 note.

### SEC. 31002. DEFINITION.

In this title, the term “Secretary” means the Secretary of Transportation.

## Subtitle A—Highway Safety

### SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

- (1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code—  
(A) \$235,000,000 for fiscal year 2013; and  
(B) \$235,000,000 for fiscal year 2014.
- (2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—  
(A) \$110,500,000 for fiscal year 2013; and  
(B) \$113,500,000 for fiscal year 2014.
- (3) NATIONAL PRIORITY SAFETY PROGRAMS.—For carrying out section 405 of title 23, United States Code—  
(A) \$265,000,000 for fiscal year 2013; and  
(B) \$272,000,000 for fiscal year 2014.
- (4) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—  
(A) \$5,000,000 for fiscal year 2013; and  
(B) \$5,000,000 for fiscal year 2014.
- (5) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of SAFETEA-LU (23 U.S.C. 402 note)—  
(A) \$29,000,000 for fiscal year 2013; and  
(B) \$29,000,000 for fiscal year 2014.
- (6) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this subtitle—  
(A) \$25,500,000 for fiscal year 2013; and  
(B) \$25,500,000 for fiscal year 2014.
- (b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, in this subtitle, and in the amendments made by this subtitle, the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter—  
(1) shall only be used to carry out such program; and  
(2) may not be used by States or local governments for construction purposes. 23 USC 401 note.
- (c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and in this subtitle, amounts made available under subsection (a) for fiscal years 2013 and 2014 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.
- (d) REGULATORY AUTHORITY.—Grants awarded under this subtitle shall be in accordance with regulations issued by the Secretary. Grants. 23 USC 402 note.
- (e) STATE MATCHING REQUIREMENTS.—If a grant awarded under this subtitle requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during any fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant (other than planning and administration) shall be available for the purpose of crediting the State during such fiscal year for the non-Federal share of the cost of any project under this subtitle (other than planning or administration) without regard to whether such expenditures were actually made in connection with such project.
- (f) GRANT APPLICATION AND DEADLINE.—To receive a grant under this subtitle, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year.

**SEC. 31102. HIGHWAY SAFETY PROGRAMS.**

(a) **PROGRAMS INCLUDED.**—Section 402(a) of title 23, United States Code, is amended to read as follows:

“(a) **PROGRAM REQUIRED.**—

“(1) **IN GENERAL.**—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.

Compliance.

“(2) **UNIFORM GUIDELINES.**—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

“(A) include programs—

“(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

“(ii) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;

“(iii) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

“(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

“(v) to reduce injuries and deaths resulting from accidents involving school buses;

“(vi) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles); and

“(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures;

“(B) improve driver performance, including—

“(i) driver education;

“(ii) driver testing to determine proficiency to operate motor vehicles; and

“(iii) driver examinations (physical, mental, and driver licensing);

“(C) improve pedestrian performance and bicycle safety;

“(D) include provisions for—

“(i) an effective record system of accidents (including resulting injuries and deaths);

“(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

“(iii) vehicle registration, operation, and inspection; and

“(iv) emergency services; and

“(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.”.

(b) **ADMINISTRATION OF STATE PROGRAMS.**—Section 402(b) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking “and” at the end;  
 (B) by redesignating subparagraph (E) as subparagraph (F);

(C) by inserting after subparagraph (D) the following:  
 “(E) beginning on the first day of the first fiscal year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 in which a State submits its highway safety plan under subsection (f), provide for a data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;” and

(D) in subparagraph (F), as redesignated—

(i) in clause (i), by inserting “and high-visibility law enforcement mobilizations coordinated by the Secretary” after “mobilizations”;

(ii) in clause (iii), by striking “and” at the end;

(iii) in clause (iv), by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following:

“(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).”; and

(2) by striking paragraph (3).

(c) APPROVED HIGHWAY SAFETY PROGRAMS.—Section 402(c) of title 23, United States Code, is amended—

(1) by striking “(c) Funds authorized” and inserting the following:

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—Funds authorized”;

(2) by striking “Such funds” and inserting the following:

“(2) APPORTIONMENT.—Except for amounts identified in section 403(f), funds described in paragraph (1)”;

(3) by striking “The Secretary shall not” and all that follows through “subsection, a highway safety program” and inserting “A highway safety program”;

(4) by inserting “A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States.” after “in every State.”;

(5) by striking “50 per centum” and inserting “20 percent”; and

(6) by striking “The Secretary shall promptly” and all that follows and inserting the following:

“(3) REAPPORTIONMENT.—The Secretary shall promptly apportion the funds withheld from a State’s apportionment to the State if the Secretary approves the State’s highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.

“(4) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

Determinations.  
Deadlines.

“(A) PROHIBITION.—A State may not expend funds apportioned to that State under this section to carry out a program to purchase, operate, or maintain an automated traffic enforcement system.

“(B) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this paragraph, the term ‘automated traffic enforcement system’ means any camera which captures an image of a vehicle for the purposes only of red light and speed enforcement, and does not include hand held radar and other devices operated by law enforcement officers to make an on-the-scene traffic stop, issue a traffic citation, or other enforcement action at the time of the violation.”.

(d) USE OF HIGHWAY SAFETY PROGRAM FUNDS.—Section 402(g) of title 23, United States Code, is amended to read as follows:

“(g) SAVINGS PROVISION.—

“(1) IN GENERAL.—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

“(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

“(B) any purpose for which funds are authorized under section 403.

“(2) DEMONSTRATION PROJECTS.—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.”.

(e) IN GENERAL.—Section 402 of title 23, United States Code, is amended—

(1) by striking subsections (k) and (m);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively; and

(3) by redesignating subsection (l) as subsection (j).

(f) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(k) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

“(1) IN GENERAL.—With respect to fiscal year 2014, and each fiscal year thereafter, the Secretary shall require each State, as a condition of the approval of the State’s highway safety program for that fiscal year, to develop and submit to the Secretary for approval a highway safety plan that complies with the requirements under this subsection.

“(2) TIMING.—Each State shall submit to the Secretary the highway safety plan not later than July 1st of the fiscal year preceding the fiscal year to which the plan applies.

“(3) CONTENTS.—State highway safety plans submitted under paragraph (1) shall include—

“(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

“(i) documentation of current safety levels for each performance measure;

“(ii) quantifiable annual performance targets for each performance measure; and

“(iii) a justification for each performance target, that explains why each target is appropriate and evidence-based;

“(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

“(C) data and data analysis supporting the effectiveness of proposed countermeasures;

“(D) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);

“(E) for the fiscal year preceding the fiscal year to which the plan applies, a report on the State’s success in meeting State safety goals and performance targets set forth in the previous year’s highway safety plan; and

“(F) an application for any additional grants available to the State under this chapter.

“(4) PERFORMANCE MEASURES.—For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (2)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor’s Highway Safety Association and described in the report, ‘Traffic Safety Performance Measures for States and Federal Agencies’ (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall coordinate with the Governor’s Highway Safety Association in making revisions to the set of required performance measures. Limitations.

“(5) REVIEW OF HIGHWAY SAFETY PLANS.—

“(A) IN GENERAL.—Not later than 60 days after the date on which a State’s highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan. Deadline.

“(B) APPROVALS AND DISAPPROVALS.—

“(i) APPROVALS.—The Secretary shall approve a State’s highway safety plan if the Secretary determines that— Determinations.

“(I) the plan and the performance targets contained in the plan are evidence-based and supported by data; and

“(II) the plan, once implemented, will allow the State to meet the State’s performance targets.

“(ii) DISAPPROVALS.—The Secretary shall disapprove a State’s highway safety plan if the Secretary determines that—

“(I) the plan and the performance targets contained in the plan are not evidence-based or supported by data; or

“(II) the plan does not provide for programming of funding in a manner sufficient to allow the State to meet the State’s performance targets.

“(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State’s highway safety plan, the Secretary shall—

“(i) inform the State of the reasons for such disapproval; and Notification.

Deadline.

“(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

“(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

“(E) PUBLIC NOTICE.—A State shall make the State’s highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.”.

(g) TEEN TRAFFIC SAFETY PROGRAM.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(m) TEEN TRAFFIC SAFETY.—

“(1) IN GENERAL.—Subject to the requirements of a State’s highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement statewide efforts to improve traffic safety for teen drivers.

“(2) USE OF FUNDS.—Statewide efforts under paragraph (1)—

“(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

“(i) increase safety belt use;

“(ii) reduce speeding;

“(iii) reduce impaired and distracted driving;

“(iv) reduce underage drinking; and

“(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

“(B) may include—

“(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

“(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

“(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

“(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

“(v) conducting outreach and providing educational resources for parents;

“(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor’s safety representative on issues related to the safety of teen drivers;

“(vii) collaborating with law enforcement; and

“(viii) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities.”.



(h) BIENNIAL REPORT TO CONGRESS.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(n) BIENNIAL REPORT TO CONGRESS.—Not later than October 1, 2015, and biennially thereafter, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that contains—

“(1) an evaluation of each State’s performance with respect to the State’s highway safety plan under subsection (k) and performance targets set by the States in such plans; and

“(2) such recommendations as the Secretary may have for improvements to activities carried out under subsection (k).”.

**SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**

Section 403 of title 23, United States Code, is amended—

(1) by striking subsections (a) through (f) and inserting the following:

“(a) DEFINED TERM.—In this section, the term ‘Federal laboratory’ includes—

“(1) a government-owned, government-operated laboratory; and

“(2) a government-owned, contractor-operated laboratory.

“(b) GENERAL AUTHORITY.—

“(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

“(A) all aspects of highway and traffic safety systems and conditions relating to—

“(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

“(ii) accident causation and investigations;

“(iii) communications; and

“(iv) emergency medical services, including the transportation of the injured;

“(B) human behavioral factors and their effect on highway and traffic safety, including—

“(i) driver education;

“(ii) impaired driving; and

“(iii) distracted driving;

“(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives;

“(D) the development of technologies to detect drug impaired drivers;

“(E) research on, evaluations of, and identification of best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration, and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems; and

“(F) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (E).

“(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

“(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1); or

“(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

“(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, colleges, universities, corporations, partnerships, sole proprietorships, organizations, and trade associations that are incorporated or established under the laws of any State or the United States; and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

“(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

“(e) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or chapter 301 may only be made available to the public in a manner that does not identify individuals.

“(f) COOPERATIVE RESEARCH AND EVALUATION.—

“(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), \$2,500,000 of the total amount available for apportionment to the States for highway safety programs under subsection 402(c) in each fiscal year shall be available for expenditure by the Secretary,

acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

“(2) ADMINISTRATION.—The program established under paragraph (1)—

“(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

“(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.”; and

(2) by adding at the end the following:

“(h) IN-VEHICLE ALCOHOL DETECTION DEVICE RESEARCH.—

“(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration may carry out a collaborative research effort under chapter 301 of title 49 on in-vehicle technology to prevent alcohol-impaired driving.

“(2) FUNDING.—Funds provided under section 405 may be made to be used by the Secretary to conduct the research described in paragraph (1).

“(3) PRIVACY PROTECTION.—If the Administrator utilizes the authority under paragraph (1), the Administrator shall not develop requirements for any device or means of technology to be installed in an automobile intended for retail sale that records a driver’s blood alcohol concentration.

“(4) REPORTS.—If the Administrator conducts the research authorized under paragraph (1), the Administrator shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and Committee on Science, Space, and Technology of the House of Representatives that—

“(A) describes the progress made in carrying out the collaborative research effort; and

“(B) includes an accounting for the use of Federal funds obligated or expended in carrying out that effort.

“(5) DEFINITIONS.—In this subsection:

“(A) ALCOHOL-IMPAIRED DRIVING.—The term ‘alcohol-impaired driving’ means the operation of a motor vehicle (as defined in section 30102(a)(6) of title 49) by an individual whose blood alcohol content is at or above the legal limit.

“(B) LEGAL LIMIT.—The term ‘legal limit’ means a blood alcohol concentration of 0.08 percent or greater (as set forth in section 163(a)) or such other percentage limitation as may be established by applicable Federal, State, or local law.”.

#### **SEC. 31104. NATIONAL DRIVER REGISTER.**

Section 30302(b) of title 49, United States Code, is amended by adding at the end the following: “The Secretary shall make continual improvements to modernize the Register’s data processing system.”.

#### **SEC. 31105. NATIONAL PRIORITY SAFETY PROGRAMS.**

(a) IN GENERAL.—Section 405 of title 23, United States Code, is amended to read as follows:

**“§ 405. National priority safety programs**

“(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall manage programs to address national priorities for reducing highway deaths and injuries. Funds shall be allocated according to the priorities set forth in paragraphs (1) and (2).

“(1) GRANTS TO STATES.—

“(A) OCCUPANT PROTECTION.—16 percent of the funds provided under this section in each fiscal year shall be allocated among States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles (as described in subsection (b)).

“(B) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—14.5 percent of the funds provided under this section in each fiscal year shall be allocated among States that meet the requirements of the State traffic safety information system improvements (as described in subsection (c)).

“(C) IMPAIRED DRIVING COUNTERMEASURES.—52.5 percent of the funds provided under this section in each fiscal year shall be allocated among States that meet the requirements of the impaired driving countermeasures (as described in subsection (d)).

“(D) DISTRACTED DRIVING.—8.5 percent of the funds provided under this section in each fiscal year shall be allocated among States that adopt and implement effective laws to reduce distracted driving (as described in subsection (e)).

“(E) MOTORCYCLIST SAFETY.—1.5 percent of the funds provided under this section in each fiscal year shall be allocated among States that implement motorcyclist safety programs (as described in subsection (f)).

“(F) STATE GRADUATED DRIVER LICENSING LAWS.—5 percent of the funds provided under this section in each fiscal year shall be allocated among States that adopt and implement graduated driver licensing laws (as described in subsection (g)).

“(G) TRANSFERS.—Notwithstanding subparagraphs (A) through (F), the Secretary may reallocate, before the last day of any fiscal year, any amounts remaining available to carry out any of the activities described in subsections (b) through (g) to increase the amount made available to carry out any of the other activities described in such subsections, or the amount made available under section 402, in order to ensure, to the maximum extent possible, that all such amounts are obligated during such fiscal year.

“(H) MAINTENANCE OF EFFORT.—

“(i) REQUIREMENTS.—No grant may be made to a State in any fiscal year under subsection (b), (c), or (d) unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate

expenditures from all State and local sources for programs described in those sections at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012.

“(ii) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under clause (i) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

“(2) OTHER PRIORITY PROGRAMS.—Funds provided under this section in each fiscal year may be used for research into technology to prevent alcohol-impaired driving (as described in subsection 403(h)).

“(b) OCCUPANT PROTECTION GRANTS.—

“(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

“(2) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this subsection may not exceed 80 percent for each fiscal year for which a State receives a grant.

“(3) ELIGIBILITY.—

“(A) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

“(i) submits an occupant protection plan during the first fiscal year; Occupant plan.

“(ii) participates in the Click It or Ticket national mobilization;

“(iii) has an active network of child restraint inspection stations; and

“(iv) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

“(B) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

“(i) the State meets all of the requirements under clauses (i) through (iv) of subparagraph (A); and

“(ii) the Secretary determines that the State meets at least 3 of the following criteria:

“(I) The State conducts sustained (on-going and periodic) seat belt enforcement at a defined level of participation during the year.

“(II) The State has enacted and enforces a primary enforcement seat belt use law.

“(III) The State has implemented counter-measure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

“(IV) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

“(V) The State has implemented a comprehensive occupant protection program in which the State has—

“(aa) conducted a program assessment;

“(bb) developed a statewide strategic plan;

“(cc) designated an occupant protection coordinator; and

“(dd) established a statewide occupant protection task force.

“(VI) The State—

“(aa) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

“(bb) will conduct such an assessment during the first year of the grant.

“(4) USE OF GRANT AMOUNTS.—

“(A) IN GENERAL.—Grant funds received pursuant to this subsection may be used to—

“(i) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

“(ii) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

“(iii) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

“(iv) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

“(v) purchase and distribute child restraints to low-income families, provided that not more than 5 percent of the funds received in a fiscal year are used for such purpose; and

“(vi) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys.

“(B) HIGH SEAT BELT USE RATE.—A State that is eligible for funds under paragraph (3)(A) may use up to 75 percent of such funds for any project or activity eligible for funding under section 402.

“(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State’s apportionment under section 402 for fiscal year 2009.

“(6) DEFINITIONS.—In this subsection:

“(A) CHILD RESTRAINT.—The term ‘child restraint’ means any device (including child safety seat, booster seat, harness, and excepting seat belts) that is—

“(i) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less; and

“(ii) certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

“(B) SEAT BELT.—The term ‘seat belt’ means—

“(i) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

“(ii) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

“(c) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—

“(1) GENERAL AUTHORITY.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

“(A) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

“(B) evaluate the effectiveness of efforts to make such improvements;

“(C) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

“(D) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

“(E) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

“(2) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this subsection may not exceed 80 percent.

“(3) ELIGIBILITY.—A State is not eligible for a grant under this subsection in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

“(A) has a functioning traffic records coordinating committee (referred to in this paragraph as ‘TRCC’) that meets at least 3 times each year;

“(B) has designated a TRCC coordinator;

“(C) has established a State traffic record strategic plan that has been approved by the TRCC and describes

specific quantifiable and measurable improvements anticipated in the State’s core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

“(D) has demonstrated quantitative progress in relation to the significant data program attribute of—

“(i) accuracy;

“(ii) completeness;

“(iii) timeliness;

“(iv) uniformity;

“(v) accessibility; or

“(vi) integration of a core highway safety database;

and

Certification.

“(E) has certified to the Secretary that an assessment of the State’s highway safety data and traffic records system was conducted or updated during the preceding 5 years.

“(4) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in paragraph (3)(D).

“(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the State’s apportionment under section 402 for fiscal year 2009.

“(d) IMPAIRED DRIVING COUNTERMEASURES.—

Grants.

“(1) IN GENERAL.—Subject to the requirements under this subsection, the Secretary of Transportation shall award grants to States that adopt and implement—

“(A) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

“(B) alcohol-ignition interlock laws.

“(2) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this subsection may not exceed 80 percent in any fiscal year in which the State receives a grant.

Plans.

“(3) ELIGIBILITY.—

“(A) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this subsection.

“(B) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this subsection if—

“(i) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

“(ii) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

“(C) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this subsection if the State—

“(i) conducted an assessment of the State’s impaired driving program during the most recent 3 calendar years; or



“(II) will conduct such an assessment during the first year of the grant;

“(ii) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

“(I) addresses any recommendations from the assessment conducted under clause (i);

“(II) includes a detailed plan for spending any grant funds provided under this subsection; and

“(III) describes how such spending supports the statewide program; and

“(iii)(I) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency’s review and approval;

“(II) annually updates the statewide plan in each subsequent year of the grant; and

“(III) submits each updated statewide plan for the agency’s review and comment.

“(4) USE OF GRANT AMOUNTS.—

“(A) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

“(i) high visibility enforcement efforts; and

“(ii) any of the activities described in subparagraph

(B) if—

“(I) the activity is described in the statewide plan; and

“(II) the Secretary approves the use of funding for such activity.

“(B) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

“(i) any of the purposes described in subparagraph (A);

“(ii) hiring a full-time or part-time impaired driving coordinator of the State’s activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

“(iii) court support of high visibility enforcement efforts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges, and probation officers) to assist such professionals in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing driving while intoxicated courts;

“(iv) alcohol ignition interlock programs;

“(v) improving blood-alcohol concentration testing and reporting;

“(vi) paid and earned media in support of high visibility enforcement efforts, and conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

“(vii) training on the use of alcohol screening and brief intervention;

“(viii) developing impaired driving information systems; and

“(ix) costs associated with a 24-7 sobriety program.

“(C) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium and high-range States may use funds for such expenditures upon approval by the Secretary.

“(5) GRANT AMOUNT.—Subject to paragraph (6), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State’s apportionment under section 402(c) for fiscal year 2009.

“(6) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

“(A) IN GENERAL.—The Secretary shall make a separate grant under this subsection to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.

“(B) USE OF FUNDS.—Grants authorized under subparagraph (A) may be used by recipient States for any eligible activities under this subsection or section 402.

“(C) ALLOCATION.—Amounts made available under this paragraph shall be allocated among States described in subparagraph (A) on the basis of the apportionment formula set forth in section 402(c).

“(D) FUNDING.—Not more than 15 percent of the amounts made available to carry out this subsection in a fiscal year shall be made available by the Secretary for making grants under this paragraph.

“(7) DEFINITIONS.—In this subsection:

“(A) 24-7 SOBRIETY PROGRAM.—The term ‘24-7 sobriety program’ means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

“(i) require an individual who plead guilty or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

“(ii) require the individual to be subject to testing for alcohol or drugs—

“(I) at least twice per day;

“(II) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

“(III) by an alternate method with the concurrence of the Secretary.

“(B) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term ‘average impaired driving fatality rate’ means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 percent for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed

by the Administrator of the National Highway Traffic Safety Administration.

“(C) HIGH-RANGE STATE.—The term ‘high-range State’ means a State that has an average impaired driving fatality rate of 0.60 or higher.

“(D) LOW-RANGE STATE.—The term ‘low-range State’ means a State that has an average impaired driving fatality rate of 0.30 or lower..

“(E) MID-RANGE STATE.—The term ‘mid-range State’ means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.

“(e) DISTRACTED DRIVING GRANTS.—

“(1) IN GENERAL.—The Secretary shall award a grant under this subsection to any State that enacts and enforces a statute that meets the requirements set forth in paragraphs (2) and (3).

“(2) PROHIBITION ON TEXTING WHILE DRIVING.—A State statute meets the requirements set forth in this paragraph if the statute—

“(A) prohibits drivers from texting through a personal wireless communications device while driving;

“(B) makes violation of the statute a primary offense; and

“(C) establishes—

“(i) a minimum fine for a first violation of the statute; and

“(ii) increased fines for repeat violations.

“(3) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.—A State statute meets the requirements set forth in this paragraph if the statute—

“(A) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

“(B) makes violation of the statute a primary offense;

“(C) requires distracted driving issues to be tested as part of the State driver’s license examination; and

“(D) establishes—

“(i) a minimum fine for a first violation of the statute; and

“(ii) increased fines for repeat violations.

“(4) PERMITTED EXCEPTIONS.—A statute that meets the requirements set forth in paragraphs (2) and (3) may provide exceptions for—

“(A) a driver who uses a personal wireless communications device to contact emergency services;

“(B) emergency services personnel who use a personal wireless communications device while—

“(i) operating an emergency services vehicle; and

“(ii) engaged in the performance of their duties as emergency services personnel; and

“(C) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual’s employment if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.

“(5) USE OF GRANT FUNDS.—Of the amounts received by a State under this subsection—

“(A) at least 50 percent shall be used—

“(i) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

“(ii) for traffic signs that notify drivers about the distracted driving law of the State; or

“(iii) for law enforcement costs related to the enforcement of the distracted driving law; and

“(B) up to 50 percent may be used for any eligible project or activity under section 402.

“(6) ADDITIONAL GRANTS.—In the first fiscal year that grants are awarded under this subsection, the Secretary may use up to 25 percent of the amounts available for grants under this subsection to award grants to States that—

“(A) enacted statutes before the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, which meet the requirements set forth in subparagraphs (A) and (B) of paragraph (2); and

“(B) are otherwise ineligible for a grant under this subsection.

“(7) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts available under this subsection in a fiscal year for distracted driving grants, the Secretary may expend up to \$5,000,000 for the development and placement of broadcast media to support the enforcement of State distracted driving laws.

“(8) DISTRACTED DRIVING STUDY.—

“(A) IN GENERAL.—The Secretary shall conduct a study of all forms of distracted driving.

“(B) COMPONENTS.—The study conducted under subparagraph (A) shall—

“(i) examine the effect of distractions other than the use of personal wireless communications on motor vehicle safety;

“(ii) identify metrics to determine the nature and scope of the distracted driving problem;

“(iii) identify the most effective methods to enhance education and awareness; and

“(iv) identify the most effective method of reducing deaths and injuries caused by all forms of distracted driving.

“(C) REPORT.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall submit a report containing the results of the study conducted under this paragraph to—

“(i) the Committee on Commerce, Science, and Transportation of the Senate; and

“(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

“(9) DEFINITIONS.—In this subsection:

“(A) DRIVING.—The term ‘driving’—

“(i) means operating a motor vehicle on a public road, including operation while temporarily stationary

because of traffic, a traffic light or stop sign, or otherwise; and

“(ii) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

“(B) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—

The term ‘personal wireless communications device’—

“(i) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

“(ii) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

“(C) PRIMARY OFFENSE.—The term ‘primary offense’ means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

“(D) PUBLIC ROAD.—The term ‘public road’ has the meaning given such term in section 402(c).

“(E) TEXTING.—The term ‘texting’ means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.

“(f) MOTORCYCLIST SAFETY.—

“(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

“(2) ALLOCATION.—The amount of a grant awarded to a State for a fiscal year under this subsection may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402.

“(3) GRANT ELIGIBILITY.—A State becomes eligible for a grant under this subsection by adopting or demonstrating to the satisfaction of the Secretary, at least 2 of the following criteria:

“(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, which—

“(i) provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists; and

“(ii) may include innovative training opportunities to meet unique regional needs.

“(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

“(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of

motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).

“(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

“(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

“(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety purposes.

“(4) ELIGIBLE USES.—

“(A) IN GENERAL.—A State may use funds from a grant under this subsection only for motorcyclist safety training and motorcyclist awareness programs, including—

“(i) improvements to motorcyclist safety training curricula;

“(ii) improvements in program delivery of motorcycle training to both urban and rural areas, including—

“(I) procurement or repair of practice motorcycles;

“(II) instructional materials;

“(III) mobile training units; and

“(IV) leasing or purchasing facilities for closed-course motorcycle skill training;

“(iii) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

“(iv) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the ‘share-the-road’ safety messages developed under subsection (g).

“(B) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this subsection may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out this subsection.

“(5) DEFINITIONS.—In this subsection:

“(A) MOTORCYCLIST AWARENESS.—The term ‘motorcyclist awareness’ means individual or collective awareness of—

“(i) the presence of motorcycles on or near roadways; and

“(ii) safe driving practices that avoid injury to motorcyclists.

“(B) MOTORCYCLIST AWARENESS PROGRAM.—The term ‘motorcyclist awareness program’ means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the governor of the State.

“(C) MOTORCYCLIST SAFETY TRAINING.—The term ‘motorcyclist safety training’ means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the governor of the State.

“(D) STATE.—The term ‘State’ has the meaning given such term in section 101(a) of title 23, United States Code.

“(g) STATE GRADUATED DRIVER LICENSING INCENTIVE GRANT.—

“(1) GRANTS AUTHORIZED.—Subject to the requirements under this subsection, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in paragraph (2).

“(2) MINIMUM REQUIREMENTS.—

“(A) IN GENERAL.—A State meets the requirements set forth in this paragraph if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process described in subparagraph (B) before receiving an unrestricted driver’s license.

“(B) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this subparagraph if the State’s driver’s license laws include—

“(i) a learner’s permit stage that—

“(I) is at least 6 months in duration;

“(II) prohibits the driver from using a cellular telephone or any communications device in a non-emergency situation; and

“(III) remains in effect until the driver—

“(aa) reaches 16 years of age and enters the intermediate stage; or

“(bb) reaches 18 years of age;

“(ii) an intermediate stage that—

“(I) commences immediately after the expiration of the learner’s permit stage;

“(II) is at least 6 months in duration;

“(III) prohibits the driver from using a cellular telephone or any communications device in a non-emergency situation;

“(IV) restricts driving at night;

“(V) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and

“(VI) remains in effect until the driver reaches 18 years of age; and

“(iii) any other requirement prescribed by the Secretary of Transportation, including—

“(I) in the learner’s permit stage—

“(aa) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

“(bb) a driver training course; and

“(cc) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and

“(II) in the learner’s permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver’s license be automatically delayed for any individual who, during the learner’s permit or intermediate stage, is convicted of a driving-related offense, including—

“(aa) driving while intoxicated;

“(bb) misrepresentation of his or her true age;

“(cc) reckless driving;

“(dd) driving without wearing a seat belt;

“(ee) speeding; or

“(ff) any other driving-related offense, as determined by the Secretary.

“(3) RULEMAKING.—

“(A) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements set forth in paragraph (2), in accordance with the notice and comment provisions under section 553 of title 5.

Deadline.

“(B) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in paragraph (2) shall be deemed by the Secretary to be in compliance with the requirement set forth in paragraph (2) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

“(i) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

“(ii) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

“(4) ALLOCATION.—Grant funds allocated to a State under this subsection for a fiscal year shall be in proportion to a State’s apportionment under section 402 for such fiscal year.

“(5) USE OF FUNDS.—Of the grant funds received by a State under this subsection—

“(A) at least 25 percent shall be used for—

“(i) enforcing a 2-stage licensing process that complies with paragraph (2);

“(ii) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in clause (i);

“(iii) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

“(iv) carrying out other administrative activities that the Secretary considers relevant to the State’s 2-stage licensing process; and

“(v) carrying out a teen traffic safety program described in section 402(m); and



“(B) up to 75 percent may be used for any eligible project or activity under section 402.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 405 and inserting the following:

“405. National priority safety programs.”

**SEC. 31106. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

Section 2009 of SAFETEA-LU (23 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by striking “at least 2” and inserting “at least 3”; and

(B) by striking “years 2006 through 2012.” and inserting “fiscal years 2013 and 2014. The Administrator may also initiate and support additional campaigns in each of fiscal years 2013 and 2014 for the purposes specified in subsection (b).”;

(2) in subsection (b), by striking “either or both” and inserting “outcomes related to at least 1”;

(3) in subsection (c), by inserting “and Internet-based outreach” after “print media advertising”;

(4) in subsection (e), by striking “subsections (a), (c), and (f)” and inserting “subsection (c)”;

(5) by striking subsection (f); and

(6) by redesignating subsection (g) as subsection (f).

**SEC. 31107. AGENCY ACCOUNTABILITY.**

Section 412 of title 23, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

“(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

“(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years. Time period.

“(2) EXCEPTIONS.—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

“(3) COMPONENTS.—Reviews under this subsection shall include—

“(A) a management evaluation of all grant programs funded under this chapter;

“(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

“(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

“(D) the development of recommendations on how each State could—

“(i) improve the management and oversight of its grant activities; and

“(ii) provide a management and oversight plan for such grant programs.”; and

(2) by striking subsection (f).

**SEC. 31108. EMERGENCY MEDICAL SERVICES.**

Section 10202 of Public Law 109–59 (42 U.S.C. 300d–4), is amended by adding at the end the following:

“(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—The Secretary of Transportation, in coordination with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall establish a National Emergency Medical Services Advisory Council (referred to in this subsection as the ‘Advisory Council’).

“(2) MEMBERSHIP.—The Advisory Council shall be composed of 25 members, who—

“(A) shall be appointed by the Secretary of Transportation; and

“(B) shall collectively be representative of all sectors of the emergency medical services community.

Consultation.

“(3) PURPOSES.—The purposes of the Advisory Council are to advise and consult with—

“(A) the Federal Interagency Committee on Emergency Medical Services on matters relating to emergency medical services issues; and

“(B) the Secretary of Transportation on matters relating to emergency medical services issues affecting the Department of Transportation.

“(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration shall provide administrative support to the Advisory Council, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

Deadline.

“(5) LEADERSHIP.—The members of the Advisory Council shall annually select a chairperson of the Advisory Council.

“(6) MEETINGS.—The Advisory Council shall meet as frequently as is determined necessary by the chairperson of the Advisory Council.

“(7) ANNUAL REPORTS.—The Advisory Council shall prepare an annual report to the Secretary of Transportation regarding the Advisory Council’s actions and recommendations.”.

**SEC. 31109. REPEAL OF PROGRAMS.**

23 USC 406 note.

(a) GENERAL PROVISION.—A repeal made by this section shall not affect amounts apportioned or allocated before the effective date of such repeal, provided that such apportioned or allocated funds continue to be subject to the requirements to which such funds were subject under the repealed section as in effect on the day before the date of the repeal.

(b) SAFETY BELT PERFORMANCE GRANTS.—Section 406 of title 23, United States Code, and the item relating to section 406 in the analysis for chapter 4 of title 23, United States Code, are repealed.

(c) INNOVATIVE PROJECT GRANTS.—Section 407 of title 23, United States Code, and the item relating to section 407 in the analysis for chapter 4, are repealed.

(d) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 408 of title 23, United States Code, and the item relating to section 408 in the analysis for chapter 4, are repealed.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—Section 410 of title 23, United States Code, and the item relating to section 410 in the analysis for chapter 4, are repealed.

(f) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—Section 411 of title 23, United States Code, and the item relating to section 411 in the analysis for chapter 4, are repealed.

(g) MOTORCYCLIST SAFETY.—Section 2010 of SAFETEA-LU (23 U.S.C. 402 note), and the item relating to section 2010 in the table of contents under section 1(b) of such Act, are repealed.

(h) CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.—Section 2011 of SAFETEA-LU (23 U.S.C. 405 note), and the item relating to section 2011 in the table of contents under section 1(b) of that Act, are repealed.

(i) DRUG-IMPAIRED DRIVING ENFORCEMENT.—Section 2013 of SAFETEA-LU (23 U.S.C. 403 note), and the item relating to section 2013 in the table of contents under section 1(b) of that Act, are repealed.

(j) FIRST RESPONDER VEHICLE SAFETY PROGRAM.—Section 2014 of SAFETEA-LU (23 U.S.C. 402 note), and the item relating to section 2014 in the table of contents under section 1(b) of that Act, are repealed.

(k) RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM.—Section 2016 of SAFETEA-LU (119 Stat. 1541), and the item relating to section 2016 in the table of contents under section 1(b) of that Act, are repealed.

(l) OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.—Section 2017 of SAFETEA-LU (119 Stat. 1541), and the item relating to section 2017 in the table of contents under section 1(b) of that Act, are repealed.

23 USC 402 note.

## Subtitle B—Enhanced Safety Authorities

### SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.

Section 30102(a)(7)(C) of title 49, United States Code, is amended to read as follows:

“(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

“(i) is not a system, part, or component of a motor vehicle; and

“(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding users of motor vehicles against risk of accident, injury, or death.”.

### SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF SAFETY BELTS.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended—

(1) in section 30122, by striking subsection (d); and

(2) by amending section 30124 to read as follows:

#### “§ 30124. Nonuse of safety belts

“A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by

using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30124 and inserting the following:

“Sec. 30124. Nonuse of safety belts.”.

**SEC. 31203. CIVIL PENALTIES.**

(a) IN GENERAL.—Section 30165 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “30123(d)” and inserting “30123(a)”;

and

(ii) by striking “\$15,000,000” and inserting “\$35,000,000”; and

(B) in paragraph (3), by striking “\$15,000,000” and inserting “\$35,000,000”; and

(2) by amending subsection (c) to read as follows:

“(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

“(1) the nature of the defect or noncompliance;

“(2) knowledge by the person charged of its obligations under this chapter;

“(3) the severity of the risk of injury;

“(4) the occurrence or absence of injury;

“(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

“(6) actions taken by the person charged to identify, investigate, or mitigate the condition;

“(7) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

“(8) whether the person has been assessed civil penalties under this section during the most recent 5 years; and

“(9) other appropriate factors.”.

(b) CIVIL PENALTY CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is the earlier of the date on which final regulations are issued under subsection (b) or 1 year after the date of enactment of this Act.

**SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by adding at the end the following:

Deadline.  
Regulations.  
49 USC 30165  
note.

49 USC 30165  
note.

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH  
AND DEVELOPMENT

**“§ 30181. Policy**

“The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

**“§ 30182. Powers and duties**

“(a) IN GENERAL.—The Secretary of Transportation shall—

“(1) conduct motor vehicle safety research, development, and testing programs and activities, including activities related to new and emerging technologies that impact or may impact motor vehicle safety;

“(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

“(A) accidents involving motor vehicles; and

“(B) deaths or personal injuries resulting from those accidents.

“(b) ACTIVITIES.—In carrying out a program under this section, the Secretary of Transportation may—

“(1) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration in motor vehicle safety research programs and activities, including using program funds for planning, implementing, conducting, and presenting results of program activities, and for related expenses;

“(2) obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;

“(3)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

“(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

“(4) award grants to States and local governments, interstate authorities, and nonprofit institutions; and

“(5) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including government-owned, government-operated laboratories and government-owned, contractor-operated laboratories), and research organizations.

“(c) USE OF PUBLIC AGENCIES.—In carrying out this subchapter, the Secretary shall avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.

“(d) FACILITIES.—The Secretary may plan, design, and construct a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety. An expenditure of more than \$1,500,000 for planning, design, or construction may be made only if 60 days

Notification.  
Time period.

prior notice of the planning, design, or construction is provided to the Committees on Science, Space, and Technology and Transportation and Infrastructure of the House of Representatives and the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate. The notice shall include—

“(1) a brief description of the facility being planned, designed, or constructed;

“(2) the location of the facility;

“(3) an estimate of the maximum cost of the facility;

“(4) a statement identifying private and public agencies that will use the facility and the contribution each agency will make to the cost of the facility; and

“(5) a justification of the need for the facility.

“(e) INCREASING COSTS OF APPROVED FACILITIES.—The estimated maximum cost of a facility noticed under subsection (d) may be increased by an amount equal to the percentage increase in construction costs from the date the notice is submitted to Congress. However, the increase in the cost of the facility may not be more than 10 percent of the estimated maximum cost included in the notice. The Secretary shall decide what increase in construction costs has occurred.

Public  
information.

“(f) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public. The owner of a background patent may not be deprived of a right under the patent.

#### “§ 30183. Prohibition on certain disclosures.

“Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, may be made available to the public only in a manner that does not identify individuals.”.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

“30181. Policy.

“30182. Powers and duties.

“30183. Prohibition on certain disclosures.”.

(2) DELETION OF REDUNDANT MATERIAL.—Chapter 301 of title 49, United States Code, is amended—

(A) in the chapter analysis, by striking the item relating to section 30168; and

(B) by striking section 30168.

#### SEC. 31205. ODOMETER REQUIREMENTS.

(a) DEFINITION.—Section 32702(5) of title 49, United States Code, is amended by inserting “or system of components” after “instrument”.

(b) **ELECTRONIC DISCLOSURES OF ODOMETER INFORMATION.**—Section 32705 of title 49, United States Code, is amended by adding at the end the following:

“(g) **ELECTRONIC DISCLOSURES.**—Not later than 18 months after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, in carrying out this section, the Secretary shall prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.”.

Deadline.  
Regulations.

**SEC. 31206. INCREASED PENALTIES AND DAMAGES FOR ODOMETER FRAUD.**

Chapter 327 of title 49, United States Code, is amended—

(1) in section 32709(a)(1)—

(A) by striking “\$2,000” and inserting “\$10,000”; and

(B) by striking “\$100,000” and inserting “\$1,000,000”;

and

(2) in section 32710(a), by striking “\$1,500” and inserting “\$10,000”.

**SEC. 31207. EXTEND PROHIBITIONS ON IMPORTING NONCOMPLIANT VEHICLES AND EQUIPMENT TO DEFECTIVE VEHICLES AND EQUIPMENT.**

Section 30112 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

“(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.”; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by adding “or” at the end;

and

(C) by adding at the end the following:

“(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);”.

**SEC. 31208. CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 30164 and inserting the following:

“30164. Service of process; conditions on importation of vehicles and equipment.”; and

(2) in section 30164—

(A) in the section heading, by adding “; **CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT**” at the end; and

(B) by adding at the end the following:

“(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide, upon request, such information that is necessary to identify and track the products as the Secretary, by rule, may specify, including—

“(1) the product by name and the manufacturer’s address;

and

“(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

“(d) REGULATIONS ON THE IMPORT OF A MOTOR VEHICLE.—

The Secretary may issue regulations that—

“(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer’s compliance with—

“(A) the requirements under this section;

“(B) paragraph (1) or (3) of section 30112(a) with respect to such motor vehicle or motor vehicle equipment;

“(C) the provision of reports and records required to be maintained with respect to such motor vehicle or motor vehicle equipment under this chapter;

“(D) a request for inspection of premises, vehicle, or equipment under section 30166;

“(E) an order or voluntary agreement to remedy such vehicle or equipment; or

“(F) any rules implementing the requirements described in this subsection;

“(2) provide an opportunity for the manufacturer to present information before the Secretary’s determination as to whether the manufacturer’s imports should be restricted; and

“(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

“(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

“(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

“(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

“(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.

Coordination.

“(f) RULEMAKING.—In issuing regulations under this section, the Secretary shall seek to reduce duplicative requirements by coordinating with the Department of Homeland Security.”.

**SEC. 31209. PORT INSPECTIONS; SAMPLES FOR EXAMINATION OR TESTING.**

Section 30166(c) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3)—



(A) in subparagraph (A), by inserting “(including at United States ports of entry)” after “held for introduction in interstate commerce”; and

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.”.

Memorandum.

## Subtitle C—Transparency and Accountability

### SEC. 31301. PUBLIC AVAILABILITY OF RECALL INFORMATION.

49 USC 30166  
note.  
Deadline.

(a) VEHICLE RECALL INFORMATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

(1) be available to the public on the Internet;

(2) be searchable by vehicle make and model and vehicle identification number;

(3) be in a format that preserves consumer privacy; and

(4) includes information about each recall that has not been completed for each vehicle.

Web posting.

(b) RULEMAKING.—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in subsection (a), with respect to that manufacturer’s motor vehicles, on a publicly accessible Internet website. Any rules promulgated under this subsection—

(1) shall limit the information that must be made available under this section to include only those recalls issued not more than 15 years prior to the date of enactment of this Act;

(2) may require information under paragraph (1) to be provided to a dealer or an owner of a vehicle at no charge; and

(3) shall permit a manufacturer a reasonable period of time after receiving information from a dealer with respect to a vehicle to update the information about the vehicle on the publicly accessible Internet website.

(c) PROMOTION OF PUBLIC AWARENESS.—The Secretary, in consultation with the heads of other relevant agencies, shall promote consumer awareness of the information made available to the public pursuant to this section.

### SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION OUTREACH TO MANUFACTURER, DEALER, AND MECHANIC PERSONNEL.

49 USC 30101  
note.

The Secretary shall publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel.

Publicity.

**SEC. 31303. PUBLIC AVAILABILITY OF COMMUNICATIONS TO DEALERS.**

(a) **INTERNET ACCESSIBILITY.**—Section 30166(f) of title 49, United States Code, is amended—

(1) by striking “A manufacturer shall give the Secretary of Transportation” and inserting the following:

“(1) **IN GENERAL.**—A manufacturer shall give the Secretary of Transportation, and the Secretary shall make available on a publicly accessible Internet website,”; and

(2) by adding at the end the following:

“(2) **INDEX.**—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, that—

“(A) identifies the make, model, and model year of the affected vehicles;

“(B) includes a concise summary of the subject matter of the communication; and

“(C) shall be made available by the Secretary to the public on the Internet in a searchable format.”.

**SEC. 31304. CORPORATE RESPONSIBILITY FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORTS.**

(a) **IN GENERAL.**—Section 30166 of title 49, United States Code, is amended by adding at the end the following:

“(o) **CORPORATE RESPONSIBILITY FOR REPORTS.**—

“(1) **IN GENERAL.**—The Secretary may promulgate rules requiring a senior official responsible for safety in any company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

“(A) the signing official has reviewed the submission; and

“(B) based on the official’s knowledge, the submission does not—

“(i) contain any untrue statement of a material fact; or

“(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

“(2) **NOTICE.**—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).”.

(b) **CIVIL PENALTY.**—Section 30165(a) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking “A person” and inserting “Except as provided in paragraph (4), a person”; and

(2) by adding at the end the following:

“(4) **FALSE OR MISLEADING REPORTS.**—A person who knowingly and willfully submits materially false or misleading information to the Secretary, after certifying the same information as accurate under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$1,000,000.”.

Certification.

**SEC. 31305. PASSENGER MOTOR VEHICLE INFORMATION PROGRAM.**

(a) **DEFINITION.**—Section 32301 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

“(1) ‘crash avoidance’ means preventing or mitigating a crash;”; and

(3) in paragraph (2), as redesignated, by striking the period at the end and inserting “; and”.

(b) **INFORMATION INCLUDED.**—Section 32302(a) of title 49, United States Code, is amended—

(1) in paragraph (2), by inserting “, crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles” after “crashworthiness”; and

(2) by striking paragraph (4).

**SEC. 31306. PROMOTION OF VEHICLE DEFECT REPORTING.**

Section 32302 of title 49, United States Code, is amended by adding at the end the following:

“(d) **MOTOR VEHICLE DEFECT REPORTING INFORMATION.**—

“(1) **RULEMAKING REQUIRED.**—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

“(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

“(B) to prominently print the information described in subparagraph (A) within the owner’s manual; and

“(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

“(2) **APPLICATION.**—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).”

Applicability.

**SEC. 31307. WHISTLEBLOWER PROTECTIONS FOR MOTOR VEHICLE MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIP EMPLOYEES.**

(a) **IN GENERAL.**—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**“§ 30171. Protection of employees providing motor vehicle safety information**

“(a) **DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.**—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because

the employee (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(3) testified or is about to testify in such a proceeding;

“(4) assisted or participated or is about to assist or participate in such a proceeding; or

“(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of chapter 301 of this title, or any order, rule, regulation, standard, or ban under such provision.

Deadlines.

“(b) COMPLAINT PROCEDURE.—

“(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may file (or have any person file on his or her behalf), not later than 180 days after the date on which such violation occurs, a complaint with the Secretary of Labor (hereinafter in this section referred to as the ‘Secretary’) alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

Notifications.

“(2) INVESTIGATION; PRELIMINARY ORDER.—

“(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to

stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

Time period.

“(B) REQUIREMENTS.—

“(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3) FINAL ORDER.—

“(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) ATTORNEYS’ FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

“(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney’s fee not exceeding \$1,000.

Deadline.

“(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary.

“(4) REVIEW.—

“(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

Deadline.

“(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

“(6) ENFORCEMENT OF ORDER BY PARTIES.—

“(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order.

The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

“(c) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

“(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person’s agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.”

(b) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study of the whistleblower protections established by law with respect to this program, and update its study of other such programs administered by the Secretary of Transportation; and Study.

(2) submit to Congress a report of the results of the study under paragraph (1), including—

(A) an identification of the differences between the provisions applicable to different programs, the number of claims brought pursuant to each provision, and the outcome of each claim; and

(B) any recommendations for program changes that the Comptroller General considers appropriate based on the study under paragraph (1).

(c) CONFORMING AMENDMENT.—The table of sections for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30170 the following:

“30171. Protection of employees providing motor vehicle safety information.”.

#### SEC. 31308. ANTI-REVOLVING DOOR.

(a) STUDY OF DEPARTMENT OF TRANSPORTATION POLICIES ON OFFICIAL COMMUNICATION WITH FORMER MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department of Transportation shall— Deadline.

(1) review the Department of Transportation’s policies and procedures applicable to official communication with former employees concerning motor vehicle safety compliance matters for which they had responsibility during the last 12 months of their tenure at the Department, including any limitations on the ability of such employees to submit comments, or otherwise communicate directly with the Department, on motor vehicle safety issues; and Review.

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that contains Reports.

the Inspector General’s findings, conclusions, and recommendations for strengthening those policies and procedures to minimize the risk of undue influence without compromising the ability of the Department to employ and retain highly qualified individuals for such responsibilities.

49 USC 323 note.

(b) POST-EMPLOYMENT POLICY STUDY.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department’s policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Secretary of Transportation.

Review.

(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.

#### SEC. 31309. STUDY OF CRASH DATA COLLECTION.

Deadline.  
Reports.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding the quality of data collected through the National Automotive Sampling System, including the Special Crash Investigations Program.

(b) REVIEW.—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the “Administration”) shall conduct a comprehensive review of the data elements collected from each crash to determine if additional data should be collected. The review under this subsection shall include input from interested parties, including suppliers, automakers, safety advocates, the medical community, and research organizations.

(c) CONTENTS.—The report issued under this section shall include—

(1) the analysis and conclusions the Administration can reach from the amount of motor vehicle crash data collected in a given year;

(2) the additional analysis and conclusions the Administration could reach if more crash investigations were conducted each year;

(3) the number of investigations per year that would allow for optimal data analysis and crash information;

(4) the results of the comprehensive review conducted pursuant to subsection (b);

(5) the incremental costs of collecting and analyzing additional data, as well as data from additional crashes;

(6) the potential for obtaining private funding for all or a portion of the costs under paragraph (5);



(7) the potential for recovering any additional costs from high volume users of the data, while continuing to make the data available to the general public free of charge;

(8) the advantages or disadvantages of expanding collection of non-crash data instead of crash data;

(9) recommendations for improvements to the Administration's data collection program; and

(10) the resources needed by the Administration to implement such recommendations.

**SEC. 31310. UPDATE MEANS OF PROVIDING NOTIFICATION; IMPROVING EFFICACY OF RECALLS.**

(a) **UPDATE OF MEANS OF PROVIDING NOTIFICATION.**—Section 30119(d) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking “by first class mail” and inserting “in the manner prescribed by the Secretary, by regulation”;

(2) in paragraph (2)—

(A) by striking “(except a tire) shall be sent by first class mail” and inserting “shall be sent in the manner prescribed by the Secretary, by regulation,”; and

(B) by striking the second sentence;

(3) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting “to the notification required under paragraphs (1) and (2)” after “addition”; and

(C) by inserting “by the manufacturer” after “given”;

and

(4) in paragraph (4), by striking “by certified mail or quicker means if available” and inserting “in the manner prescribed by the Secretary, by regulation”.

(b) **IMPROVING EFFICACY OF RECALLS.**—Section 30119(e) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking “SECOND” and inserting “ADDITIONAL”;

(2) by striking “If the Secretary” and inserting the following:

“(1) **SECOND NOTIFICATION.**—If the Secretary”; and

(3) by adding at the end the following:

“(2) **ADDITIONAL NOTIFICATIONS.**—If the Secretary determines, after taking into account the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

“(A)(i) to send additional notifications in the manner prescribed by the Secretary, by regulation; or

“(ii) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

“(B) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.”.

**SEC. 31311. EXPANDING CHOICES OF REMEDY AVAILABLE TO MANUFACTURERS OF REPLACEMENT EQUIPMENT.**

Section 30120 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by amending subparagraph (B) to read as follows:

“(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.”;

(2) in the heading of subsection (i), by adding “OF NEW VEHICLES OR EQUIPMENT” at the end; and

(3) in the heading of subsection (j), by striking “REPLACED” and inserting “REPLACEMENT”.

**SEC. 31312. RECALL OBLIGATIONS AND BANKRUPTCY OF MANUFACTURER.**

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by inserting the following after section 30120:

**“§ 30120A. Recall obligations and bankruptcy of a manufacturer**

“A manufacturer’s filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer’s duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer’s obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer’s products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.”

(b) CONFORMING AMENDMENT.—The chapter analysis of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30120 the following:

“30120A. Recall obligations and bankruptcy of a manufacturer.”.

**SEC. 31313. REPEAL OF INSURANCE REPORTS AND INFORMATION PROVISION.**

Chapter 331 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 33112; and

(2) by striking section 33112.

**SEC. 31314. MONRONEY STICKER TO PERMIT ADDITIONAL SAFETY RATING CATEGORIES.**

Section 3(g)(2) of the Automobile Information Disclosure Act (15 U.S.C. 1232(g)(2)), is amended by inserting “safety rating categories that may include” after “refers to”.

## Subtitle D—Vehicle Electronics and Safety Standards

49 USC 105 note. **SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.**

Establishment. (a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.—

(1) **IN GENERAL.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the “Council”) to build, integrate, and aggregate the Administration’s expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) **IMPLEMENTATION OF ROADMAP.**—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration’s Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) **INTRA-AGENCY COORDINATION.**—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

(b) **HONORS RECRUITMENT PROGRAM.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable such students to train with engineers and other safety officials for careers in vehicle safety.

(2) **STIPEND.**—The Secretary is authorized to provide a stipend to any student during the student’s participation in the program established under paragraph (1).

(c) **ASSESSMENT.**—The Council, in consultation with affected stakeholders, shall periodically assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.

#### **SEC. 31402. ELECTRONIC SYSTEMS PERFORMANCE.**

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete an examination of the need for safety standards with regard to electronic systems in passenger motor vehicles. In conducting this examination, the Secretary shall—

Deadline.

(1) consider the electronic components, the interaction of electronic components, the security needs for those electronic systems to prevent unauthorized access, and the effect of surrounding environments on the electronic systems; and

(2) allow for public comment.

(b) **REPORT.**—Upon completion of the examination under subsection (a), the Secretary shall submit a report on the highest priority areas for safety with regard to the electronic systems to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

## **Subtitle E—Child Safety Standards**

#### **SEC. 31501. CHILD SAFETY SEATS.**

(a) **SIDE IMPACT CRASHES.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final

49 USC 30127  
note.  
Deadline.  
Regulations.

rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

Deadlines.

(b) **FRONTAL IMPACT TEST PARAMETERS.**—

(1) **COMMENCEMENT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend the standard seat assembly specifications under Federal Motor Vehicle Safety Standard Number 213 to better simulate a single representative motor vehicle rear seat.

(2) **FINAL RULE.**—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1).

Deadlines.  
49 USC 30127  
note.

**SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.**

(a) **INITIATION OF RULEMAKING PROCEEDING.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible.

(b) **FINAL RULE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2) and section 31505, the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) **REPORT.**—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

Deadlines.  
49 USC 30127  
note.

**SEC. 31503. REAR SEAT BELT REMINDERS.**

(a) **INITIATION OF RULEMAKING PROCEEDING.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warning system for designated seating positions in the rear seat.

(b) **FINAL RULE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2) and section 31505, the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) **REPORT.**—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31504. UNATTENDED PASSENGER REMINDERS.**

49 USC 30111  
note.

(a) **SAFETY RESEARCH INITIATIVE.**—The Secretary may initiate research into effective ways to minimize the risk of hyperthermia or hypothermia to children or other unattended passengers in rear seating positions.

(b) **RESEARCH AREAS.**—In carrying out subsection (a), the Secretary may conduct research into the potential viability of—

(1) vehicle technology to provide an alert that a child or unattended passenger remains in a rear seating position after the vehicle motor is disengaged; or

(2) public awareness campaigns to educate drivers on the risks of leaving a child or unattended passenger in a vehicle after the vehicle motor is disengaged; or

(3) other ways to mitigate risk.

(c) **COORDINATION WITH OTHER AGENCIES.**—The Secretary may collaborate with other Federal agencies in conducting the research under this section.

**SEC. 31505. NEW DEADLINE.**

49 USC 30127  
note.

If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—

(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and

(2) establish a new deadline for that rule.

## Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

**SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT.**

49 USC 30111  
note.

(a) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL EQUIPMENT.**—The term “agricultural equipment” has the meaning given the term “agricultural field equipment” in ASABE Standard 390.4, entitled “Definitions and Classifications of Agricultural Field Equipment”, which was published in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) **PUBLIC ROAD.**—The term “public road” has the meaning given the term in section 101(a)(27) of title 23, United States Code.

(b) **RULEMAKING.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, after consultation with representatives of the American Society of Agriculture and Biological Engineers and appropriate Federal agencies, and with other appropriate persons, shall promulgate a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

(2) **MINIMUM STANDARDS.**—The rule promulgated pursuant to this subsection shall—

Deadline.

(A) establish minimum lighting and marking standards for applicable agricultural equipment manufactured at least 1 year after the date on which such rule is promulgated; and

(B) provide for the methods, materials, specifications, and equipment to be employed to comply with such standards, which shall be equivalent to ASABE Standard 279.14, entitled “Lighting and Marking of Agricultural Equipment on Highways”, which was published in July 2008 by the American Society of Agricultural and Biological Engineers, or any successor standard.

Time period.

(c) REVIEW.—Not less frequently than once every 5 years, the Secretary of Transportation shall—

(1) review the standards established pursuant to subsection (b); and

(2) revise such standards to reflect the revision of ASABE Standard 279 that is in effect at the time of such review.

(d) LIMITATIONS.—

(1) COMPLIANCE WITH SUCCESSOR STANDARDS.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped in accordance with any adopted revision of ASABE Standard 279 that is later than the revision of such standard that was referenced during the promulgation of the rule.

(2) NO RETROFITTING REQUIRED.—Any rule promulgated pursuant to this section may not require the retrofitting of agricultural equipment that was manufactured before the date on which the lighting and marking standards are enforceable under subsection (b)(2)(A).

(3) NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified in the standard upon which such rule is based.

Commercial  
Motor Vehicle  
Safety  
Enhancement  
Act of 2012.

## **TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012**

49 USC 30101  
note.

### **SEC. 32001. SHORT TITLE.**

This title may be cited as the “Commercial Motor Vehicle Safety Enhancement Act of 2012”.

### **SEC. 32002. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

## Subtitle A—Commercial Motor Vehicle Registration

### SEC. 32101. REGISTRATION OF MOTOR CARRIERS.

(a) REGISTRATION REQUIREMENTS.—Section 13902(a)(1) is amended to read as follows:

“(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier only if the Secretary determines that the person—

“(A) is willing and able to comply with—

“(i) this part and the applicable regulations of the Secretary and the Board;

“(ii) any safety regulations imposed by the Secretary;

“(iii) the duties of employers and employees established by the Secretary under section 31135;

“(iv) the safety fitness requirements established by the Secretary under section 31144;

“(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

“(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

“(B) has been issued a USDOT number under section 31134;

“(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, if the relationship occurred in the 3-year period preceding the date of the filing of the application for registration; and

“(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.”.

(b) WRITTEN PROFICIENCY EXAMINATION.—

Not later than 18 months after the date of enactment of this Act, the Secretary shall establish through a rulemaking a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person’s knowledge of applicable safety regulations, standards, and orders of the Federal government.

(c) CONFORMING AMENDMENT.—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—

(1) by inserting “, commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations,

49 USC 13902  
note.  
Deadline.

or successor regulations” after “applicable safety regulations”; and

(2) by striking “consider the establishment of” and inserting “establish”.

(d) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note) is amended to read as follows:

“(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to—

“(A) drivers transporting agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;

“(B) drivers transporting farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

“(C) drivers transporting farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.”.

#### SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.

(a) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended to read as follows:

Regulations.  
Deadlines.

“(1) SAFETY REVIEW.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), the Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

“(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary shall require, by regulation, each owner and each operator granted new registration to transport passengers under section 13902 or 31134 to undergo a safety review not later than 120 days after the owner or operator, as the case may be, begins operations under such registration.”.

49 USC 31144  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

#### SEC. 32103. REINCARNATED CARRIERS.

(a) EFFECTIVE PERIODS OF REGISTRATION.—

(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

“(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.



“(2) COMPLAINTS AND ACTIONS ON SECRETARY’S OWN INITIATIVE.—On complaint or on the Secretary’s own initiative and after notice and an opportunity for a proceeding, the Secretary may—

“(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

“(i) this part;

“(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

“(iii) a condition of its registration;

“(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

“(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

“(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

“(iii) for failure to obey a subpoena issued by the Secretary;

“(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

“(i) this part;

“(ii) an applicable regulation or order of the Secretary or the Board; or

“(iii) a condition of its registration; or

“(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—

“(i) the motor carrier, broker, or freight forwarder does not disclose any relationship through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904

“(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.”; and

(C) in paragraph (4), as redesignated by section 32103(a)(1)(A) of this Act, by striking “paragraph (1)(B)” and inserting “paragraph (2)(B)”.

(2) PROCEDURE.—Section 13905(e) is amended by inserting “or if the Secretary determines that the registrant failed to

disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),” after “registrant,”.

(b) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking “and” at the end;  
 (2) in subparagraph (G), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.”.

49 USC 13903  
 note.  
 Deadline.  
 Reports.

**SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.**

Not later than 6 months after the date of enactment of this Act, and every 4 years thereafter, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(B) the current bond and insurance requirements under sections 13904(f), 13903, and 13906 of title 49, United States Code; and

(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32105. USDOT NUMBER REGISTRATION REQUIREMENT.**

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31133 the following:

**“§ 31134. Requirement for registration and USDOT number**

“(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or person may operate a commercial motor vehicle in interstate commerce only if the employer or person is registered by the Secretary under this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

“(b) WITHHOLDING REGISTRATION.—The Secretary shall register an employer or person under subsection (a) only if the Secretary determines that—

“(1) the employer or person seeking registration is willing and able to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

“(2)(A) during the 3-year period before the date of the filing of the application, the employer or person is not or was not related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter who, during such 3-year period, is or was unfit,

Time period.

unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

“(3) the employer or person has disclosed to the Secretary any relationship involving common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter.

“(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person issued under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

Notification.

“(1) the employer’s or person’s authority to operate pursuant to chapter 139 of this title is subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;

“(2) the employer or person has knowingly failed to comply with the requirements listed in subsection (b)(1);

“(3) the employer or person has not disclosed any relationship through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

“(4) the employer or person refused to submit to the safety review required by section 31144(g) of this title.

“(d) PERIODIC REGISTRATION UPDATE.—The Secretary may require an employer to update a registration under this section not later than 30 days after a change in the employer’s address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

Deadline.

“(e) STATE AUTHORITY.—Nothing in this section shall be construed as affecting the authority of a State to issue a Department of Transportation number under State law to a person operating in intrastate commerce.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:

“31134. Requirement for registration and USDOT number.”.

#### **SEC. 32106. REGISTRATION FEE SYSTEM.**

Section 13908(d)(1) is amended by striking “but shall not exceed \$300”.

#### **SEC. 32107. REGISTRATION UPDATE.**

(a) MOTOR CARRIER UPDATE.—Section 13902 is amended by adding at the end the following:

“(h) UPDATE OF REGISTRATION.—

Deadlines.

“(1) IN GENERAL.—The Secretary shall require a registrant to update its registration under this section not later than 30 days after a change in the registrant’s address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

“(2) MOTOR CARRIERS OF PASSENGERS.—In addition to the requirements of paragraph (1), the Secretary shall require a

motor carrier of passengers to update its registration information, including numbers of vehicles, annual mileage, and individuals responsible for compliance with Federal safety regulations quarterly for the first 2 years after being issued a registration under this section.”.

(b) FREIGHT FORWARDER UPDATE.—Section 13903 is amended by adding at the end the following:

Deadline.

“(c) UPDATE OF REGISTRATION.—The Secretary shall require a freight forwarder to update its registration under this section not later than 30 days after a change in the freight forwarder’s address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”.

(c) BROKER UPDATE.—Section 13904 is amended by adding at the end the following:

Deadline.

“(e) UPDATE OF REGISTRATION.—The Secretary shall require a broker to update its registration under this section not later than 30 days after a change in the broker’s address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”.

**SEC. 32108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.**

(a) PENALTIES.—Section 14901(a) is amended—

(1) by striking “\$500” and inserting “\$1,000”;

(2) by striking “who is not registered under this part to provide transportation of passengers,”;

(3) by striking “with respect to providing transportation of passengers,” and inserting “or section 13902(c) of this title,”; and

(4) by striking “\$2,000 for each violation and each additional day the violation continues” and inserting “\$10,000 for each violation, or \$25,000 for each violation relating to providing transportation of passengers”.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by striking “not to exceed \$20,000” and inserting “not less than \$20,000, but not to exceed \$40,000”.

**SEC. 32109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.**

Section 13905(f)(2) is amended to read as follows:

“(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.”.

**SEC. 32110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.**

Section 525 is amended—

(1) by striking “subpenas” in the section heading and inserting “subpoenas”;

(2) by striking “subpena” and inserting “subpoena”;

(3) by striking “\$100” and inserting “\$1,000”;

(4) by striking “\$5,000” and inserting “\$10,000”; and

(5) by adding at the end the following:

“The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the

Secretary under this chapter to appear and testify or produce records.”.

**SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.**

Section 13902(e)(1) is amended—

(1) by striking “motor vehicle” and inserting “motor carrier” after “the Secretary determines that a”; and

(2) by striking “order the vehicle” and inserting “order the motor carrier operations” after “the Secretary may”.

**SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.**

Section 31135 is amended—

(1) by striking subsection (b) and inserting the following: “(b) NONCOMPLIANCE.—

“(1) MOTOR CARRIERS.—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

“(2) PATTERN.—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this subchapter, the Secretary—

“(A) may withhold, suspend, amend, or revoke any part of the motor carrier’s, employer’s, or person’s registration in accordance with section 13905 or 31134; and

“(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

“(3) OFFICERS.—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator has engaged in a pattern or practice of, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, while serving as an officer or such motor carrier, employer, or owner or operator, the Secretary may suspend, amend, or revoke any part of a registration granted to the officer individually under section 13902 or 31134.”.

## **Subtitle B—Commercial Motor Vehicle Safety**

**SEC. 32201. CRASHWORTHINESS STANDARDS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for

Deadline.  
Analysis.

roof strength, pillar strength, air bags, and other occupant protections standards, and frontal and back wall standards.

(b) **REPORT.**—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32202. CANADIAN SAFETY RATING RECIPROCITY.**

Section 31144 is amended by adding at the end the following:

“(h) **RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.**—

“(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

“(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country’s motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.”.

**SEC. 32203. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.**

(a) **DEFINITION OF FOREIGN COMMERCIAL DRIVER.**—Section 31301 is amended—

(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(2) by inserting after paragraph (9) the following:

“(10) ‘foreign commercial driver’ means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.”.

(b) **STATE REPORTING OF CONVICTIONS.**—Section 31311(a) is amended by adding after paragraph (21) the following:

“(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

“(A) for a driver holding a foreign commercial driver’s license—

“(i) each conviction relating to the operation of a commercial motor vehicle; and

“(ii) each conviction relating to the operation of a non-commercial motor vehicle; and

“(B) for an unlicensed driver or a driver holding a foreign non-commercial driver’s license, each conviction relating to the operation of a commercial motor vehicle.”.

**SEC. 32204. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.**

Section 31310 is amended by adding at the end the following:  
“(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.”.

**SEC. 32205. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.**

Section 13905(d)(2), as amended by section 32103(a) of this Act, is amended by inserting “foreign motor carrier, foreign motor private carrier,” after “registration of a motor carrier,” each place it appears.

**SEC. 32206. RENTAL TRUCK ACCIDENT STUDY.**

(a) DEFINITIONS.—In this section:

(1) RENTAL TRUCK.—The term “rental truck” means a motor vehicle with a gross vehicle weight rating of between 10,000 and 26,000 pounds that is made available for rental by a rental truck company.

(2) RENTAL TRUCK COMPANY.—The term “rental truck company” means a person or company that is in the business of renting or leasing rental trucks to the public or for private use.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the safety of rental trucks during the 7-year period ending on December 31, 2011. Time period.

(2) REQUIREMENTS.—The study conducted under paragraph (1) shall—

(A) evaluate available data on the number of crashes, fatalities, and injuries involving rental trucks and the cause of such crashes, utilizing police accident reports and other sources;

(B) estimate the property damage and costs resulting from a subset of crashes involving rental truck operations, which the Secretary believes adequately reflect all crashes involving rental trucks;

(C) analyze State and local laws regulating rental truck companies, including safety and inspection requirements;

(D) assess the rental truck maintenance programs of a selection of small, medium, and large rental truck companies, as selected by the Secretary, including the frequency of rental truck maintenance inspections, and compare such programs with inspection requirements for passenger vehicles and commercial motor vehicles;

(E) include any other information available regarding the safety of rental trucks; and

(F) review any other information that the Secretary determines to be appropriate.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(1) the findings of the study conducted pursuant to subsection (b); and

(2) any recommendations for legislation that the Secretary determines to be appropriate.

## Subtitle C—Driver Safety

### SEC. 32301. HOURS OF SERVICE STUDY AND ELECTRONIC LOGGING DEVICES.

#### (a) HOURS OF SERVICE STUDY.—

##### (1) FIELD STUDY.—

Deadline.

(A) IN GENERAL.—Not later than March 31, 2013, the Secretary shall complete a field study on the efficacy of the restart rule published on December 27, 2011 (in this section referred to as the “2011 restart rule”), applicable to operators of commercial motor vehicles of property subject to maximum driving time requirements of the Secretary.

(B) REQUIREMENT.—The field study shall expand upon the results of the laboratory-based study relating to commercial motor vehicle driver fatigue sponsored by the Federal Motor Carrier Safety Administration presented in the report of December 2010 titled “Investigation into Motor Carrier Practices to Achieve Optimal Commercial Motor Vehicle Driver Performance: Phase I”.

(C) CRITERIA.—In conducting the field study, the Secretary shall ensure that—

(i) the methodology for the field study is consistent, to the maximum extent possible, with the laboratory-based study methodology;

(ii) the data collected is representative of the drivers and motor carriers regulated by the hours of service regulations, including those drivers and carriers affected by the maximum driving time requirements;

(iii) the analysis is statistically valid; and

(iv) the field study follows the plan for the “Scheduling and Fatigue Recovery Project” developed by the Federal Motor Carrier Safety Administration.

(D) REPORT TO CONGRESS.—Not later than September 30, 2013, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the results of the field study.

#### (b) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

#### **“§ 31137. Electronic logging devices and brake maintenance regulations”;**

(2) by redesignating subsection (b) as subsection (g); and

(3) by amending (a) to read as follows:

Deadline.

“(a) USE OF ELECTRONIC LOGGING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—



“(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic logging device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

“(2) ensuring that an electronic logging device is not used to harass a vehicle operator.

“(b) ELECTRONIC LOGGING DEVICE REQUIREMENTS.—

“(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

“(A) require an electronic logging device—

“(i) to accurately record commercial driver hours of service;

“(ii) to record the location of a commercial motor vehicle;

“(iii) to be tamper resistant; and

“(iv) to be synchronized to the operation of the vehicle engine or be capable of recognizing when the vehicle is being operated;

“(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

“(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

Applicability.  
Effective date.

“(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

“(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

“(B) establishing a secure process for standardized—

“(i) and unique vehicle operator identification;

“(ii) data access;

“(iii) data transfer for vehicle operators between motor vehicles;

“(iv) data storage for a motor carrier; and

“(v) data transfer and transportability for law enforcement officials;

“(C) establishing a standard security level for an electronic logging device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

“(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

“(c) CERTIFICATION CRITERIA.—

“(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of electronic logging devices to ensure that the device meets the performance requirements under this section.

“(2) EFFECT OF NONCERTIFICATION.—Electronic logging devices that are not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

“(d) **ADDITIONAL CONSIDERATIONS.**—The Secretary, in prescribing the regulations described in subsection (a), shall consider how such regulations may—

“(1) reduce or eliminate requirements for drivers and motor carriers to retain supporting documentation associated with paper-based records of duty status if—

“(A) data contained in an electronic logging device supplants such documentation; and

“(B) using such data without paper-based records does not diminish the Secretary’s ability to audit and review compliance with the Secretary’s hours of service regulations; and

“(2) include such measures as the Secretary determines are necessary to protect the privacy of each individual whose personal data is contained in an electronic logging device.

“(e) **USE OF DATA.**—

“(1) **IN GENERAL.**—The Secretary may utilize information contained in an electronic logging device only to enforce the Secretary’s motor carrier safety and related regulations, including record-of-duty status regulations.

“(2) **MEASURES TO PRESERVE CONFIDENTIALITY OF PERSONAL DATA.**—The Secretary shall institute appropriate measures to preserve the confidentiality of any personal data contained in an electronic logging device and disclosed in the course of an action taken by the Secretary or by law enforcement officials to enforce the regulations referred to in paragraph (1).

“(3) **ENFORCEMENT.**—The Secretary shall institute appropriate measures to ensure any information collected by electronic logging devices is used by enforcement personnel only for the purpose of determining compliance with hours of service requirements.

“(f) **DEFINITIONS.**—In this section:

“(1) **ELECTRONIC LOGGING DEVICE.**—The term ‘electronic logging device’ means an electronic device that—

“(A) is capable of recording a driver’s hours of service and duty status accurately and automatically; and

“(B) meets the requirements established by the Secretary through regulation.

“(2) **TAMPER RESISTANT.**—The term ‘tamper resistant’ means resistant to allowing any individual to cause an electronic device to record the incorrect date, time, and location for changes to on-duty driving status of a commercial motor vehicle operator under part 395 of title 49, Code of Federal Regulations, or to subsequently alter the record created by that device.”.

(c) **CIVIL PENALTIES.**—Section 30165(a)(1) is amended by striking “or 30141 through 30147” and inserting “30141 through 30147, or 31137”.

(d) **CONFORMING AMENDMENT.**—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

“31137. Electronic logging devices and brake maintenance regulations.”.

**SEC. 32302. DRIVER MEDICAL QUALIFICATIONS.**

(a) **DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.**—Not later than 1 year after the date of

enactment of this Act, the Secretary shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

“(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

“(i) the completion of specific courses and materials;

“(ii) certification, including, at a minimum, self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

“(iii) an examination that requires a passing grade; and

“(iv) demonstration of a medical examiner’s willingness to meet the reporting requirements established by the Secretary.”.

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) by amending subparagraph (E) to read as follows:

“(E) require medical examiners to transmit electronically, on a monthly basis, the name of the applicant, a numerical identifier, and additional information contained on the medical examiner’s certificate for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, to the chief medical examiner;”;

(B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(G) annually review the implementation of commercial driver’s license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

“(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

“(ii) the processing of the submissions by State licensing agencies.”.

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32302(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 32303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

Deadline.

Certification.

Deadline.  
Review.

Deadline.  
49 USC 31149  
note.

49 USC 31149  
note.

Deadline.  
Records.

(d) **ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.**—Section 31311(a), as amended by sections 32203(b) and 32305(b) of this Act, is amended by adding at the end the following:

“(25) Not later than 5 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner’s certificate, from a certified medical examiner, for each holder of a commercial driver’s license issued by the State who operates or intends to operate in interstate commerce.”.

(e) **FUNDING.**—The Secretary is authorized to utilize funds provided under section 4101(c)(1) of SAFETEA-LU (119 Stat. 1715) to support development of costs of the information technology needed to carry out section 31311(a)(25) of title 49, United States Code.

**SEC. 32303. COMMERCIAL DRIVER’S LICENSE NOTIFICATION SYSTEM.**

(a) **IN GENERAL.**—Section 31304 is amended—

(1) by striking “An employer” and inserting the following:

“(a) **IN GENERAL.**—An employer”; and

(2) by adding at the end the following:

“(b) **DRIVER VIOLATION RECORDS.**—

“(1) **PERIODIC REVIEW.**—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

“(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver’s license or permit during such time period;

“(B) by receiving occurrence-based reports of changes in the status of a driver’s record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

“(C) by a combination of inquiries to States and reports from driver record notification systems.

“(2) **RECORD KEEPING.**—A copy of the reports received under paragraph (1) shall be maintained in the driver’s qualification file.

Time period.

“(3) **EXCEPTIONS TO RECORD REVIEW REQUIREMENT.**—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

“(A) if the employer obtains the driver’s identification number, type, and issuing State of the driver’s commercial motor vehicle license; or

“(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

“(4) **DRIVER RECORD NOTIFICATION SYSTEM DEFINED.**—In this section, the term ‘driver record notification system’ means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change in the status of an employee’s driver’s license due to a conviction for a moving violation, a failure to appear,

an accident, driver's license suspension, driver's license revocation, or any other action taken against the driving privilege.”.

(b) **STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided.

Deadline.  
49 USC 31304  
note.

(c) **PLAN FOR NATIONAL NOTIFICATION SYSTEM.**—

(1) **DEVELOPMENT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations and a plan for the development and implementation of a national driver record notification system, including—

Deadlines.  
Recommendations.

(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver's License Information System; and

(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.

(2) **SUBMISSION TO CONGRESS.**—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Reports.

#### **SEC. 32304. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.**

(a) **IN GENERAL.**—Section 31305 is amended by adding at the end the following:

“(c) **STANDARDS FOR TRAINING.**—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

Deadline.  
Regulations.

“(1) addressing the knowledge and skills that—

“(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

“(B) must be acquired before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another class;

“(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements;

“(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

“(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

“(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.”.

(b) **COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.**—Section 31308(1) is amended to read as follows:

“(1) an individual issued a commercial driver’s license—

“(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

“(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);”.

(c) CONFORMING AMENDMENT.—The section heading for section 31305 is amended to read as follows:

**“§ 31305. General driver fitness, testing, and training”.**

(d) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

“31305. General driver fitness, testing, and training.”.

**SEC. 32305. COMMERCIAL DRIVER’S LICENSE PROGRAM.**

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (e)(4), by amending subparagraph (A) to read as follows:

Plan.

“(A) IN GENERAL.—The plan shall specify—

“(i) a date by which all States shall be operating commercial driver’s license information systems that are compatible with the modernized information system under this section; and

“(ii) that States must use the systems to receive and submit conviction and disqualification data.”; and

(2) in subsection (f), by striking “use” and inserting “use, subject to section 31313(a),”.

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311 is amended—

(1) in subsection (a), as amended by section 32203(b) of this Act—

Time period.  
Regulations.

(A) in paragraph (5), by striking “At least” and all that follows through “regulation,” and inserting: “Not later than the time period prescribed by the Secretary by regulation,”; and

(B) by adding at the end the following:

Deadline.  
Records.

“(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.

Records.

“(24) Before renewing or issuing a commercial driver’s license to an individual, the State shall request information pertaining to the individual from the drug and alcohol clearinghouse maintained under section 31306a.”; and

(2) by adding at the end the following:

“(d) STATE COMMERCIAL DRIVER’S LICENSE PROGRAM PLAN.—

Time period.

“(1) IN GENERAL.—A State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

“(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

“(A) the actions that the State will take to address any deficiencies in the State’s commercial driver’s license program, as identified by the Secretary in the most recent audit of the program; and

“(B) other actions that the State will take to comply with the requirements under subsection (a).

“(3) PRIORITY.—

“(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize actions to address any deficiencies highlighted by the Secretary as critical in the most recent audit of the program.

“(B) DEADLINE FOR COMPLIANCE WITH REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the requirements of subsection (a) not later than September 30, 2015.

“(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

“(A) review each plan submitted under paragraph (1);

Review.

“(B)(i) approve a plan if the Secretary determines that the plan meets the requirements under this subsection and promotes the goals of this chapter; and

Determinations.

“(ii) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

“(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4), the Secretary shall—

“(A) provide a written explanation of the disapproval to the State; and

Notification.

“(B) allow the State to modify the plan and resubmit it for approval.

“(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

“(e) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

“(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

“(2) make the results of the comparison available to the public.”.

Public information.

#### SEC. 32306. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.

Section 31106(c) is amended—

(1) by striking the heading and inserting “(1) IN GENERAL.”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(3) by adding at the end the following:

“(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.”.

**SEC. 32307. EMPLOYER RESPONSIBILITIES.**

Section 31304, as amended by section 32303 of this Act, is amended in subsection (a)—

- (1) by striking “knowingly”; and
- (2) by striking “in which” and inserting “that the employer knows or should reasonably know that”.

49 USC 31301  
note.

**SEC. 32308. PROGRAM TO ASSIST VETERANS TO ACQUIRE COMMERCIAL DRIVER’S LICENSES.**

Deadline.

**(a) STUDY.—**

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary, in coordination with the Secretary of Defense, and in consultation with the States and other relevant stakeholders, shall commence a study to assess Federal and State regulatory, economic, and administrative challenges faced by members and former members of the Armed Forces, who received safety training and operated qualifying motor vehicles during their service, in obtaining commercial driver’s licenses (as defined in section 31301(3) of title 49, United States Code).

(2) **REQUIREMENTS.**—The study under this subsection shall—

(A) identify written and behind-the-wheel safety training, qualification standards, knowledge and skills tests, or other operating experience members of the Armed Forces must meet that satisfy the minimum standards prescribed by the Secretary of Transportation for the operation of commercial motor vehicles under section 31305 of title 49, United States Code;

(B) compare the alcohol and controlled substances testing requirements for members of the Armed Forces with those required for holders of a commercial driver’s license;

(C) evaluate the cause of delays in reviewing applications for commercial driver’s licenses of members and former members of the Armed Forces;

(D) identify duplicative application costs;

(E) identify residency, domicile, training and testing requirements, and other safety or health assessments that affect or delay the issuance of commercial driver’s licenses to members and former members of the Armed Forces; and

(F) include other factors that the Secretary determines to be appropriate to meet the requirements of the study.

**(b) REPORT.—**

(1) **IN GENERAL.**—Not later than 180 days after the commencement of the study under subsection (a), the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Financial Services of the House of Representatives that contains the findings and recommendations from the study.

(2) **ELEMENTS.**—The report under paragraph (1) shall include—

(A) findings related to the study requirements under subsection (a)(2);



(B) recommendations for the Federal and State legislative, regulatory, and administrative actions necessary to address challenges identified in subparagraph (A); and

(C) a plan to implement the recommendations for which the Secretary has authority.

(c) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense and in cooperation with the States, shall implement the recommendations identified in subsection (b) and establish accelerated licensing procedures to assist veterans to acquire commercial driver’s licenses.

(d) ACCELERATED LICENSING PROCEDURES.—The procedures established under subsection (a) shall be designed to be applicable to any veteran who—

(1) is attempting to acquire a commercial driver’s license; and

(2) obtained, during military service, documented driving experience that, in the determination of the Secretary, makes the use of accelerated licensing procedures appropriate.

(e) DEFINITIONS.—In this section:

(1) COMMERCIAL DRIVER’S LICENSE.—The term “commercial driver’s license” has the meaning given that term in section 31301 of title 49, United States Code.

(2) STATE.—The term “State” has the meaning given that term in section 31301 of title 49, United States Code.

(3) VETERAN.—The term “veteran” has the meaning given that term in section 101 of title 38, United States Code.

## Subtitle D—Safe Roads Act of 2012

### SEC. 32401. SHORT TITLE.

This subtitle may be cited as the “Safe Roads Act of 2012”.

### SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended—

(1) in section 31306(a), by inserting “and section 31306a” after “this section”; and

(2) by inserting after section 31306 the following:

#### “§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish, operate, and maintain a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

“(2) PURPOSES.—The purposes of the clearinghouse shall be—

“(A) to improve compliance with the Department of Transportation’s alcohol and controlled substances testing program applicable to commercial motor vehicle operators; and

Recommendations.

Plan.

Deadline.  
Procedures.

Applicability.

Safe Roads Act of 2012.

49 USC 30101  
note.

Records.

Deadline.

“(B) to enhance the safety of our United States roadways by reducing accident and injuries involving the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

“(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

“(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall operate and maintain the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

“(b) DESIGN OF CLEARINGHOUSE.—

“(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

“(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration’s March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

“(B) the findings and recommendations contained in the Government Accountability Office’s May 2008 report to Congress entitled ‘Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.’

“(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

“(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

“(B) registering and authenticating authorized users of the clearinghouse;

“(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

“(D) preventing the unauthorized access of information from the clearinghouse;

“(E) storing and transmitting data;

“(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

“(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

“(H) updating an individual’s record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

“(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In establishing the clearinghouse, the Secretary shall develop a secure

Notification.

method for electronically notifying an employer of each additional positive test result or other noncompliance—

“(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer’s inquiry about the employee; and

Time period.

“(B) for an employee who is listed as having multiple employers.

“(4) ARCHIVE CAPABILITY.—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

“(5) FUTURE NEEDS.—

“(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

“(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

“(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

“(iii) the potential interoperability of the clearinghouse with such systems.

“(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

Determination.

“(i) the clearinghouse’s capability for interoperability with—

“(I) the National Driver Register established under section 30302;

“(II) the Commercial Driver’s License Information System established under section 31309;

“(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

“(IV) other data systems, as appropriate; and

“(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

“(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

“(1) by an authorized user of the clearinghouse to—

“(A) request a record from the clearinghouse; and

“(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

“(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

Notification.

“(d) PRIVACY.—A release of information from the clearinghouse shall—

“(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

“(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

“(3) not be made to any person or entity unless expressly authorized or required by law.

“(e) FEES.—

“(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

“(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

“(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

“(f) EMPLOYER REQUIREMENTS.—

“(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

Compliance.

“(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall continue to comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

“(3) EMPLOYMENT PROHIBITIONS.—After the clearinghouse is established under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall utilize the clearinghouse to determine whether any employment prohibitions exist and shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

“(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

“(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

“(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

“(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

“(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

“(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

Federal Register,  
publication.

“(4) ANNUAL REVIEW.—After the clearinghouse is established under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall request and review a commercial motor vehicle operator’s record from the clearinghouse annually for

as long as the commercial motor vehicle operator is under the employ of the employer.

“(g) REPORTING OF RECORDS.—

“(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Secretary any record generated after the clearinghouse is initiated of an individual who—

Effective date.

“(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

“(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

“(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

“(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

“(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

“(A) a record relating to the individual is received by the clearinghouse;

“(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

“(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

“(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

“(A) the submission of records to the clearinghouse is timely and accurate;

“(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

“(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

“(6) RETENTION OF RECORDS.—The Secretary shall—

Time period.

“(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

“(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

“(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

“(h) AUTHORIZED USERS.—

Procedures.

“(1) EMPLOYERS.—The Secretary shall establish a process for an employer, or an employer’s designated agent, to request and receive an individual’s record from the clearinghouse.

“(A) CONSENT.—An employer may not access an individual’s record from the clearinghouse unless the employer—

“(i) obtains the prior written or electronic consent of the individual for access to the record; and

“(ii) submits proof of the individual’s consent to the Secretary.

“(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual’s record under subparagraph (A), the Secretary shall grant access to the individual’s record to the employer as expeditiously as practicable.

Time period.

“(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

“(i) a record of each request made by the employer for records from the clearinghouse; and

“(ii) the information received pursuant to the request.

“(D) USE OF RECORDS.—An employer may use an individual’s record received from the clearinghouse only to assess and evaluate whether a prohibition applies with respect to the individual to operate a commercial motor vehicle for the employer.

“(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual’s record from the clearinghouse under subparagraph (B) shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating whether a prohibition applies with respect to the individual to operate a commercial motor vehicle for the employer.

Procedures.

“(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver’s licensing official of a State to request and receive an individual’s record from the clearinghouse if the individual is applying for a commercial driver’s license from the State.

“(A) CONSENT.—The Secretary may grant access to an individual’s record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver’s license shall be deemed to consent to such access by obtaining a commercial driver’s license.

“(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver’s licensing official of a State that receives an individual’s record from the clearinghouse under this paragraph shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

“(i) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual’s record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board. Procedures.

“(j) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

“(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse— Procedures.

“(A) to determine whether the clearinghouse contains a record pertaining to the individual;

“(B) to verify the accuracy of a record;

“(C) to update an individual’s record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

“(D) to determine whether the clearinghouse received requests for the individual’s information.

“(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual’s record. Appeal process.

“(k) PENALTIES.—

“(1) IN GENERAL.—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

“(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (1) or (2) of subsection (h).

“(l) COMPATIBILITY OF STATE AND LOCAL LAWS.—

“(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver’s license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

“(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

“(A) the reporting of valid positive results from alcohol screening tests and drug tests;

“(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

“(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator’s commercial driver’s license or driving record as a result of the driver’s—

“(A) verified positive alcohol or drug test result;

“(B) refusal to provide a specimen for the test; or

“(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(m) DEFINITIONS.—In this section—

“(1) AUTHORIZED USER.—The term ‘authorized user’ means an employer, State licensing authority, or other person granted access to the clearinghouse under subsection (h).

“(2) CHIEF COMMERCIAL DRIVER’S LICENSING OFFICIAL.—The term ‘chief commercial driver’s licensing official’ means the official in a State who is authorized to—

“(A) maintain a record about commercial driver’s licenses issued by the State; and

“(B) take action on commercial driver’s licenses issued by the State.

“(3) CLEARINGHOUSE.—The term ‘clearinghouse’ means the clearinghouse established under subsection (a).

“(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term ‘commercial motor vehicle operator’ means an individual who—

“(A) possesses a valid commercial driver’s license issued in accordance with section 31308; and

“(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

“(5) EMPLOYER.—The term ‘employer’ means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

“(6) MEDICAL REVIEW OFFICER.—The term ‘medical review officer’ means a licensed physician who is responsible for—

“(A) receiving and reviewing a laboratory result generated under the testing program;

“(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

“(C) interpreting the results of a controlled substances test.

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(8) SERVICE AGENT.—The term ‘service agent’ means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

“(9) TESTING PROGRAM.—The term ‘testing program’ means the alcohol and controlled substances testing program required under title 49, Code of Federal Regulations.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by inserting after the item relating to section 31306 the following:

“31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.”.

## Subtitle E—Enforcement

### SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.

(a) SAFETY INVESTIGATIONS.—Section 504(c) is amended—



(1) by inserting “, or an employee of the recipient of a grant issued under section 31102 of this title” after “a contractor”; and

(2) by inserting “, in person or in writing” after “proper credentials”.

(b) CIVIL PENALTY.—Section 521(b)(2)(E) is amended—

(1) by redesignating subparagraph (E) as subparagraph (E)(i); and

(2) by adding at the end the following:

“(ii) PLACE OUT OF SERVICE.—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.”.

(c) HAZARDOUS MATERIALS INVESTIGATIONS.—Section 5121(c)(2) is amended by inserting “, in person or in writing,” after “proper credentials”.

(d) COMMERCIAL INVESTIGATIONS.—Section 14122(b) is amended by inserting “, in person or in writing” after “proper credentials”.

**SEC. 32502. OUT OF SERVICE PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

Section 521(b)(2)(E) is amended—

(1) by inserting after “\$10,000.” the following: “In the case of a motor carrier, the Secretary may also place the violator’s motor carrier operations out of service.”; and

(2) by striking “such penalty” after “It shall be a defense to” and inserting “a penalty”.

**SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.**

Section 521(b)(2) is amended by adding at the end the following:

“(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed \$25,000.”.

**SEC. 32504. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.**

Section 521(b) is amended by adding at the end the following:

“(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

“(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

“(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

“(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other

party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

Notification. “(iii) The Secretary’s designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

Deadline.

“(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

“(C) DEFINITION.—In this paragraph, the term ‘impoundment’ or ‘impounding’ means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.”.

#### **SEC. 32505. INCREASED PENALTIES FOR EVASION OF REGULATIONS.**

(a) PENALTIES.—Section 524 is amended—

- (1) by striking “knowingly and willfully”;
- (2) by inserting after “this chapter” the following: “, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions,”;
- (3) by striking “\$200 but not more than \$500” and inserting “\$2,000 but not more than \$5,000”; and
- (4) by striking “\$250 but not more than \$2,000” and inserting “\$2,500 but not more than \$7,500”.

(b) EVASION OF REGULATION.—Section 14906 is amended—

- (1) by striking “\$200” and inserting “at least \$2,000”;
- (2) by striking “\$250” and inserting “\$5,000”; and
- (3) by inserting after “a subsequent violation” the following: “, and may be subject to criminal penalties”.

#### **SEC. 32506. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.**

Section 521(b)(2)(D) is amended by striking “ability to pay,”.

#### **SEC. 32507. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.**

Section 31310(f) is amended—

(1) in paragraph (1) by inserting “section 521 or” before “section 5102”; and

(2) in paragraph (2) by inserting “section 521 or” before “section 5102”.

**SEC. 32508. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.**

Section 31106(e) is amended—

(1) by redesignating subsection (e) as subsection (e)(1); and

(2) by inserting at the end the following:

“(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver’s license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5.”.

**SEC. 32509. GRADE CROSSING SAFETY REGULATIONS.**

Section 112(2) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311) is amended by striking “315 of such title (relating to motor carrier safety)” and inserting “311 of such title (relating to commercial motor vehicle safety)”.

## **Subtitle F—Compliance, Safety, Accountability**

**SEC. 32601. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.**

(a) IN GENERAL.—Section 31102(b) is amended—

(1) by amending the heading to read as follows:

“(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—”;

(2) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;

(3) by inserting before paragraph (2), as redesignated, the following:

“(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

“(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

“(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

“(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

“(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.”;

(4) in paragraph (2), as redesignated—

(A) by striking “make a declaration of” in subparagraph (I) and inserting “demonstrate”;

(B) by amending subparagraph (M) to read as follows:

“(M) ensures participation in appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding.”;

(C) in subparagraph (Q), by inserting “and dedicated sufficient resources to” between “established” and “a program”;

(D) in subparagraph (W), by striking “and” after the semicolon;

(E) in subparagraph (X), by striking the period and inserting “; and”; and

(F) by adding after subparagraph (X) the following:

“(Y) ensures that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.”; and

(5) by amending paragraph (4), as redesignated, to read as follows:

“(4) MAINTENANCE OF EFFORT.—

Plans.

“(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

“(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), the Secretary—

“(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

Requirements.

“(ii) shall require the State to exclude State matching amounts used to receive Government financing under this subsection.

“(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.”.

**SEC. 32602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.**

Section 31106(b) is amended by amending paragraph (3)(C) to read as follows:

“(C) establish and implement a process—

“(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(i)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and

“(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order.”.

**SEC. 32603. AUTHORIZATION OF APPROPRIATIONS.**

(a) **MOTOR CARRIER SAFETY GRANTS.**—Section 31104(a) is amended—

(1) by striking “and” at the end of paragraph (7);

(2) by striking paragraph (8); and

(3) by inserting after paragraph (7) the following:

“(8) \$215,000,000 for fiscal year 2013; and

“(9) \$218,000,000 for fiscal year 2014.”.

(b) **ADMINISTRATIVE EXPENSES.**—Section 31104(i)(1) is amended—

(1) by striking “and” at the end of subparagraph (G); and

(2) by striking subparagraph (H); and

(3) by inserting after subparagraph (G) the following:

“(H) \$251,000,000 for fiscal year 2013; and

“(I) \$259,000,000 for fiscal year 2014.”.

(c) **GRANT PROGRAMS.**—Section 4101(c) of SAFETEA-LU (119 Stat. 1715) is amended to read as follows:

“(c) **GRANT PROGRAMS.**—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) the following sums for the following Federal Motor Carrier Safety Administration programs:

“(1) **COMMERCIAL DRIVER’S LICENSE PROGRAM IMPROVEMENT GRANTS.**—For commercial driver’s license program improvement grants under section 31313 of title 49, United States Code \$30,000,000 for each of fiscal years 2013 and 2014.

“(2) **BORDER ENFORCEMENT GRANTS.**—For border enforcement grants under section 31107 of such title \$32,000,000 for each of fiscal years 2013 and 2014.

“(3) **PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANT PROGRAM.**—For the performance and registration information system management grant program under section 31109 of such title \$5,000,000 for each of fiscal years 2013 and 2014.

“(4) **COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.**—For carrying out the commercial vehicle information systems and networks deployment program under section 4126 of this Act, \$25,000,000 for each of fiscal years 2013 and 2014.

“(5) SAFETY DATA IMPROVEMENT GRANTS.—For safety data improvement grants under section 4128 of this Act, \$3,000,000 for each of fiscal years 2013 and 2014.”

(d) HIGH-PRIORITY ACTIVITIES.—Section 31104(k)(2) is amended by striking “2011 and \$11,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2014”.

(e) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) is amended to read as follows:

“(B) SET ASIDE.—The Secretary shall set aside from amounts made available by section 31104(a) up to \$32,000,000 per fiscal year for audits of new entrant motor carriers conducted pursuant to this paragraph.”

49 USC 31100  
note.

(f) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA-LU (119 Stat. 1741) is amended to read as follows:

“(e) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available \$4,000,000 to the Federal Motor Carrier Safety Administration for each of fiscal years 2013 and 2014 to carry out this section (other than subsection (f)).”

Time period.

(g) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA-LU (49 U.S.C. 31301 note) is amended by striking “2011 and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2014”.

(h) BORDER ENFORCEMENT GRANTS.—Section 31107 is amended—

(1) by striking subsection (b); and

(2) redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

49 USC 31100  
note.

(i) ADMINISTRATION OF GRANT PROGRAMS.—The Secretary is authorized to identify and implement processes to reduce the administrative burden on the States and the Department of Transportation concerning the application and management of the grant programs authorized under chapter 311 and chapter 313 of title 49, United States Code.

#### **SEC. 32604. GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.**

(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION.—Section 31313(a) is amended to read as follows:

“(a) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—

“(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—

“(A) to comply with the requirements of section 31311;

“(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver's license program, including expenses—

“(i) for computer hardware and software;

“(ii) for publications, testing, personnel, training, and quality control;

“(iii) for commercial driver's license program coordinators;

“(iv) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator’s commercial driver’s license consistent with the standards developed under section 32303(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012.

“(2) PROHIBITIONS.—A State may not use grant funds under this subsection to rent, lease, or buy land or buildings.”.

(b) CONFORMING AMENDMENT.—

(1) The heading for section 31313 is amended by striking “**improvements**” and inserting “**implementation**”.

(2) The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

“31313. Grants for commercial driver’s license program implementation.”.

#### **SEC. 32605. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.**

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

Deadline.  
Reports.

(1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and

(2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.

### **Subtitle G—Motorcoach Enhanced Safety Act of 2012**

Motorcoach  
Enhanced Safety  
Act of 2012.

#### **SEC. 32701. SHORT TITLE.**

This subtitle may be cited as the “Motorcoach Enhanced Safety Act of 2012”.

49 USC 31136  
note.

#### **SEC. 32702. DEFINITIONS.**

In this subtitle:

49 USC 31136  
note.

(1) **ADVANCED GLAZING.**—The term “advanced glazing” means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

(2) **BUS.**—The term “bus” has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(3) **COMMERCIAL MOTOR VEHICLE.**—Except as otherwise specified, the term “commercial motor vehicle” has the meaning given the term in section 31132(1) of title 49, United States Code.

(4) **DIRECT TIRE PRESSURE MONITORING SYSTEM.**—The term “direct tire pressure monitoring system” means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated

and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

(5) **MOTOR CARRIER.**—The term “motor carrier” means—

(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

(B) a motor private carrier (as defined in section 13102(15) of that title).

(6) **MOTORCOACH.**—The term “motorcoach” has the meaning given the term “over-the-road bus” in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—

(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

(B) a school bus, including a multifunction school activity bus.

(7) **MOTORCOACH SERVICES.**—The term “motorcoach services” means passenger transportation by motorcoach for compensation.

(8) **MULTIFUNCTION SCHOOL ACTIVITY BUS.**—The term “multifunction school activity bus” has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(9) **PORTAL.**—The term “portal” means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

(10) **PROVIDER OF MOTORCOACH SERVICES.**—The term “provider of motorcoach services” means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

(11) **PUBLIC TRANSPORTATION.**—The term “public transportation” has the meaning given the term in section 5302 of title 49, United States Code.

(12) **SAFETY BELT.**—The term “safety belt” has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

(13) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

Deadlines.  
49 USC 31136  
note.

**SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.**

(a) **REGULATIONS REQUIRED WITHIN 1 YEAR.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.

(b) **REGULATIONS REQUIRED WITHIN 2 YEARS.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe regulations that address the following commercial motor vehicle standards, if the Secretary determines that such standards meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code:

(1) **ROOF STRENGTH AND CRUSH RESISTANCE.**—The Secretary shall establish improved roof and roof support standards for



motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

(2) ANTI-EJECTION SAFETY COUNTERMEASURES.—The Secretary shall consider requiring advanced glazing standards for each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress. Standards.

(3) ROLLOVER CRASH AVOIDANCE.—The Secretary shall consider requiring motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the number and frequency of rollover crashes among motorcoaches.

(c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation: Deadline.

(1) IN GENERAL.—The Secretary shall consider requiring motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary, if the Secretary determines that such standards meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

(2) PERFORMANCE REQUIREMENTS.—In any standard adopted under paragraph (1), the Secretary shall include performance requirements to meet the objectives identified in paragraph (1) of this subsection.

(d) TIRE PERFORMANCE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Secretary shall consider— Deadline.

(1) issuing a rule to upgrade performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or

(2) if the Secretary determines that a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to— Reports.

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

(C) the Committee on Energy and Commerce of the House of Representatives.

(e) APPLICATION OF REGULATIONS.—

(1) NEW MOTORCOACHES.—Any regulation prescribed in accordance with subsection (a), (b), (c), or (d) shall—

(A) apply to all motorcoaches manufactured more than 3 years after the date on which the regulation is published as a final rule;

(B) take into account the impact to seating capacity of changes to size and weight of motorcoaches and the ability to comply with State and Federal size and weight requirements; and

(C) be based on the best available science.

(2) RETROFIT ASSESSMENT FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—The Secretary may assess the feasibility, benefits, and costs with respect to the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1).

(B) REPORT.—The Secretary shall submit a report on the assessment to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives not later than 2 years after the date of enactment of this Act.

49 USC 31136  
note.

**SEC. 32704. FIRE PREVENTION AND MITIGATION.**

(a) RESEARCH AND TESTING.—The Secretary shall conduct research and testing to determine the most prevalent causes of motorcoach fires and the best methods to prevent such fires and to mitigate the effect of such fires, both inside and outside the motorcoach. Such research and testing shall consider flammability of exterior components, smoke suppression, prevention of and resistance to wheel well fires, automatic fire suppression, passenger evacuation, causation and prevention of motorcoach fires, and improved fire extinguishers.

Deadline.

(b) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary may issue fire prevention and mitigation standards for motorcoaches, based on the results of the Secretary's research and testing, taking into account highway size and weight restrictions applicable to motorcoaches, if the Secretary determines that such standards meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

49 USC 31136  
note.

**SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.**

Deadlines.

(a) SAFETY RESEARCH INITIATIVES.—Not later than 3 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

(1) INTERIOR IMPACT PROTECTION.—The Secretary shall research and test enhanced occupant impact protection technologies for motorcoach interiors to reduce serious injuries for all passengers of motorcoaches.

(2) COMPARTMENTALIZATION SAFETY COUNTERMEASURES.—The Secretary shall research and test enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs.

(3) COLLISION AVOIDANCE SYSTEMS.—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

Deadline.

(b) RULEMAKING.—Not later than 2 years after the completion of each research and testing initiative required under subsection

(a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

**SEC. 32706. CONCURRENCE OF RESEARCH AND RULEMAKING.**

49 USC 31136  
note.

(a) **REQUIREMENTS.**—To the extent feasible, the Secretary shall ensure that research programs are carried out concurrently, and in a manner that concurrently assesses results, potential countermeasures, costs, and benefits.

(b) **AUTHORITY TO COMBINE RULEMAKINGS.**—When considering each of the rulemaking provisions, the Secretary may initiate a single rulemaking proceeding encompassing all aspects or may combine the rulemakings as the Secretary deems appropriate.

(c) **CONSIDERATIONS.**—If the Secretary undertakes separate rulemaking proceedings, the Secretary shall—

(1) consider whether each added aspect of rulemaking may contribute to addressing the safety need determined to require rulemaking;

(2) consider the benefits obtained through the safety belts rulemaking in section 32703(a); and

(3) avoid duplicative benefits, costs, and countermeasures.

**SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.**

49 USC 31136  
note.

(a) **SAFETY REVIEWS.**—Section 31144, as amended by section 32202 of this Act, is amended by adding at the end the following:

“(i) **PERIODIC SAFETY REVIEWS OF OWNERS AND OPERATORS OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.**—

“(1) **SAFETY REVIEW.**—

“(A) **IN GENERAL.**—The Secretary shall—

“(i) determine the safety fitness of each motor carrier of passengers who the Secretary registers under section 13902 or 31134 through a simple and understandable rating system that allows passengers to compare the safety performance of each such motor carrier; and

“(ii) assign a safety fitness rating to each such motor carrier.

“(B) **APPLICABILITY.**—Subparagraph (A) shall apply—

“(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

“(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

“(2) **PERIODIC REVIEW.**—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each motor carrier of passengers on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

“(3) **ENFORCEMENT STRIKE FORCES.**—In addition to the enhanced monitoring and enforcement actions required under

Determination.

Time periods.

Regulations.

paragraph (2), the Secretary may organize special enforcement strike forces targeting motor carriers of passengers.

“(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall—

“(A) reassess the safety fitness rating of each motor carrier of passengers not less frequently than once every 3 years; and

“(B) annually assess the safety fitness of certain motor carriers of passengers that serve primarily urban areas with high passenger loads.”.

(b) DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.—

(1) DEFINITIONS.—In this subsection:

(A) MOTORCOACH.—

(i) IN GENERAL.—Except as provided in clause (ii), the term “motorcoach” has the meaning given the term “over-the-road bus” in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

(ii) EXCLUSIONS.—The term “motorcoach” does not include—

(I) a bus used in public transportation that is provided by a State or local government; or

(II) a school bus (as defined in section 30125(a)(1) of title 49, United States Code), including a multifunction school activity bus.

(B) MOTORCOACH SERVICES AND OPERATIONS.—The term “motorcoach services and operations” means passenger transportation by a motorcoach for compensation.

(2) REQUIREMENTS FOR THE DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish, through notice and opportunity for public to comment, requirements to improve the accessibility to the public of safety rating information of motorcoach services and operations.

(B) DISPLAY.—In establishing the requirements under subparagraph (A), the Secretary shall consider requirements for each motor carrier that owns or leases 1 or more motorcoaches that transport passengers subject to the Secretary’s jurisdiction under section 13501 of title 49, United States Code, to prominently display safety fitness information pursuant to section 31144 of title 49, United States Code—

(i) in each terminal of departure;

(ii) in the motorcoach and visible from a position exterior to the vehicle at the point of departure, if the motorcoach does not depart from a terminal; and

(iii) at all points of sale for such motorcoach services and operations.

Deadline.  
Notice.  
Public comments.

**SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.**49 USC 31136  
note.

Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the feasibility, benefits, and costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

**SEC. 32709. COMMERCIAL DRIVER'S LICENSE PASSENGER ENDORSEMENT REQUIREMENTS.**49 USC 31136  
note.

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall review and assess the current knowledge and skill testing requirements for a commercial driver's license passenger endorsement to determine what improvements to the knowledge test, the examination of driving skills, and the application of such requirements are necessary to ensure the safe operation of commercial motor vehicles designed or used to transport passengers.

Deadline.  
Review.  
Assessment.

(b) **REPORT.**—Not later than 120 days after completion of the review and assessment under subsection (a), the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

- (1) a report on the review and assessment conducted under subsection (a);
- (2) a plan to implement any changes to the knowledge and skills tests; and
- (3) a timeframe by which the Secretary will implement the changes.

**SEC. 32710. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.**49 USC 31136  
note.

Not later than 3 years after the date of enactment of this Act, the Secretary of Transportation shall complete a rulemaking proceeding to consider requiring States to establish a program for annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

Deadline.  
Regulations.

- (1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;
- (2) the effectiveness of existing Federal standards for the inspection of such vehicles in—
  - (A) mitigating the risks described in paragraph (1); and
  - (B) ensuring the safe and proper operation condition of such vehicles; and
- (3) the costs and benefits of a mandatory inspection program.

**SEC. 32711. REGULATIONS.**49 USC 31136  
note.

Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

## Subtitle H—Safe Highways and Infrastructure Preservation

### SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.

Deadline.

(a) **TRUCK SIZE AND WEIGHT LIMITS STUDY.**—Not later than 45 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—

(1) provide data on accident frequency and evaluate factors related to accident risk of vehicles that operate with size and weight limits that are in excess of the Federal law and regulations in each State that allows vehicles to operate with size and weight limits that are in excess of the Federal law and regulations, or to operate under a Federal exemption or grandfather right, in comparison to vehicles that do not operate in excess of Federal law and regulations (other than vehicles with exemptions or grandfather rights);

(2) evaluate the impacts to the infrastructure in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, or to operate under a Federal exemption or grandfather right, in comparison to vehicles that do not operate in excess of Federal law and regulations (other than vehicles with exemptions or grandfather rights), including—

(A) the cost and benefits of the impacts in dollars;

(B) the percentage of trucks operating in excess of the Federal size and weight limits; and

(C) the ability of each State to recover the cost for the impacts, or the benefits incurred;

(3) evaluate the frequency of violations in excess of the Federal size and weight law and regulations, the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;

(4) assess the impacts that vehicles that operate with size and weight limits in excess of the Federal law and regulations, or that operate under a Federal exemption or grandfather right, in comparison to vehicles that do not operate in excess of Federal law and regulations (other than vehicles with exemptions or grandfather rights), have on bridges, including the impacts resulting from the number of bridge loadings;

(5) compare and contrast the potential safety and infrastructure impacts of the current Federal law and regulations regarding truck size and weight limits in relation to—

(A) six-axle and other alternative configurations of tractor-trailers; and

(B) where available, safety records of foreign nations with truck size and weight limits and tractor-trailer configurations that differ from the Federal law and regulations; and

(6) estimate—

(A) the extent to which freight would likely be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connectors if alternative truck configuration is allowed to

operate and the effect that any such diversion would have on other modes of transportation;

(B) the effect that any such diversion would have on public safety, infrastructure, cost responsibilities, fuel efficiency, freight transportation costs, and the environment;

(C) the effect on the transportation network of the United States that allowing alternative truck configuration to operate would have; and

(D) whether allowing alternative truck configuration to operate would result in an increase or decrease in the total number of trucks operating on principal arterial routes and National Highway System intermodal connectors; and

(7) identify all Federal rules and regulations impacted by changes in truck size and weight limits.

(b) REPORT.—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

Deadline.

Lists.

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

(B) each combination that exceeds the Interstate weight limit, but that the Department of Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and

(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and

(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.

(b) SPECIFICATIONS.—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs

(1) and (2) of subsection (a) were made by the Department of Transportation, other Federal agency, or a State agency.

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

## Subtitle I—Miscellaneous

### PART I—MISCELLANEOUS

#### SEC. 32911. PROHIBITION OF COERCION.

Section 31136(a) is amended by—

- (1) striking “and” at the end of paragraph (3);
- (2) striking the period at the end of paragraph (4) and inserting “; and”; and
- (3) adding after subsection (4) the following:
 

“(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.”.

#### SEC. 32912. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by striking “June 30, 2012” and inserting “September 30, 2013”.

#### SEC. 32913. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.

Web posting.

(a) **EXEMPTION STANDARDS.**—Section 31315(b)(4) is amended—

- (1) in subparagraph (A), by inserting “(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)” after “Federal Register”;
- (2) by amending subparagraph (B) to read as follows:

Federal Register,  
publication.

“(B) **UPON GRANTING A REQUEST.**—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.”; and

- (3) in subparagraph (C), by inserting “(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)” after “Federal Register”.

(b) **PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.**—Section 31315(b)(7) is amended to read as follows:



“(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency to notify the State’s roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.”.

(c) PILOT PROGRAMS.—Section 31315(c)(1) is amended by striking “in the Federal Register”.

(d) REPORT TO CONGRESS.—Section 31315 is amended by adding after subsection (d) the following:

“(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

“(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.”.

Public  
information.

#### SEC. 32914. REGISTRATION REQUIREMENTS.

(a) REQUIREMENTS FOR REGISTRATION.—Section 13901 is amended to read as follows:

##### “§ 13901. Requirements for registration

“(a) IN GENERAL.—A person may provide transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135 or service as a freight forwarder subject to jurisdiction under subchapter III of such chapter, or service as a broker for transportation subject to jurisdiction under subchapter I of such chapter only if the person is registered under this chapter to provide such transportation or service.

“(b) REGISTRATION NUMBERS.—

“(1) IN GENERAL.—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for each such authority to provide transportation or service for which the person is registered.

“(2) TRANSPORTATION OR SERVICE TYPE INDICATOR.—A number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

“(c) SPECIFICATION OF AUTHORITY.—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall specify, in writing, the authority under which the person is providing such transportation or service.”.

(b) AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—Chapter 139 is amended by adding at the end the following:

**“§ 13909. Availability of information**

Public  
information.  
Web posting.

“The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including—

“(1) the names and business addresses of the principals of each entity holding such registration;

“(2) the status of such registration; and

“(3) the electronic address of the entity’s surety provider for the submission of claims.”

(2) CONFORMING AMENDMENT.—The analysis for chapter 139 is amended by adding at the end the following:

“13909. Availability of information.”.

**SEC. 32915. ADDITIONAL MOTOR CARRIER REGISTRATION REQUIREMENTS.**

Section 13902, as amended by sections 32101 and 32107(a) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “using self-propelled vehicles the motor carrier owns, rents, or leases” after “motor carrier”; and

(B) by adding at the end the following:

“(6) SEPARATE REGISTRATION REQUIRED.—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.”; and

(2) by inserting after subsection (h) the following:

“(i) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

“(1) may only provide transportation of property with—

“(A) self-propelled motor vehicles owned or leased by the motor carrier; or

“(B) interchanges under regulations issued by the Secretary if the originating carrier—

“(i) physically transports the cargo at some point;

and

“(ii) retains liability for the cargo and for payment of interchanged carriers; and

“(2) may not arrange transportation described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as applicable.”.

**SEC. 32916. REGISTRATION OF FREIGHT FORWARDERS AND BROKERS.**

(a) REGISTRATION OF FREIGHT FORWARDERS.—Section 13903, as amended by section 32107(b) of this Act, is amended—

(1) in subsection (a)—

(A) by striking “finds that the person is fit” and inserting the following: “determines that the person—

“(1) has sufficient experience to qualify the person to act as a freight forwarder; and

“(2) is fit”; and

(B) by striking “and the Board”;

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting after subsection (a) the following:

“(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).

“(c) EXPERIENCE OR TRAINING REQUIREMENT.—Each freight forwarder shall employ, as an officer, an individual who—

“(1) has at least 3 years of relevant experience; or

“(2) provides the Secretary with satisfactory evidence of the individual’s knowledge of related rules, regulations, and industry practices.”; and

(4) by amending subsection (d), as redesignated, to read as follows:

“(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

“(1) IN GENERAL.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.”.

(b) REGISTRATION OF BROKERS.—Section 13904, as amended by section 32107(c) of this Act, is amended—

(1) in subsection (a), by striking “finds that the person is fit” and inserting the following: “determines that the person—

“(1) has sufficient experience to qualify the person to act as a broker for transportation; and

“(2) is fit”;

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g) respectively;

(3) by inserting after subsection (a) the following:

“(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the broker for transportation is in compliance with section 13906(b).

“(c) EXPERIENCE OR TRAINING REQUIREMENTS.—Each broker shall employ, as an officer, an individual who—

“(1) has at least 3 years of relevant experience; or

“(2) provides the Secretary with satisfactory evidence of the individual’s knowledge of related rules, regulations, and industry practices.”;

(4) by amending subsection (d), as redesignated, to read as follows:

“(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

“(1) IN GENERAL.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.

“(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.”; and

(5) by amending subsection (e), as redesignated, to read as follows:

“(e) REGULATION TO PROTECT MOTOR CARRIERS AND SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of motor carriers and shippers by motor vehicle.”.

#### **SEC. 32917. EFFECTIVE PERIODS OF REGISTRATION.**

Section 13905(c) is amended to read as follows:

“(c) EFFECTIVE PERIOD.—

“(1) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

“(A) shall be effective beginning on the date specified by the Secretary; and

“(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

“(2) REISSUANCE OF REGISTRATION.—

“(A) REQUIREMENT.—Not later than 4 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

“(B) EFFECTIVE PERIOD.—Each registration renewal under subparagraph (A)—

“(i) shall expire not later than 5 years after the date of such renewal; and

“(ii) may be further renewed as provided under this chapter.”.

Deadline.

#### **SEC. 32918. FINANCIAL SECURITY OF BROKERS AND FREIGHT FORWARDERS.**

(a) IN GENERAL.—Section 13906 is amended by striking subsections (b) and (c) and inserting the following:

“(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

“(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

“(C) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

“(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

“(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

“(i) subject to the review by the surety provider, the broker consents to the payment;

“(ii) in any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that the claim is valid; or

“(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii), and the claim is reduced to a judgment against the broker.

“(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

“(i) respond to the claim on or before the 30th day following the date on which the notice was received; and

“(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

“(C) COSTS AND ATTORNEY’S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney’s fees.

“(3) MINIMUM FINANCIAL SECURITY.—Each broker subject to the requirements of this section shall provide financial security of \$75,000 for purposes of this subsection, regardless of the number of branch offices or sales agents of the broker.

“(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

“(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

“(B) the Secretary shall immediately post such notification on the public Internet Website of the Department of Transportation.

“(5) SUSPENSION.—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of that person falls below the amount required under this subsection.

“(6) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall—

“(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

“(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

“(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

“(i) all uncontested claims received during such period; or

“(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

“(7) PENALTIES.—

“(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General of the United States may bring a civil

action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

“(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

“(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide broker financial security for 3 years.

“(8) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney’s fees or administrative costs.

“(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, other financial security, or a combination of such instruments, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

“(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established under subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, other financial security, or a combination of such instruments, that meets the requirements of this subsection.

“(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

“(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may not be accepted by the Secretary unless the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

“(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

“(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

“(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

“(ii) in the case the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

“(iii) the claim—

“(I) is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii); and

“(II) is reduced to a judgment against the freight forwarder.

“(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

Notice.

“(i) respond to the claim on or before the 30th day following receipt of the notice; and

Deadline.

“(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

“(C) COSTS AND ATTORNEY’S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney’s fees.

“(3) FREIGHT FORWARDER INSURANCE.—

“(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards prescribed by the Secretary.

“(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in subparagraph (C)), resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder while providing transfer, collection, or delivery service under this part.

“(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary, that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

“(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of \$75,000, regardless of the number of branch offices or sales agents of the freight forwarder.

“(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

“(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

Deadline.

Web posting.

“(B) the Secretary shall immediately post such notification on the public Internet web site of the Department of Transportation.

“(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if its available financial security falls below the amount required under this subsection.

“(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

Notice.

“(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

Public information.  
Time period.

“(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

Deadline.

“(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

“(i) all uncontested claims received during such period; or

“(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

“(8) PENALTIES.—

“(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

“(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

“(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide freight forwarder financial security for 3 years

“(9) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney’s fees or administrative costs.”.

Deadline.  
49 USC 13906  
note.

(b) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to implement and enforce the requirements under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a).

49 USC 13906  
note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.



**SEC. 32919. UNLAWFUL BROKERAGE ACTIVITIES.**

(a) **IN GENERAL.**—Chapter 149 is amended by adding at the end the following:

**“SEC. 14916. UNLAWFUL BROKERAGE ACTIVITIES.**

“(a) **PROHIBITED ACTIVITIES.**—A person may provide interstate brokerage services as a broker only if that person—

“(1) is registered under, and in compliance with, section 13904; and

“(2) has satisfied the financial security requirements under section 13906.

“(b) **EXCEPTIONS.**—Subsection (a) shall not apply to—

“(1) a non-vessel-operating common carrier (as defined in section 40102 of title 46) or an ocean freight forwarder (as defined in section 40102 of title 46) when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port;

“(2) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations, only to the extent that the customs broker is engaging in a movement under a customs bond or in a transaction involving customs business, as defined by section 111.1 of title 19, Code of Federal Regulations; or

“(3) an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration, only to the extent that the indirect air carrier is engaging in the activities as an air carrier as defined in section 40102(2) or in the activities defined in section 40102(3).

“(c) **CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.**—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

“(1) to the United States Government for a civil penalty in an amount not to exceed \$10,000 for each violation; and

“(2) to the injured party for all valid claims incurred without regard to amount.

“(d) **LIABLE PARTIES.**—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

“(1) to any corporate entity or partnership involved; and

“(2) to the individual officers, directors, and principals of such entities.”.

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 149 is amended by adding at the end the following:

“14916. Unlawful brokerage activities.”.

Applicability.

## **PART II—HOUSEHOLD GOODS TRANSPORTATION**

**SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.**

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking “section 13702(c);” and inserting “section 13702(c); and”;

(2) by amending subparagraph (C) to read as follows:

“(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers’ rights and responsibilities, and options for limitations of liability for loss and damage.”; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 32102 of this Act, is amended by adding at the end the following:

Regulations.  
Review.  
Deadline.

“(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

“(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.”.

49 USC 13902  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

#### SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking “and 14103” and inserting “, 14103, and 14915(c)”.

(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following:

Criteria.

“The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.”.

#### SEC. 32923. SETTLEMENT AUTHORITY.

(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—Section 14901 is amended by adding at the end the following:

“(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.”.

(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Section 14915(a) is amended by adding at the end the following:

“(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.”.

**PART III—TECHNICAL AMENDMENTS****SEC. 32931. UPDATE OF OBSOLETE TEXT.**

(a) Section 31137(g), as redesignated by section 32301 of this Act, is amended by striking “Not later than December 1, 1990, the Secretary shall prescribe” and inserting “The Secretary shall maintain”.

(b) Section 31151(a) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.”; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking “Not later than December 18, 1994, the Secretary shall prescribe” and inserting “The Secretary shall maintain”.

(d) Section 31310(g)(1) is amended by striking “Not later than 1 year after the date of enactment of this Act, the” and inserting “The”.

**SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.**

(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—

(1) by repealing section 307;

(2) in the analysis, by striking the item relating to section 307;

(3) in section 333(d)(1)(C), by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(4) in section 333(e)—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” and inserting “Board”.

(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is amended by striking “24706(c) of this title” and inserting “24706(c) of this title before May 31, 1998”.

(c) TECHNICAL AMENDMENTS TO PART C OF SUBTITLE V.—

(1) Section 24307(b)(3) is amended by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”.

(2) Section 24311 is amended—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”;

(B) by striking “Commission” each place it appears and inserting “Board”; and

(C) by striking “Commission’s” and inserting “Board’s”.

(3) Section 24902 is amended—

(A) by striking “Interstate Commerce Commission” each place it appears and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”.

(4) Section 24904 is amended—

Repeal.

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”.

**SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Section 13905(f)(1)(A) is amended by striking “section 13904(c)” and inserting “section 13904(e)”;

(b) Section 14504a(c)(1) is amended—

(1) in subparagraph (C), by striking “sections” and inserting “section”; and

(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting “; and”.

(c) Section 31103(a) is amended by striking “section 31102(b)(1)(E)” and inserting “section 31102(b)(2)(E)”.

(d) Section 31103(b) is amended by striking “authorized by section 31104(f)(2)”.

(e) Section 31309(b)(2) is amended by striking “31308(2)” and inserting “31308(3)”.

49 USC 31136  
note.

**SEC. 32934. EXEMPTIONS FROM REQUIREMENTS FOR COVERED FARM VEHICLES.**

(a) **FEDERAL REQUIREMENTS.**—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

(1) Any requirement relating to commercial driver’s licenses established under chapter 313 of title 49, United States Code.

(2) Any requirement relating to drug-testing established under chapter 313 of title 49, United States Code.

(3) Any requirement relating to medical certificates established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 313 of title 49, United States Code.

(4) Any requirement relating to hours of service established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(5) Any requirement relating to vehicle inspection, repair, and maintenance established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(b) **STATE REQUIREMENTS.**—

(1) **IN GENERAL.**—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.

(2) **EXCEPTION.**—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(c) **COVERED FARM VEHICLE DEFINED.**—

(1) **IN GENERAL.**—In this section, the term “covered farm vehicle” means a motor vehicle (including an articulated motor vehicle)—

(A) that—

(i) is traveling in the State in which the vehicle is registered or another State;

(ii) is operated by—

(I) a farm owner or operator;

(II) a ranch owner or operator; or

(III) an employee or family member of an individual specified in subclause (I) or (II);

(iii) is transporting to or from a farm or ranch—

(I) agricultural commodities;

(II) livestock; or

(III) machinery or supplies;

(iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and

(v) is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

(i) 26,001 pounds or less; or

(ii) greater than 26,001 pounds and traveling within the State or within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) INCLUSION.—In this section, the term “covered farm vehicle” includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and—

(A) is operated pursuant to a crop share farm lease agreement;

(B) is owned by a tenant with respect to that agreement; and

(C) is transporting the landlord’s portion of the crops under that agreement.

(d) SAFETY STUDY.—The Secretary of Transportation shall conduct a study of the exemption required by subsection (a) as follows:

(1) Data and analysis of covered farm vehicles shall include—

(A) the number of vehicles that are operated subject to each of the regulatory exemptions permitted under subsection (a);

(B) the number of drivers that operate covered farm vehicles subject to each of the regulatory exemptions permitted under subsection (a);

(C) the number of crashes involving covered farm vehicles;

(D) the number of occupants and non-occupants injured in crashes involving covered farm vehicles;

(E) the number of fatalities of occupants and non-occupants killed in crashes involving farm vehicles;

(F) crash investigations and accident reconstruction investigations of all fatalities in crashes involving covered farm vehicles;

(G) overall operating mileage of covered farm vehicles;

(H) numbers of covered farm vehicles that operate in neighboring States; and

(I) any other data the Secretary deems necessary to analyze and include.

Lists.

(2) A listing of State regulations issued and maintained in each State that are identical to the Federal regulations that are subject to exemption in subsection (a).

Reports.  
Deadline.

(3) The Secretary shall report the findings of the study to the appropriate committees of Congress not later than 18 months after the date of enactment of this Act.

(e) CONSTRUCTION.—Nothing in this section shall be construed as authority for the Secretary of Transportation to prescribe regulations.

Hazardous  
Materials  
Transportation  
Safety  
Improvement Act  
of 2012.

## **TITLE III—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVE- MENT ACT OF 2012**

49 USC 5101  
note.

### **SEC. 33001. SHORT TITLE.**

This title may be cited as the “Hazardous Materials Transportation Safety Improvement Act of 2012”.

49 USC 5101  
note.

### **SEC. 33002. DEFINITION.**

In this title, the term “Secretary” means the Secretary of Transportation.

### **SEC. 33003. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

### **SEC. 33004. TRAINING FOR EMERGENCY RESPONDERS.**

(a) TRAINING CURRICULUM.—Section 5115 is amended—

- (1) in subsection (b)(1)(B), by striking “basic”;
- (2) in subsection (b)(2), by striking “basic”; and
- (3) in subsection (c), by striking “basic”.

(b) OPERATIONS LEVEL TRAINING.—Section 5116 is amended—

(1) in subsection (b)(1), by adding at the end the following: “To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.”;

(2) in subsection (j)—

(A) in paragraph (1), by striking “funds” and all that follows through “fighting fires for” and inserting “funds and through a competitive process, make a grant or make grants to national nonprofit fire service organizations for”;

(B) in paragraph (3)(A), by striking “train” and inserting “provide training, including portable training, for”;

(C) in paragraph (4)—

Certification.

(i) by striking “train” and inserting “provide training, including portable training, for”; and

(ii) by inserting “comply with Federal regulations and national consensus standards for hazardous materials response and” after “training course shall”;

(D) by redesignating paragraph (5) as paragraph (8);

and

(E) by inserting after paragraph (4) the following:

“(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.

“(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.

“(7) For the purposes of this subsection, the term ‘portable training’ means live, instructor-led training provided by certified fire service instructors that can be offered in any suitable setting, rather than specific designated facilities. Under this training delivery model, instructors travel to locations convenient to students and utilize local facilities and resources.”; and

Definition.

(3) in subsection (k)—

(A) by striking “annually” and inserting “an annual report”;

(B) by inserting “the report” after “make available”;

(C) by striking “information” and inserting “. The report submitted under this subsection shall include information”; and

(D) by striking “The report shall identify” and all that follows and inserting the following: “The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

“(A) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

“(B) the number of persons trained under the grant program, by training level;

“(C) an evaluation of the efficacy of such planning and training programs; and

“(D) any recommendations the Secretary may have for improving such grant programs.”.

**SEC. 33005. PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM.**

49 USC 5121  
note.

(a) IN GENERAL.—The Secretary may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. At least 1 of the pilot projects under this section shall take place in a rural area.

Urban and rural  
areas.

(b) REQUIREMENTS.—In conducting pilot projects under this section, the Secretary—

Consultation.

(1) may not waive the requirements under section 5110 of title 49, United States Code; and

(2) shall consult with organizations representing—

(A) fire services personnel;

(B) law enforcement and other appropriate enforcement personnel;

(C) other emergency response providers;

(D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, highway, rail, and water; and

(F) employees of persons who transport or offer for transportation hazardous material by air, highway, rail, and water.

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) prepare a report on the results of the pilot projects carried out under this section, including—

(A) a detailed description of the pilot projects;

(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations;

(D) an analysis of the associated benefits and costs of using the paperless hazard communications systems for each mode of transportation; and

(E) a recommendation that incorporates the information gathered in subparagraphs (A), (B), (C), and (D) on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

(d) **PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.**—In this section, the term “paperless hazard communications system” means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier.

**SEC. 33006. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.**

(a) **ASSESSMENT.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the United States Coast Guard, as appropriate, shall conduct an assessment to improve the collection,



analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(2) REVIEW.—The assessment conducted under this subsection shall review the methods used by the Pipeline and Hazardous Materials Safety Administration (referred to in this section as the “Administration”) for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

(A) information requested on the accident and incident reporting forms required to be submitted to the Administration;

(B) methods used by the Administration to verify that the information provided on such forms is accurate and complete;

(C) accident and incident reporting requirements, including whether such requirements should be expanded to include shippers and consignees of hazardous materials;

(D) resources of the Administration related to data collection, analysis, and reporting, including staff and information technology; and

(E) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information.

(b) DEVELOPMENT OF ACTION PLAN.—Not later than 9 months after the date of enactment of this Act, the Secretary shall develop an action plan and timeline for improving the collection, analysis, reporting, and use of data by the Administration, including revising the database of the Administration, as appropriate.

(c) SUBMISSION TO CONGRESS.—Not later than 15 days after the completion of the action plan and timeline under subsection (c), the Secretary shall submit the action plan and timeline to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) REPORTING REQUIREMENTS.—Section 5125(b)(1)(D) is amended by inserting “and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident” before the period at the end.

**SEC. 33007. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.**

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5117 the following:

**“§ 5118. Hazardous material technical assessment, research and development, and analysis program**

“(a) RISK REDUCTION.—

“(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

“(A) reducing the risks associated with the transportation of hazardous material; and

“(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

“(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

“(A) utilize information gathered from other modal administrations with similar programs; and

“(B) coordinate with other modal administrations, as appropriate.

“(b) COOPERATION.—In carrying out subsection (a), the Secretary shall work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by inserting after the item relating to section 5117 the following:

“5118. Hazardous material technical assessment, research and development, and analysis program.”.

49 USC 5121  
note.  
Deadline.  
Standards.

**SEC. 33008. HAZARDOUS MATERIAL ENFORCEMENT TRAINING.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop uniform performance standards for training hazardous material inspectors and investigators on—

(1) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

(2) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

(b) STANDARDS AND GUIDELINES.—The Secretary may develop—

(1) guidelines for hazardous material inspector and investigator qualifications;

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

(c) AVAILABILITY.—The standards, protocols, and guidelines established under this section—

(1) shall be mandatory for—

(A) the Department of Transportation’s multimodal personnel conducting hazardous material enforcement inspections or investigations; and

(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

(2) shall be made available to Federal, State, and local hazardous material safety enforcement personnel.

**SEC. 33009. INSPECTIONS.**

(a) NOTICE OF ENFORCEMENT MEASURES.—Section 5121(c)(1) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

- “(i) his or her decision to exercise his or her authority under paragraph (1);
- “(ii) any findings made; and
- “(iii) any actions being taken as a result of a finding of noncompliance.”.

(b) REGULATIONS.—

(1) MATTERS TO BE ADDRESSED.—Section 5121(e) is amended by adding at the end the following:

“(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

“(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

“(B) the means by which—

“(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

“(ii) noncompliant packages that do not present a hazard are moved to their final destination;

“(C) appropriate training and equipment for inspectors;

and

“(D) the proper closure of packaging in accordance with the hazardous material regulations.”.

(2) FINALIZING REGULATIONS.—In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act, the Secretary shall take all actions necessary to finalize a regulation under paragraph (1) of this subsection.

(c) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121(g)(1) is amended by inserting “safety and” before “security”.

Deadline.  
49 USC 5121  
note.

**SEC. 33010. CIVIL PENALTIES.**

Section 5123 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “at least \$250 but”; and

(ii) by striking “\$50,000” and inserting “\$75,000”;

(B) in paragraph (2), by striking “\$100,000” and inserting “\$175,000”; and

(C) by amending paragraph (3) to read as follows:

“(3) If the violation is related to training, a person described in paragraph (1) shall be liable for a civil penalty of at least \$450.”; and

(2) by adding at the end the following:

“(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—

“(1) The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

“(2) For the purposes of this subsection, the term ‘obstructs’ means actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation.

Definition.

	“(i) PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.—
Effective date.	“(1) IN GENERAL.—Except as provided under paragraph (2), a person subject to the jurisdiction of the Secretary under this chapter who fails to pay a civil penalty assessed under this chapter, or fails to arrange and abide by an acceptable payment plan for such civil penalty, may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty unless the person has filed a formal administrative or judicial appeal of the penalty.
	“(2) EXCEPTION.—Paragraph (1) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.
Deadline.	“(3) RULEMAKING.—Not later than 2 years after the date of enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—
Procedures.	“(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and “(B) ensures that the person described in subparagraph (A)—
Notification.	“(i) is notified in writing; and “(ii) is given an opportunity to respond before the person is required to cease the activity.”.
	<b>SEC. 33011. REPORTING OF FEES.</b>
	Section 5125(f)(2) is amended by striking “, upon the Secretary’s request,” and inserting “biennially”.
	<b>SEC. 33012. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.</b>
Deadlines. 49 USC 5117 note.	(a) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that establish— (1) standard operating procedures to support administration of the special permit and approval programs; and (2) objective criteria to support the evaluation of special permit and approval applications.
	(b) REVIEW OF SPECIAL PERMITS.—
Time period.	(1) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a review and analysis of special permits that have been in continuous effect for a 10-year period to determine which special permits may be converted into the hazardous materials regulations. (2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider— (A) the safety record for hazardous materials transported under the special permit; (B) the application of a special permit; (C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and (D) rulemaking activity in related areas.
Notice. Public comments. Determination.	(3) RULEMAKING.—After completing the review and analysis under paragraph (1), but not later than 3 years after the

date of enactment of this Act, and after providing notice and opportunity for public comment, the Secretary shall issue regulations to incorporate into the hazardous materials regulations any special permits identified in the review under paragraph (1) that the Secretary determines are appropriate for incorporation, based on the factors identified in paragraph (2).

(c) INCORPORATION INTO REGULATION.—Section 5117 is amended by adding at the end the following:

“(f) INCORPORATION INTO REGULATIONS.—

“(1) IN GENERAL.—Not later than 1 year after the date on which a special permit has been in continuous effect for a 10-year period, the Secretary shall conduct a review and analysis of that special permit to determine whether it may be converted into the hazardous materials regulations.

Deadline.  
Time period.  
Review.  
Analysis.

“(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

“(A) the safety record for hazardous materials transported under the special permit;

“(B) the application of a special permit;

“(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

“(D) rulemaking activity in related areas.

“(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and after providing notice and opportunity for public comment, the Secretary shall either institute a rulemaking to incorporate the special permit into the hazardous materials regulations or publish in the Federal Register the Secretary’s justification for why the special permit is not appropriate for incorporation into the regulations.”.

Notice.  
Public comments.  
Federal Register,  
publication.

#### SEC. 33013. HIGHWAY ROUTING DISCLOSURES.

(a) LIST OF ROUTE DESIGNATIONS.—Section 5112(c) is amended—

(1) by striking “In coordination” and inserting the following:

“(1) IN GENERAL.—In coordination”; and

(2) by adding at the end the following:

“(2) STATE RESPONSIBILITIES.—

“(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

“(i) the name of the State agency responsible for hazardous material highway route designations; and

“(ii) a list of the State’s currently effective hazardous material highway route designations.

“(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(ii)—

“(i) at least once every 2 years; and

“(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.”.

Time period.  
Deadline.

(b) COMPLIANCE WITH SECTION 5112.—Section 5125(c)(1) is amended by inserting “, and is published in the Department’s hazardous materials route registry under section 5112(c)” before the period at the end.

Deadlines.  
49 USC 5109  
note.  
Study.  
Reports.

**SEC. 33014. MOTOR CARRIER SAFETY PERMITS.**

(a) **REVIEW.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a study of, and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on, the implementation of the hazardous material safety permit program under section 5109 of title 49, United States Code. In conducting the study, the Secretary shall review, at a minimum—

- (1) the list of hazardous materials requiring a safety permit;
- (2) the number of permits that have been issued, denied, revoked, or suspended since inception of the program and the number of commercial motor carriers that have never had a permit denied, revoked, or suspended since inception of the program;
- (3) the reasons for such denials, revocations, or suspensions;
- (4) the criteria used by the Federal Motor Carrier Safety Administration to determine whether a hazardous material safety permit issued by a State is equivalent to the Federal permit; and
- (5) actions the Secretary could implement to improve the program, including whether to provide opportunities for an additional level of fitness review prior to the denial, revocation, or suspension of a safety permit.

(b) **ACTIONS TAKEN.**—Not later than 2 years after the date of enactment of this Act, based on the study conducted under subsection (a), the Secretary shall either institute a rulemaking to make any necessary improvements to the hazardous materials safety permit program under section 5109 of title 49, United States Code or publish in the Federal Register the Secretary's justification for why a rulemaking is not necessary.

Deadlines.

**SEC. 33015. WETLINES.**

(a) **EVALUATION.**—Not later than 1 year after the date of enactment of this Act, the United States Government Accountability Office shall evaluate, and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a report on the safety of transporting flammable liquids in the external product piping of cargo tank motor vehicles (commonly referred to as wetlines). The evaluation shall—

- (1) review the safety of transporting flammable liquids in the external product piping of cargo tank motor vehicles;
- (2) accurately quantify the number of incidents involving the transportation of flammable liquids in external product piping of cargo tank motor vehicles;
- (3) identify various alternatives to loading, transporting, and unloading flammable liquids in such piping;
- (4) examine the costs and benefits of each alternative; and
- (5) identify any obstacles to implementing each alternative.

Determination.

(b) **REGULATIONS.**—The Secretary may not issue a final rule regarding transporting flammable liquids in the external product piping of cargo tank motor vehicles prior to completion of the evaluation conducted under subsection (a), or 2 years after the date of enactment of this Act, whichever is earlier, unless the Secretary determines that a risk to public safety, property, or

the environment is present or an imminent hazard (as defined in section 5102 of title 49, United States Code) exists and that the regulations will address the risk or hazard.

**SEC. 33016. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.**

Section 5107(e)(2) is amended—

(1) by inserting “through a competitive process” between “made” and “to”; and

(2) by striking “hazmat employee”.

**SEC. 33017. AUTHORIZATION OF APPROPRIATIONS.**

Section 5128 is amended to read as follows:

**“§ 5128. Authorization of appropriations**

“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

“(1) \$42,338,000 for fiscal year 2013; and

“(2) \$42,762,000 for fiscal year 2014.

“(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2013 and 2014—

“(1) \$188,000 to carry out section 5115;

“(2) \$21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than \$13,650,000 shall be available to carry out section 5116(b);

“(3) \$150,000 to carry out section 5116(f);

“(4) \$625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

“(5) \$1,000,000 to carry out section 5116(j).

“(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend \$4,000,000 for each of the fiscal years 2013 and 2014 to carry out section 5107(e).

“(d) CREDITS TO APPROPRIATIONS.—

“(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

“(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.”.

**TITLE IV—SPORT FISH RESTORATION  
AND RECREATIONAL BOATING SAFE-  
TY ACT OF 2012**

Sport Fish  
Restoration and  
Recreational  
Boating Safety  
Act of 2012.

**SEC. 34001. SHORT TITLE.**

16 USC 777 note.

This title may be cited as the “Sport Fish Restoration and Recreational Boating Safety Act of 2012”.

**SEC. 34002. AMENDMENT OF FEDERAL AID IN SPORT FISH RESTORATION ACT.**

Section 4 of the Federal Aid in Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a), by striking “of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “fiscal year through 2014,”; and

(2) in subsection (b)(1)(A), by striking “of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “fiscal year through 2014,”.

**TITLE V—MISCELLANEOUS**

49 USC 40128  
note.

**SEC. 35001. OVERFLIGHTS IN GRAND CANYON NATIONAL PARK.**

(a) DETERMINATIONS WITH RESPECT TO SUBSTANTIAL RESTORATION OF NATURAL QUIET AND EXPERIENCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for purposes of section 3(b)(1) of Public Law 100–91 (16 U.S.C. 1a–1 note), the substantial restoration of the natural quiet and experience of the Grand Canyon National Park (in this section referred to as the “Park”) shall be considered to be achieved in the Park if, for at least 75 percent of each day, 50 percent of the Park is free of sound produced by commercial air tour operations that have an allocation to conduct commercial air tours in the Park as of the date of enactment of this Act.

(2) CONSIDERATIONS.—

(A) IN GENERAL.—For purposes of determining whether substantial restoration of the natural quiet and experience of the Park has been achieved in accordance with paragraph (1), the Secretary of the Interior (in this section referred to as the “Secretary”) shall use—

(i) the 2-zone system for the Park in effect on the date of enactment of this Act to assess impacts relating to substantial restoration of natural quiet at the Park, including—

(I) the thresholds for noticeability and audibility; and

(II) the distribution of land between the 2 zones; and

(ii) noise modeling science that is—

(I) developed for use at the Park, specifically Integrated Noise Model Version 6.2;

(II) validated by reasonable standards for conducting field observations of model results; and

(III) accepted and validated by the Federal Interagency Committee on Aviation Noise.

(B) SOUND FROM OTHER SOURCES.—The Secretary shall not consider sound produced by sources other than commercial air tour operations, including sound emitted by other types of aircraft operations or other noise sources, for purposes of—



(i) making recommendations, developing a final plan, or issuing regulations relating to commercial air tour operations in the Park; or

(ii) determining under paragraph (1) whether substantial restoration of the natural quiet and experience of the Park has been achieved.

(3) CONTINUED MONITORING.—The Secretary shall continue monitoring noise from aircraft operating over the Park below 17,999 feet MSL to ensure continued compliance with the substantial restoration of natural quiet and experience of the Park.

(4) DAY DEFINED.—For purposes of this section, the term “day” means the hours between 7:00 a.m. and 7:00 p.m.

(b) CONVERSION TO QUIET TECHNOLOGY AIRCRAFT.—

Deadlines.

(1) IN GENERAL.—Not later than 15 years after the date of enactment of this Act, all commercial air tour aircraft operating in the Grand Canyon National Park Special Flight Rules Area shall be required to fully convert to quiet aircraft technology (as determined in accordance with regulations in effect on the day before the date of enactment of this Act).

(2) CONVERSION INCENTIVES.—Not later than 60 days after the date of enactment of this Act, the Secretary and the Administrator of the Federal Aviation Administration shall provide incentives for commercial air tour operators that convert to quiet aircraft technology (as determined in accordance with the regulations in effect on the day before the date of enactment of this Act) before the date specified in paragraph (1), such as increasing the flight allocations for such operators on a net basis consistent with section 804(c) of the National Park Air Tours Management Act of 2000 (title VIII of Public Law 106-181), provided that the cumulative impact of such operations does not increase noise at Grand Canyon National Park.

#### SEC. 35002. COMMERCIAL AIR TOUR OPERATIONS.

Section 40128(b)(1)(C) of title 49, United States Code, is amended to read as follows:

“(C) EXCEPTION.—An application to begin or expand commercial air tour operations at Crater Lake National Park or Great Smoky Mountains National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would adversely affect park resources or visitor experiences.”.

#### SEC. 35003. QUALIFICATIONS FOR PUBLIC AIRCRAFT STATUS.

Section 40125 of title 49, United States Code, is amended by adding at the end the following:

“(d) SEARCH AND RESCUE PURPOSES.—An aircraft described in section 40102(a)(41)(D) that is not exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of 1 of those governments, qualifies as a public aircraft if the Administrator determines that—

“(1) there are extraordinary circumstances;

“(2) the aircraft will be used for the performance of search and rescue missions;

“(3) a community would not otherwise have access to search and rescue services; and

“(4) a government entity demonstrates that granting the waiver is necessary to prevent an undue economic burden on that government.”.

Highway  
Investment, Job  
Creation, and  
Economic Growth  
Act of 2012.  
26 USC 1 note.

## DIVISION D—FINANCE

### SEC. 40001. SHORT TITLE.

This division may be cited as the “Highway Investment, Job Creation, and Economic Growth Act of 2012”.

## TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES

### SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

26 USC 9503.

(1) by striking “July 1, 2012” in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting “October 1, 2014”, and

(2) by striking “Surface Transportation Extension Act of 2012” in subsections (c)(1) and (e)(3) and inserting “MAP-21”.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Surface Transportation Extension Act of 2012” each place it appears in subsection (b)(2) and inserting “MAP-21”, and

(2) by striking “July 1, 2012” in subsection (d)(2) and inserting “October 1, 2014”.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking “July 1, 2012” and inserting “October 1, 2014”.

26 USC 9503  
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2012.

### SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “June 30, 2012” and inserting “September 30, 2016”:

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking “July 1, 2012” and inserting “October 1, 2016”:

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—

(1) IN GENERAL.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “2013” each place it appears and inserting “2017”:

(A) Section 4481(f).

26 USC 4481.

(B) Section 4482(d).

(2) EXTENSION AND TECHNICAL CORRECTION.—

(A) IN GENERAL.—Paragraph (4) of section 4482(c) of such Code is amended to read as follows:

“(4) TAXABLE PERIOD.—The term ‘taxable period’ means any year beginning before July 1, 2017, and the period which begins on July 1, 2017, and ends at the close of September 30, 2017.”

Definition.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect as if included in the amendments made by section 142 of the Surface Transportation Extension Act of 2011, Part II.

26 USC 4482 note.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking “July 1, 2012” each place it appears and inserting “October 1, 2016”,

(2) by striking “December 31, 2012” each place it appears and inserting “March 31, 2017”, and

(3) by striking “October 1, 2012” and inserting “January 1, 2017”.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—

(1) Section 4221(a) of the Internal Revenue Code of 1986 is amended by striking “July 1, 2012” and inserting “October 1, 2016”.

(2) Section 4483(i) of such Code is amended by striking “July 1, 2012” and inserting “October 1, 2017”.

(e) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking “July 1, 2012” each place it appears in paragraphs (1) and (2) and inserting “October 1, 2016”,

(ii) by striking “JULY 1, 2012” in the heading of paragraph (2) and inserting “OCTOBER 1, 2016”,

(iii) by striking “June 30, 2012” in paragraph (2) and inserting “September 30, 2016”, and

(iv) by striking “April 1, 2013” in paragraph (2) and inserting “July 1, 2017”, and

(B) in subsection (c)(2), by striking “April 1, 2013” and inserting “July 1, 2017”.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking “July 1, 2012” and inserting “October 1, 2016”.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(i) by striking “July 1, 2013” each place it appears and inserting “October 1, 2017”, and

(ii) by striking “July 1, 2012” and inserting “October 1, 2016”.

(f) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on July 1, 2012.

16 USC 460l–11 note.

## TITLE II—REVENUE PROVISIONS

### Subtitle A—Leaking Underground Storage Tank Trust Fund

#### SEC. 40201. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.

26 USC 9508. (a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Amounts” and inserting:

“(1) IN GENERAL.—Except as provided in paragraph (2), amounts”, and

(2) by adding at the end the following new paragraph:

Appropriation  
authorization.

“(2) TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$2,400,000,000 to be transferred under section 9503(f)(3) to the Highway Account (as defined in section 9503(e)(5)(B)) in the Highway Trust Fund.”.

(b) TRANSFER TO HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) INCREASE IN FUND BALANCE.—There is hereby transferred to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).”.

(2) CONFORMING AMENDMENTS.—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting “or transferred” after “appropriated”, and

(B) by striking “APPROPRIATED” in the heading thereof.

### Subtitle B—Pension Provisions

#### PART I—PENSION FUNDING STABILIZATION

##### SEC. 40211. PENSION FUNDING STABILIZATION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 430(h)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

“(iv) SEGMENT RATE STABILIZATION.—

Time period.

“(I) IN GENERAL.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than the applicable minimum percentage, or more than the applicable maximum percentage, of the average of the segment rates described in such clause for years in the 25-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month

shall be equal to the applicable minimum percentage or the applicable maximum percentage of such average, whichever is closest. The Secretary shall determine such average on an annual basis and may prescribe equivalent rates for years in any such 25-year period for which the rates described in any such clause are not available.

Determination.

“(II) APPLICABLE MINIMUM PERCENTAGE; APPLICABLE MAXIMUM PERCENTAGE.—For purposes of subclause (I), the applicable minimum percentage and the applicable maximum percentage for a plan year beginning in a calendar year shall be determined in accordance with the following table:

“If the calendar year is:	The applicable minimum percentage is:	The applicable maximum percentage is:
2012 .....	90%	110%
2013 .....	85%	115%
2014 .....	80%	120%
2015 .....	75%	125%
After 2015 .....	70%	130%.”.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 404(o) of such Code is amended by inserting “(determined by not taking into account any adjustment under clause (iv) of subsection (h)(2)(C) thereof)” before the period.

26 USC 404.

(B) Subparagraph (F) of section 430(h)(2) of such Code is amended by inserting “and the averages determined under subparagraph (C)(iv)” after “subparagraph (C)”.

(C) Subparagraphs (C) and (D) of section 417(e)(3) of such Code are each amended by striking “section 430(h)(2)(C)” and inserting “section 430(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)”.

(D) Section 420 of such Code is amended by adding at the end the following new subsection:

“(g) SEGMENT RATES DETERMINED WITHOUT PENSION STABILIZATION.—For purposes of this section, section 430 shall be applied without regard to subsection (h)(2)(C)(iv) thereof.”.

Applicability.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 303(h)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)) is amended by adding at the end the following new clause:

“(iv) SEGMENT RATE STABILIZATION.—

“(I) IN GENERAL.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than the applicable minimum

Time period.

Determination.

percentage, or more than the applicable maximum percentage, of the average of the segment rates described in such clause for years in the 25-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to the applicable minimum percentage or the applicable maximum percentage of such average, whichever is closest. The Secretary of the Treasury shall determine such average on an annual basis and may prescribe equivalent rates for years in any such 25-year period for which the rates described in any such clause are not available.

“(II) APPLICABLE MINIMUM PERCENTAGE; APPLICABLE MAXIMUM PERCENTAGE.—For purposes of subclause (I), the applicable minimum percentage and the applicable maximum percentage for a plan year beginning in a calendar year shall be determined in accordance with the following table:

“If the calendar year is:	The applicable minimum percentage is:	The applicable maximum percentage is:
2012 .....	90%	110%
2013 .....	85%	115%
2014 .....	80%	120%
2015 .....	75%	125%
After 2015 .....	70%	130%.”.

(2) DISCLOSURE OF EFFECT OF SEGMENT RATE STABILIZATION ON PLAN FUNDING.—

(A) IN GENERAL.—Paragraph (2) of section 101(f) of such Act (29 U.S.C. 1021(f)) is amended by adding at the end the following new subparagraph:

“(D) EFFECT OF SEGMENT RATE STABILIZATION ON PLAN FUNDING.—

“(i) IN GENERAL.—In the case of a single-employer plan for an applicable plan year, each notice under paragraph (1) shall include—

“(I) a statement that the MAP-21 modified the method for determining the interest rates used to determine the actuarial value of benefits earned under the plan, providing for a 25-year average of interest rates to be taken into account in addition to a 2-year average,

“(II) a statement that, as a result of the MAP-21, the plan sponsor may contribute less money to the plan when interest rates are at historical lows, and

“(III) a table which shows (determined both with and without regard to section 303(h)(2)(C)(iv)) the funding target attainment percentage (as defined in section 303(d)(2)), the funding shortfall (as defined in section 303(c)(4)), and the minimum required contribution (as determined under section 303), for the applicable plan year and each of the 2 preceding plan years.

“(ii) APPLICABLE PLAN YEAR.—For purposes of this subparagraph, the term ‘applicable plan year’ means any plan year beginning after December 31, 2011, and before January 1, 2015, for which—

Definition.

“(I) the funding target (as defined in section 303(d)(2)) is less than 95 percent of such funding target determined without regard to section 303(h)(2)(C)(iv),

“(II) the plan has a funding shortfall (as defined in section 303(c)(4) and determined without regard to section 303(h)(2)(C)(iv)) greater than \$500,000, and

“(III) the plan had 50 or more participants on any day during the preceding plan year.

For purposes of any determination under subclause (III), the aggregation rule under the last sentence of section 303(g)(2)(B) shall apply.

“(iii) SPECIAL RULE FOR PLAN YEARS BEGINNING BEFORE 2012.—In the case of a preceding plan year referred to in clause (i)(III) which begins before January 1, 2012, the information described in such clause shall be provided only without regard to section 303(h)(2)(C)(iv).”.

(B) MODEL NOTICE.—The Secretary of Labor shall modify the model notice required to be published under section 501(c) of the Pension Protection Act of 2006 to prominently include the information described in section 101(f)(2)(D) of the Employee Retirement Income Security Act of 1974, as added by this paragraph.

29 USC 1021  
note.

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (F) of section 303(h)(2) of such Act (29 U.S.C. 1083(h)(2)) is amended by inserting “and the averages determined under subparagraph (C)(iv)” after “subparagraph (C)”.

(B) Clauses (ii) and (iii) of section 205(g)(3)(B) of such Act (29 U.S.C. 1055(g)(3)(B)) are each amended by striking “section 303(h)(2)(C)” and inserting “section 303(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)”.

(C) Clause (iv) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking “section 303(h)(2)(C)” and inserting “section 303(h)(2)(C) (notwithstanding any regulations issued by the corporation, determined by not taking into account any adjustment under clause (iv) thereof)”.

(D) Section 4010(d) of such Act (29 U.S.C. 1310(d)) is amended by adding at the end the following:

“(3) PENSION STABILIZATION DISREGARDED.—For purposes of this section, the segment rates used in determining the

Determination.

Applicability.  
26 USC 1404  
note.

funding target and funding target attainment percentage shall be determined by not taking into account any adjustment under section 302(h)(2)(C)(iv).”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2011.

(2) RULES WITH RESPECT TO ELECTIONS.—

(A) ADJUSTED FUNDING TARGET ATTAINMENT PERCENTAGE.—A plan sponsor may elect not to have the amendments made by this section apply to any plan year beginning before January 1, 2013, either (as specified in the election)—

(i) for all purposes for which such amendments apply, or

(ii) solely for purposes of determining the adjusted funding target attainment percentage under sections 436 of the Internal Revenue Code of 1986 and 206(g) of the Employee Retirement Income Security Act of 1974 for such plan year.

A plan shall not be treated as failing to meet the requirements of sections 204(g) of such Act and 411(d)(6) of such Code solely by reason of an election under this paragraph.

(B) OPT OUT OF EXISTING ELECTIONS.—If, on the date of the enactment of this Act, an election is in effect with respect to any plan under sections 303(h)(2)(D)(ii) of the Employee Retirement Income Security Act of 1974 and 430(h)(2)(D)(ii) of the Internal Revenue Code of 1986, then, notwithstanding the last sentence of each such section, the plan sponsor may revoke such election without the consent of the Secretary of the Treasury. The plan sponsor may make such revocation at any time before the date which is 1 year after such date of enactment and such revocation shall be effective for the 1st plan year to which the amendments made by this section apply and all subsequent plan years. Nothing in this subparagraph shall preclude a plan sponsor from making a subsequent election in accordance with such sections.

## PART II—PBGC PREMIUMS

Time periods.

### SEC. 40221. SINGLE EMPLOYER PLAN ANNUAL PREMIUM RATES.

(a) FLAT-RATE PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended to read as follows:

“(i) in the case of a single-employer plan, an amount for each individual who is a participant in such plan during the plan year equal to the sum of the additional premium (if any) determined under subparagraph (E) and—

“(I) for plan years beginning after December 31, 2005, and before January 1, 2013, \$30;

“(II) for plan years beginning after December 31, 2012, and before January 1, 2014, \$42; and

“(III) for plan years beginning after December 31, 2013, \$49.”.



(2) ADJUSTMENT FOR INFLATION.—Subparagraph (F) of section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) is amended—

(A) in clause (i)(II), by inserting “(2012 in the case of plan years beginning after calendar year 2014)” after “2004”; and

(B) by adding at the end the following new sentence: “This subparagraph shall not apply to plan years beginning in 2013 or 2014.”.

(b) VARIABLE-RATE PREMIUM.—

(1) IN GENERAL.—Subparagraph (E)(ii) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by striking “\$9.00” and inserting “the applicable dollar amount under paragraph (8)”.

(2) APPLICABLE DOLLAR AMOUNT.—Section 4006(a) of such Act (29 U.S.C. 1306(a)) is amended by adding at the end the following:

“(8) APPLICABLE DOLLAR AMOUNT FOR VARIABLE RATE PREMIUM.—For purposes of paragraph (3)(E)(ii)—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the applicable dollar amount shall be—

“(i) \$9 for plan years beginning in a calendar year before 2015;

“(ii) for plan years beginning in calendar year 2015, the amount in effect for plan years beginning in 2014 (determined after application of subparagraph (C)); and

“(iii) for plan years beginning after calendar year 2015, the amount in effect for plan years beginning in 2015 (determined after application of subparagraph (C)).

“(B) ADJUSTMENT FOR INFLATION.—For each plan year beginning in a calendar year after 2012, there shall be substituted for the applicable dollar amount specified under subparagraph (A) an amount equal to the greater of—

“(i) the product derived by multiplying such applicable dollar amount for plan years beginning in that calendar year by the ratio of—

“(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

“(II) the national average wage index (as so defined) for the base year; and

“(ii) such applicable dollar amount in effect for plan years beginning in the preceding calendar year. If the amount determined under this subparagraph is not a multiple of \$1, such product shall be rounded to the nearest multiple of \$1.

“(C) ADDITIONAL INCREASE IN 2014 AND 2015.—The applicable dollar amount determined under subparagraph (A) (after the application of subparagraph (B)) shall be increased—

“(i) in the case of plan years beginning in calendar year 2014, by \$4; and

“(ii) in the case of plan years beginning in calendar year 2015, by \$5.

“(D) BASE YEAR.—For purposes of subparagraph (B), the base year is—

“(i) 2010, in the case of plan years beginning in calendar year 2013 or 2014;

“(ii) 2012, in the case of plan years beginning in calendar year 2015; and

“(iii) 2013, in the case of plan years beginning after calendar year 2015.”.

(3) CAP.—

(A) IN GENERAL.—Subparagraph (E)(i) of section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) is amended by striking “for any plan year shall be” and all that follows through the end and inserting the following “for any plan year—

“(I) shall be an amount equal to the amount determined under clause (ii) divided by the number of participants in such plan as of the close of the preceding plan year; and

“(II) in the case of plan years beginning in a calendar year after 2012, shall not exceed \$400.”.

(B) ADJUSTMENT FOR INFLATION.—Paragraph (3) of section 4006(a) of such Act (29 U.S.C. 1306(a)(3)), as amended by this Act, is amended by adding at the end the following:

“(J) For each plan year beginning in a calendar year after 2013, there shall be substituted for the dollar amount specified in subclause (II) of subparagraph (E)(i) an amount equal to the greater of—

“(i) the product derived by multiplying such dollar amount by the ratio of—

“(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

“(II) the national average wage index (as so defined) for 2011; and

“(ii) such dollar amount for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of \$1, such product shall be rounded to the nearest multiple of \$1.”.

Time periods.

**SEC. 40222. MULTIEMPLOYER ANNUAL PREMIUM RATES.**

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—

(1) by inserting “and before January 1, 2013,” after “December 31, 2005,” in clause (iv),

(2) by striking “or” at the end of clause (iii),

(3) by striking the period at the end of clause (iv) and inserting “, or”, and

(4) by adding at the end the following new clause:

“(v) in the case of a multiemployer plan, for plan years beginning after December 31, 2012, \$12.00 for each individual who is a participant in such plan during the applicable plan year.”.

(b) INFLATION ADJUSTMENT.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following:

“(I) For each plan year beginning in a calendar year after 2013, there shall be substituted for the premium rate specified in clause (v) of subparagraph (A) an amount equal to the greater of—

“(i) the product derived by multiplying the premium rate specified in clause (v) of subparagraph (A) by the ratio of—

“(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

“(II) the national average wage index (as so defined) for 2011; and

“(ii) the premium rate in effect under clause (v) of subparagraph (A) for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of \$1, such product shall be rounded to the nearest multiple of \$1.”.

### PART III—IMPROVEMENTS OF PBGC

#### SEC. 40231. PENSION BENEFIT GUARANTY CORPORATION GOVERNANCE IMPROVEMENT.

(a) BOARD OF DIRECTORS OF THE PENSION BENEFIT GUARANTY CORPORATION.—

(1) IN GENERAL.—Section 4002(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(d)) is amended—

(A) by striking “(d) The board of directors” and inserting “(d)(1) The board of directors”; and

(B) by adding at the end the following:

“(2) A majority of the members of the board of directors in office shall constitute a quorum for the transaction of business. The vote of the majority of the members present and voting at a meeting at which a quorum is present shall be the act of the board of directors.

“(3) Each member of the board of directors shall designate in writing an official, not below the level of Assistant Secretary, to serve as the voting representative of such member on the board. Such designation shall be effective until revoked or until a date or event specified therein. Any such representative may refer for board action any matter under consideration by the designating board member, but such representative shall not count toward establishment of a quorum as described under paragraph (2).

“(4) The Inspector General of the corporation shall report to the board of directors, and not less than twice a year, shall attend a meeting of the board of directors to provide a report on the activities and findings of the Inspector General, including with respect to monitoring and review of the operations of the corporation.

Reports.

“(5) The General Counsel of the corporation shall—

“(A) serve as the secretary to the board of directors, and advise such board as needed; and

“(B) have overall responsibility for all legal matters affecting the corporation and provide the corporation with legal advice and opinions on all matters of law affecting the corporation, except that the authority of the General Counsel shall

not extend to the Office of Inspector General and the independent legal counsel of such Office.

“(6) Notwithstanding any other provision of this Act, the Office of Inspector General and the legal counsel of such Office are independent of the management of the corporation and the General Counsel of the corporation.

Determination.

“(7) The board of directors may appoint and fix the compensation of employees as may be required to enable the board of directors to perform its duties. The board of directors shall determine the qualifications and duties of such employees and may appoint and fix the compensation of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.”.

(2) NUMBER OF MEETINGS; PUBLIC AVAILABILITY.—Section 4002(e) of such Act (29 U.S.C. 1302(e)) is amended—

(A) by striking “The board” and inserting “(1) The board”;

(B) by striking “the corporation.” and inserting “the corporation, but in no case less than 4 times a year with not fewer than 2 members present. Not less than 1 meeting of the board of directors during each year shall be a joint meeting with the advisory committee under subsection (h).”; and

(C) by adding at the end the following:

“(2)(A) Except as provided in subparagraph (B), the chairman of the board of directors shall make available to the public the minutes from each meeting of the board of directors.

“(B) The minutes of a meeting of the board of directors, or a portion thereof, shall not be subject to disclosure under subparagraph (A) if the chairman reasonably determines that such minutes, or portion thereof, contain confidential employer information including information obtained under section 4010, information about the investment activities of the corporation, or information regarding personnel decisions of the corporation.

“(C) The minutes of a meeting, or portion of thereof, exempt from disclosure pursuant to subparagraph (B) shall be exempt from disclosure under section 552(b) of title 5, United States Code. For purposes of such section 552, this subparagraph shall be considered a statute described in subsection (b)(3) of such section 552.”.

(3) ADVISORY COMMITTEE.—

(A) ISSUES CONSIDERED BY THE COMMITTEE.—Section 4002(h)(1) of such Act (29 U.S.C. 1302(h)(1)) is amended—

(i) by striking “, and (D)” and inserting “, (D)”; and

(ii) by striking “time to time.” and inserting “time to time, and (E) other issues as determined appropriate by the advisory committee.”.

(B) JOINT MEETING.—Section 4002(h)(3) of such Act (29 U.S.C. 1302(h)(3)) is amended by adding at the end the following: “Not less than 1 meeting of the advisory committee during each year shall be a joint meeting with the board of directors under subsection (e).”.

(b) AVOIDING CONFLICTS OF INTEREST.—Section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following:

“(j) CONFLICTS OF INTEREST.—

“(1) IN GENERAL.—The Director of the corporation and each member of the board of directors shall not participate in a

decision of the corporation in which the Director or such member has a direct financial interest. The Director of the corporation shall not participate in any activities that would present a potential conflict of interest or appearance of a conflict of interest without approval of the board of directors.

“(2) ESTABLISHMENT OF POLICY.—The board of directors shall establish a policy that will inform the identification of potential conflicts of interests of the members of the board of directors and mitigate perceived conflicts of interest of such members and the Director of the corporation.”.

(c) RISK MITIGATION.—Section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by subsection (b), is further amended by adding at the end the following:

“(k) RISK MANAGEMENT OFFICER.—The corporation shall have a risk management officer whose duties include evaluating and mitigating the risk that the corporation might experience. The individual in such position shall coordinate the risk management efforts of the corporation, explain risks and controls to senior management and the board of directors of the corporation, and make recommendations.”.

Recommendations.

(d) DIRECTOR.—Section 4002(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(c)) is amended to read as follows:

“(c) The Director shall be accountable to the board of directors. The Director shall serve for a term of 5 years unless removed by the President or the board of directors before the expiration of such 5-year term.”.

(e) SENSES OF CONGRESS.—

29 USC 1302 note.

(1) FORMATION OF COMMITTEES.—It is the sense of Congress that the board of directors of the Pension Benefit Guaranty Corporation established under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by this section, should form committees, including an audit committee and an investment committee composed of not less than 2 members, to enhance the overall effectiveness of the board of directors.

(2) ADVISORY COMMITTEE.—It is the sense of Congress that the advisory committee to the Pension Benefit Guaranty Corporation established under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by this section, should provide to the board of directors of such corporation policy recommendations regarding changes to the law that would be beneficial to the corporation or the voluntary private pension system.

(f) STUDY REGARDING GOVERNANCE STRUCTURES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Pension Benefit Guaranty Corporation shall enter into a contract with the National Academy of Public Administration to conduct the study described in paragraph (2) with respect to the Pension Benefit Guaranty Corporation.

Deadline.  
Contracts.

(2) CONTENT OF STUDY.—The study conducted under paragraph (1) shall include—

(A) a review of the governance structures of governmental and nongovernmental organizations that are analogous to the Pension Benefit Guaranty Corporation; and

(B) recommendations regarding—

(i) the ideal size and composition of the board of directors of the Pension Benefit Guaranty Corporation;

(ii) procedures to select and remove members of such board;

(iii) qualifications and term lengths of members of such board; and

(iv) policies necessary to enhance Congressional oversight and transparency of such board and to mitigate potential conflicts of interest of the members of such board.

Deadline.  
Results.

(3) **SUBMISSION TO CONGRESS.**—Not later than 1 year after the initiation of the study under paragraph (1), the National Academy of Public Administration shall submit the results of the study to the Committees on Health, Education, Labor, and Pensions and Finance of the Senate and the Committees on Education and the Workforce and Ways and Means of the House of Representatives.

**SEC. 40232. PARTICIPANT AND PLAN SPONSOR ADVOCATE.**

(a) **IN GENERAL.**—Title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) is amended by inserting after section 4003 the following:

29 USC 1304.

**“SEC. 4004. PARTICIPANT AND PLAN SPONSOR ADVOCATE.**

“(a) **IN GENERAL.**—The board of directors of the corporation shall select a Participant and Plan Sponsor Advocate from the candidates nominated by the advisory committee to the corporation under section 4002(h)(1) and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or Senior Executive Service.

“(b) **DUTIES.**—The Participant and Plan Sponsor Advocate shall—

“(1) act as a liaison between the corporation, sponsors of defined benefit pension plans insured by the corporation, and participants in pension plans trustee by the corporation;

“(2) advocate for the full attainment of the rights of participants in plans trustee by the corporation;

“(3) assist pension plan sponsors and participants in resolving disputes with the corporation;

“(4) identify areas in which participants and plan sponsors have persistent problems in dealings with the corporation;

“(5) to the extent possible, propose changes in the administrative practices of the corporation to mitigate problems;

“(6) identify potential legislative changes which may be appropriate to mitigate problems; and

“(7) refer instances of fraud, waste, and abuse, and violations of law to the Office of the Inspector General of the corporation.

Notification.  
Deadline.

“(c) **REMOVAL.**—If the Participant and Plan Sponsor Advocate is removed from office or is transferred to another position or location within the corporation or the Department of Labor, the board of the directors of the corporation shall communicate in writing the reasons for any such removal or transfer to Congress not less than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

“(d) COMPENSATION.—The annual rate of basic pay for the Participant and Plan Sponsor Advocate shall be the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the board of directors of the corporation so determines, at a rate fixed under section 9503 of such title.

“(e) ANNUAL REPORT.—

“(1) IN GENERAL.—Not later than December 31 of each calendar year, the Participant and Plan Sponsor Advocate shall report to the Health, Education, Labor, and Pensions Committee of the Senate, the Committee on Finance of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Ways and Means of the House of Representatives on the activities of the Office of the Participant and Plan Sponsor Advocate during the fiscal year ending during such calendar year.

“(2) CONTENT.—Each report submitted under paragraph (1) shall—

“(A) summarize the assistance requests received from participants and plan sponsors and describe the activities, and evaluate the effectiveness, of the Participant and Plan Sponsor Advocate during the preceding year;

“(B) identify significant problems the Participant and Plan Sponsor Advocate has identified;

“(C) include specific legislative and regulatory changes to address the problems; and

“(D) identify any actions taken to correct problems identified in any previous report.

“(3) CONCURRENT SUBMISSION.—The Participant and Plan Sponsor Advocate shall submit a copy of each report to the Secretary of Labor, the Director of the corporation, and any other appropriate official at the same time such report is submitted to the committees of Congress under paragraph (1).”.

Records.

(b) ADVISORY COMMITTEE NOMINATIONS.—Section 4002(h)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1302(h)(1)) is amended by adding at the end the following new sentence: “In the event of a vacancy or impending vacancy in the office of the Participant and Plan Sponsor Advocate established under section 4004, the Advisory Committee shall, in consultation with the Director of the corporation and participant and plan sponsor advocacy groups, nominate at least two but no more than three individuals to serve as the Participant and Plan Sponsor Advocate.”.

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 4003 the following new item:

“4004. Participant and Plan Sponsor Advocate.”.

**SEC. 40233. QUALITY CONTROL PROCEDURES FOR THE PENSION BENEFIT GUARANTY CORPORATION.**

(a) ANNUAL PEER REVIEW OF INSURANCE MODELING SYSTEMS.—The Pension Benefit Guaranty Corporation shall contract with a capable agency or organization that is independent from the Corporation, such as the Social Security Administration, to conduct an annual peer review of the Corporation’s Single-Employer Pension Insurance Modeling System and the Corporation’s Multiemployer

Contracts.  
29 USC 1302  
note.

Deadline. Pension Insurance Modeling System. The board of directors of the Corporation shall designate the agency or organization with which any such contract is entered into. The first of such annual peer reviews shall be initiated no later than 3 months after the date of enactment of this Act.

29 USC 1302 note. (b) POLICIES AND PROCEDURES RELATING TO THE POLICY, RESEARCH, AND ANALYSIS DEPARTMENT.—The Pension Benefit Guaranty Corporation shall—

(1) develop written quality review policies and procedures for all modeling and actuarial work performed by the Corporation's Policy, Research, and Analysis Department; and

Records. (2) conduct a record management review of such Department to determine what records must be retained as Federal records.

(c) REPORT RELATING TO OIG RECOMMENDATIONS.—Not later than 2 months after the date of enactment of this Act, the Pension Benefit Guaranty Corporation shall submit to Congress a report, approved by the board of directors of the Corporation, setting forth a timetable for addressing the outstanding recommendations of the Office of the Inspector General relating to the Policy, Research, and Analysis Department and the Benefits Administration and Payment Department.

#### SEC. 40234. LINE OF CREDIT REPEAL.

(a) IN GENERAL.—Subsection (c) of section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended—

(A) in subsection (b)—

(i) paragraph (1)—

(I) by striking subparagraph (A); and

(II) by redesignating subparagraphs (B) through (G) as subparagraphs (A) through (F), respectively;

(ii) in paragraph (2)—

(I) by striking subparagraph (C); and

(II) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(iii) in paragraph (3), by striking “but,” and all that follows through the end and inserting a period; and

(B) in subsection (g)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3) as paragraph (2).

(2) Section 4402 of such Act (29 U.S.C. 1461) is amended—

(A) in subsection (c)(4)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraph (D) as subparagraph (C); and

(B) in subsection (d), by striking “or (D)”.



## PART IV—TRANSFERS OF EXCESS PENSION ASSETS

### SEC. 40241. EXTENSION FOR TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 is amended by striking “December 31, 2013” and inserting “December 31, 2021”. 26 USC 420.

(b) CONFORMING ERISA AMENDMENTS.—

(1) Sections 101(e)(3), 403(c)(1), and 408(b)(13) of the Employee Retirement Income Security Act of 1974 are each amended by striking “Pension Protection Act of 2006” and inserting “MAP-21”. 29 USC 1021, 1103, 1108.

(2) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking “January 1, 2014” and inserting “January 1, 2022”.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of the enactment of this Act. 26 USC 420 note.

### SEC. 40242. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE GROUP TERM LIFE INSURANCE ACCOUNTS.

(a) IN GENERAL.—Subsection (a) of section 420 of the Internal Revenue Code of 1986 is amended by inserting “, or an applicable life insurance account,” after “health benefits account”.

(b) APPLICABLE LIFE INSURANCE ACCOUNT DEFINED.—

(1) IN GENERAL.—Subsection (e) of section 420 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) APPLICABLE LIFE INSURANCE ACCOUNT.—The term ‘applicable life insurance account’ means a separate account established and maintained for amounts transferred under this section for qualified current retiree liabilities based on premiums for applicable life insurance benefits.”

(2) APPLICABLE LIFE INSURANCE BENEFITS DEFINED.—Paragraph (1) of section 420(e) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) APPLICABLE LIFE INSURANCE BENEFITS.—The term ‘applicable life insurance benefits’ means group-term life insurance coverage provided to retired employees who, immediately before the qualified transfer, are entitled to receive such coverage by reason of retirement and who are entitled to pension benefits under the plan, but only to the extent that such coverage is provided under a policy for retired employees and the cost of such coverage is excludable from the retired employee’s gross income under section 79.”

(3) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS DEFINED.—

(A) IN GENERAL.—Paragraph (6) of section 420(f) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS.—The term ‘collectively bargained life insurance benefits’ means, with respect to any collectively bargained transfer—

“(i) applicable life insurance benefits which are provided to retired employees who, immediately before the transfer, are entitled to receive such benefits by reason of retirement, and

“(ii) if specified by the provisions of the collective bargaining agreement governing the transfer, applicable life insurance benefits which will be provided at retirement to employees who are not retired employees at the time of the transfer.”.

(B) CONFORMING AMENDMENTS.—

26 USC 420.

(i) Clause (i) of section 420(e)(1)(C) of such Code is amended by striking “upon retirement” and inserting “by reason of retirement”.

(ii) Subparagraph (C) of section 420(f)(6) of such Code is amended—

(I) by striking “which are provided to” in the matter preceding clause (i),

(II) by inserting “which are provided to” before “retired employees” in clause (i),

(III) by striking “upon retirement” in clause (i) and inserting “by reason of retirement”, and

(IV) by striking “active employees who, following their retirement,” and inserting “which will be provided at retirement to employees who are not retired employees at the time of the transfer and who”.

(c) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by inserting “, and each group-term life insurance plan under which applicable life insurance benefits are provided,” after “health benefits are provided”.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 420(c)(3) of such Code is amended—

(i) by redesignating subclauses (I) and (II) of clause (i) as subclauses (II) and (III) of such clause, respectively, and by inserting before subclause (II) of such clause, as so redesignated, the following new subclause:

“(I) separately with respect to applicable health benefits and applicable life insurance benefits,” and

(ii) by striking “for applicable health benefits” and all that follows in clause (ii) and inserting “was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made.”.

(B) Subparagraph (C) of section 420(c)(3) of such Code is amended—

(i) by inserting “for applicable health benefits” after “applied separately”, and

(ii) by inserting “, and separately for applicable life insurance benefits with respect to individuals age

65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year” before the period.

(C) Subparagraph (E) of section 420(c)(3) of such Code is amended—

(i) in clause (i), by inserting “or retiree life insurance coverage, as the case may be,” after “retiree health coverage”,

(ii) in clause (ii), by inserting “FOR RETIREE HEALTH COVERAGE” after “COST REDUCTIONS” in the heading thereof, and

(iii) in clause (ii)(II), by inserting “with respect to applicable health benefits” after “liabilities of the employer”.

(D) Paragraph (2) of section 420(f) of such Code is amended by striking “collectively bargained retiree health liabilities” each place it occurs and inserting “collectively bargained retiree liabilities”.

(E) Clause (i) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting “, and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided,” in subclause (I) after “applicable health benefits are provided”,

(ii) by inserting “or applicable life insurance benefits, as the case may be,” in subclause (I) after “provides applicable health benefits”,

(iii) by striking “group health” in subclause (II), and

(iv) by inserting “or collectively bargained life insurance benefits” in subclause (II) after “collectively bargained health benefits”.

(F) Clause (ii) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting “with respect to applicable health benefits or applicable life insurance benefits” after “requirements of subsection (c)(3)”, and

(ii) by adding at the end the following: “Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect before the amendments made by such Act applied to such benefits.”

(G) Clause (iii) of section 420(f)(2)(D) of such Code is amended—

(i) by striking “retiree” each place it occurs, and

(ii) by inserting “, collectively bargained life insurance benefits, or both, as the case may be,” after “health benefits” each place it occurs.

(d) COORDINATION WITH SECTION 79.—Section 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) EXCEPTION FOR LIFE INSURANCE PURCHASED IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS PENSION ASSETS.—Subsection (b)(3) and section 72(m)(3) shall not apply in the case

of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in section 420(e)(4)) under a defined benefit plan.”.

(e) CONFORMING AMENDMENTS.—

26 USC 420.

(1) Section 420 of the Internal Revenue Code of 1986 is amended by striking “qualified current retiree health liabilities” each place it appears and inserting “qualified current retiree liabilities”.

(2) Section 420 of such Code is amended by inserting “, or an applicable life insurance account,” after “a health benefits account” each place it appears in subsection (b)(1)(A), subparagraphs (A), (B)(i), and (C) of subsection (c)(1), subsection (d)(1)(A), and subsection (f)(2)(E)(ii).

(3) Section 420(b) of such Code is amended—

(A) by adding the following at the end of paragraph (2)(A): “If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.”, and

(B) by inserting “to an account” after “may be transferred” in paragraph (3).

(4) The heading for section 420(c)(1)(B) of such Code is amended by inserting “OR LIFE INSURANCE” after “HEALTH BENEFITS”.

(5) Paragraph (1) of section 420(e) of such Code is amended—

(A) by inserting “and applicable life insurance benefits” in subparagraph (A) after “applicable health benefits”, and

(B) by striking “HEALTH” in the heading thereof.

(6) Subparagraph (B) of section 420(e)(1) of such Code is amended—

(A) in the matter preceding clause (i), by inserting “(determined separately for applicable health benefits and applicable life insurance benefits)” after “shall be reduced by the amount”,

(B) in clause (i), by inserting “or applicable life insurance accounts” after “health benefit accounts”, and

(C) in clause (i), by striking “qualified current retiree health liability” and inserting “qualified current retiree liability”.

(7) The heading for subsection (f) of section 420 of such Code is amended by striking “HEALTH” each place it occurs.

(8) Subclause (II) of section 420(f)(2)(B)(ii) of such Code is amended by inserting “or applicable life insurance account, as the case may be,” after “health benefits account”.

(9) Subclause (III) of section 420(f)(2)(E)(i) of such Code is amended—

(A) by inserting “defined benefit” before “plan maintained by an employer”, and

(B) by inserting “health” before “benefit plans maintained by the employer”.

(10) Paragraphs (4) and (6) of section 420(f) of such Code are each amended by striking “collectively bargained retiree health liabilities” each place it occurs and inserting “collectively bargained retiree liabilities”.

(11) Subparagraph (A) of section 420(f)(6) of such Code is amended— 26 USC 420.

(A) in clauses (i) and (ii), by inserting “, in the case of a transfer to a health benefits account,” before “his covered spouse and dependents”, and

(B) in clause (ii), by striking “health plan” and inserting “plan”.

(12) Subparagraph (B) of section 420(f)(6) of such Code is amended—

(A) in clause (i), by inserting “, and collectively bargained life insurance benefits,” after “collectively bargained health benefits”,

(B) in clause (ii)—

(i) by adding at the end the following: “The preceding sentence shall be applied separately for collectively bargained health benefits and collectively bargained life insurance benefits.”, and

(ii) by inserting “, applicable life insurance accounts,” after “health benefit accounts”, and

(C) by striking “HEALTH” in the heading thereof.

(13) Subparagraph (E) of section 420(f)(6) of such Code, as redesignated by subsection (b), is amended—

(A) by striking “bargained health” and inserting “bargained”,

(B) by inserting “, or a group-term life insurance plan or arrangement for retired employees,” after “dependents”, and

(C) by striking “HEALTH” in the heading thereof.

(14) Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) in paragraphs (1) and (2), by inserting “or applicable life insurance account” after “health benefits account” each place it appears, and

(B) in paragraph (1), by inserting “or applicable life insurance benefit liabilities” after “health benefits liabilities”.

(f) TECHNICAL CORRECTION.—Clause (iii) of section 420(f)(6)(B) of the Internal Revenue Code of 1986 is amended by striking “416(I)(1)” and inserting “416(i)(1)”.

(g) REPEAL OF DEADWOOD.—

(1) Subparagraph (A) of section 420(b)(1) of the Internal Revenue Code of 1986 is amended by striking “in a taxable year beginning after December 31, 1990”.

(2) Subsection (b) of section 420 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5), as amended by this Act, as paragraph (4).

(3) Paragraph (2) of section 420(b) of such Code, as amended by this section, is amended—

(A) by striking subparagraph (B), and

(B) by striking “PER YEAR.—” and all that follows through “No more than” and inserting “PER YEAR.—No more than”.

(4) Paragraph (2) of section 420(c) of such Code is amended—

(A) by striking subparagraph (B),

(B) by moving subparagraph (A) two ems to the left, and

26 USC 420.

26 USC 420 note.  
Applicability.

(C) by striking “BEFORE TRANSFER.—” and all that follows through “The requirements of this paragraph” and inserting the following: “BEFORE TRANSFER.—The requirements of this paragraph”.

(5) Paragraph (2) of section 420(d) of such Code is amended by striking “after December 31, 1990”.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) CONFORMING AMENDMENTS RELATING TO PENSION PROTECTION ACT.—The amendments made by subsections (b)(3)(B) and (f) shall take effect as if included in the amendments made by section 841(a) of the Pension Protection Act of 2006.

## Subtitle C—Additional Transfers to Highway Trust Fund

### SEC. 40251. ADDITIONAL TRANSFERS TO HIGHWAY TRUST FUND.

Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) ADDITIONAL APPROPRIATIONS TO TRUST FUND.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated to—

“(A) the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund—

“(i) for fiscal year 2013, \$6,200,000,000, and

“(ii) for fiscal year 2014, \$10,400,000,000, and

“(B) the Mass Transit Account in the Highway Trust Fund, for fiscal year 2014, \$2,200,000,000.”.

Transportation  
Research and  
Innovative  
Technology Act of  
2012.

23 USC 101 note.

## DIVISION E—RESEARCH AND EDUCATION

### SEC. 50001. SHORT TITLE.

This division may be cited as the “Transportation Research and Innovative Technology Act of 2012”.

## TITLE I—FUNDING

### SEC. 51001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out sections 503(b), 503(d), and 509 of title 23, United States Code, \$115,000,000 for each of fiscal years 2013 and 2014.

(2) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503(c) of title 23, United States Code, \$62,500,000 for each of fiscal years 2013 and 2014.

(3) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, \$24,000,000 for each of fiscal years 2013 and 2014.

(4) INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM.—To carry out sections 512 through 518 of title 23, United States Code, \$100,000,000 for each of fiscal years 2013 and 2014.

(5) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—To carry out section 5505 of title 49, United States Code, \$72,500,000 for each of fiscal years 2013 and 2014.

(6) BUREAU OF TRANSPORTATION STATISTICS.—To carry out chapter 63 of title 49, United States Code, \$26,000,000 for each of fiscal years 2013 and 2014.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall—

(1) be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using those funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments by this Act) or otherwise determined by the Secretary; and

(2) remain available until expended and not be transferable.

## TITLE II—RESEARCH, TECHNOLOGY, AND EDUCATION

### SEC. 52001. RESEARCH, TECHNOLOGY, AND EDUCATION.

Definitions.

Section 501 of title 23, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (8);

(2) by inserting after paragraph (1) the following:

“(2) INCIDENT.—The term ‘incident’ means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

“(3) INNOVATION LIFECYCLE.—The term ‘innovation lifecycle’ means the process of innovating through—

“(A) the identification of a need;

“(B) the establishment of the scope of research to address that need;

“(C) setting an agenda;

“(D) carrying out research, development, deployment, and testing of the resulting technology or innovation; and

“(E) carrying out an evaluation of the costs and benefits of the resulting technology or innovation.

“(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term ‘intelligent transportation infrastructure’ means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

“(5) INTELLIGENT TRANSPORTATION SYSTEM.—The terms ‘intelligent transportation system’ and ‘ITS’ mean electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

“(6) NATIONAL ARCHITECTURE.—For purposes of this chapter, the term ‘national architecture’ means the common framework for interoperability that defines—

“(A) the functions associated with intelligent transportation system user services;

“(B) the physical entities or subsystems within which the functions reside;

“(C) the data interfaces and information flows between physical subsystems; and

“(D) the communications requirements associated with the information flows.

“(7) PROJECT.—The term ‘project’ means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this chapter.”; and

(3) by inserting after paragraph (8) (as so redesignated) the following:

“(9) STANDARD.—The term ‘standard’ means a document that—

“(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for the intended purposes of the materials, products, processes, and services; and

“(B) may support the national architecture and promote—

“(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

“(ii) interoperability among intelligent transportation system technologies implemented throughout the States.”.

#### SEC. 52002. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.

(a) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by inserting “, **development, and technology**” after “**surface transportation research**”;

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

“(1) APPLICABILITY.—The research, development, and technology provisions of this section shall apply throughout this chapter.”;

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) by inserting “within the innovation lifecycle” after “activities”; and

(ii) by inserting “communications, impact analysis,” after “training,”;



(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (B) by striking “supports research in which there is a clear public benefit and” and inserting “delivers a clear public benefit and occurs where”;

(ii) in subparagraph (C) by striking “or” after the semicolon;

(iii) by redesignating subparagraph (D) as subparagraph (I); and

(iv) by inserting after subparagraph (C) the following:

“(D) meets and addresses current or emerging needs;

“(E) addresses current gaps in research;

“(F) presents the best means to align resources with multiyear plans and priorities;

“(G) ensures the coordination of highway research and technology transfer activities, including through activities performed by university transportation centers;

“(H) educates transportation professionals; or”;

(E) in paragraph (4) (as redesignated by subparagraph (A)) by striking subparagraphs (B) through (D) and inserting the following:

“(B) partner with State highway agencies and other stakeholders as appropriate to facilitate research and technology transfer activities;

“(C) communicate the results of ongoing and completed research;

“(D) lead efforts to coordinate national emphasis areas of highway research, technology, and innovation deployment;

“(E) leverage partnerships with industry, academia, international entities, and State departments of transportation;

“(F) lead efforts to reduce unnecessary duplication of effort; and

“(G) lead efforts to accelerate innovation delivery.”;

(F) in paragraph (5)(C) (as redesignated by subparagraph (A)) by striking “policy and planning” and inserting “all highway objectives seeking to improve the performance of the transportation system”;

(G) in paragraph (6) (as redesignated by subparagraph (A)) in the second sentence, by inserting “tribal governments,” after “local governments,”;

(H) in paragraph (8) (as redesignated by subparagraph (A))—

(i) in the first sentence, by striking “To the maximum” and inserting the following:

“(A) IN GENERAL.—To the maximum”;

(ii) in the second sentence, by striking “Performance measures” and inserting the following:

“(B) PERFORMANCE MEASURES.—Performance measures”;

(iii) in the third sentence, by striking “All evaluations” and inserting the following:

“(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph”; and

(iv) by inserting after subparagraph (B) the following:

“(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.”; and

(I) in paragraph (9) (as redesignated by subparagraph (A)), by striking “surface”;

(3) in subsection (b)—

(A) in paragraph (4) by striking “surface transportation research and technology development strategic plan developed under section 508” and inserting “transportation research and development strategic plan of the Secretary developed under section 508”;

(B) in paragraph (5) by striking “section” each place it appears and inserting “chapter”;

(C) in paragraph (6) by adding at the end the following:

“(C) TRANSFER OF AMOUNTS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer amounts apportioned or allocated to that State under this chapter to another State or the Federal Highway Administration to fund research, development, and technology transfer activities of mutual interest on a pooled funds basis.

“(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be disbursed in the same manner and for the same amount as provided for the project being transferred.”; and

(D) by adding at the end the following:

“(7) PRIZE COMPETITIONS.—

“(A) IN GENERAL.—The Secretary may use up to 1 percent of the funds made available under section 51001 of the Transportation Research and Innovative Technology Act of 2012 to carry out a program to competitively award cash prizes to stimulate innovation in basic and applied research and technology development that has the potential for application to the national transportation system.

“(B) TOPICS.—In selecting topics for prize competitions under this paragraph, the Secretary shall—

“(i) consult with a wide variety of governmental and nongovernmental representatives; and

“(ii) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

“(C) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through advertising efforts.

“(D) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website that describes—

“(i) the subject of the competition;

“(ii) the eligibility rules for participation in the competition;

“(iii) the amount of the prize; and

“(iv) the basis on which a winner will be selected.

Consultation.

Notice.  
Web posting.

“(E) ELIGIBILITY.—An individual or entity may not receive a prize under this paragraph unless the individual or entity—

“(i) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

“(ii) has complied with all requirements under this paragraph;

“(iii)(I) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

“(II) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States;

“(iv) is not a Federal entity or Federal employee acting within the scope of his or her employment; and

“(v) has not received a grant to perform research on the same issue for which the prize is awarded.

“(F) LIABILITY.—

“(i) ASSUMPTION OF RISK.—

“(I) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.

“(II) RELATED ENTITY.—In this subparagraph, the term ‘related entity’ means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

“(ii) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

“(I) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant’s insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

“(II) the Federal Government for damage or loss to Government property resulting from such an activity.

“(G) JUDGES.—

“(i) SELECTION.—Subject to clause (iii), for each prize competition, the Secretary, either directly or through an agreement under subparagraph (H), may

appoint 1 or more qualified judges to select the winner or winners of the prize competition on the basis of the criteria described in subparagraph (D).

“(ii) SELECTION.—Judges for each competition shall include individuals from outside the Federal Government, including the private sector.

“(iii) LIMITATIONS.—A judge selected under this subparagraph may not—

“(I) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this paragraph; or

“(II) have a familial or financial relationship with an individual who is a registered participant.

“(H) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this paragraph.

“(I) FUNDING.—

“(i) IN GENERAL.—

“(I) PRIVATE SECTOR FUNDING.—A cash prize under this paragraph may consist of funds appropriated by the Federal Government and funds provided by the private sector.

“(II) GOVERNMENT FUNDING.—The Secretary may accept funds from other Federal agencies, State and local governments, and metropolitan planning organizations for a cash prize under this paragraph.

“(III) NO SPECIAL CONSIDERATION.—The Secretary may not give any special consideration to any private sector entity in return for a donation under this subparagraph.

“(ii) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this paragraph—

“(I) shall remain available until expended; and

“(II) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

“(iii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

“(iv) PRIZE ANNOUNCEMENT.—A prize may not be announced under this paragraph until all the funds needed to pay out the announced amount of the prize have been appropriated by a governmental source or committed to in writing by a private source.

“(v) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this paragraph if—

“(I) notice of the increase is provided in the same manner as the initial notice of the prize; and

Time period.

“(II) the funds needed to pay out the announced amount of the increase have been appropriated by a governmental source or committed to in writing by a private source.

“(vi) CONGRESSIONAL NOTIFICATION.—A prize competition under this paragraph may offer a prize in an amount greater than \$1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives.

Time period.

“(vii) AWARD LIMIT.—A prize competition under this section may not result in the award of more than \$25,000 in cash prizes without the approval of the Secretary.

“(J) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this paragraph, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.

“(K) NOTICE AND ANNUAL REPORT.—

“(i) IN GENERAL.—Not later than 30 days prior to carrying out an activity under subparagraph (A), the Secretary shall notify the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate of the intent to use such authority.

“(ii) REPORTS.—

“(I) IN GENERAL.—The Secretary shall submit to the committees described in clause (i) on an annual basis a report on the activities carried out under subparagraph (A) in the preceding fiscal year if the Secretary exercised the authority under subparagraph (A) in that fiscal year.

“(II) INFORMATION INCLUDED.—A report under this subparagraph shall include, for each prize competition under subparagraph (A)—

“(aa) a description of the proposed goals of the prize competition;

“(bb) an analysis of why the use of the authority under subparagraph (A) was the preferable method of achieving the goals described in item (aa) as opposed to other authorities available to the Secretary, such as contracts, grants, and cooperative agreements;

“(cc) the total amount of cash prizes awarded for each prize competition, including a description of the amount of private funds contributed to the program, the source of such funds, and the manner in which the amounts

of cash prizes awarded and claimed were allocated among the accounts of the Department for recording as obligations and expenditures;

“(dd) the methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions;

“(ee) a description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures; and

“(ff) a description of how each prize competition advanced the mission of the Department.”;

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking “subsection” and inserting “chapter”;

and

(ii) by striking “50” and inserting “80”; and

(B) in paragraph (4) by striking “subsection” and inserting “chapter”; and

(5) by striking subsections (d) through (j).

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 502 and inserting the following:

“502. Surface transportation research, development, and technology.”

**SEC. 52003. RESEARCH AND TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.**

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended to read as follows:

**“§ 503. Research and technology development and deployment**

“(a) IN GENERAL.—The Secretary shall—

“(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

“(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary under section 508.

“(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

“(1) OBJECTIVES.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

“(A) identify research topics;

“(B) coordinate research and development activities;

“(C) carry out research, testing, and evaluation activities; and

“(D) provide technology transfer and technical assistance.

“(2) IMPROVING HIGHWAY SAFETY.—

“(A) IN GENERAL.—The Secretary shall carry out research and development activities from an integrated perspective to establish and implement systematic measures to improve highway safety.

“(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—

- “(i) to achieve greater long-term safety gains;
- “(ii) to reduce the number of fatalities and serious injuries on public roads;
- “(iii) to fill knowledge gaps that limit the effectiveness of research;
- “(iv) to support the development and implementation of State strategic highway safety plans;
- “(v) to advance improvements in, and use of, performance prediction analysis for decisionmaking; and
- “(vi) to expand technology transfer to partners and stakeholders.

“(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

- “(i) safety assessments and decisionmaking tools;
- “(ii) data collection and analysis;
- “(iii) crash reduction projections;
- “(iv) low-cost safety countermeasures;
- “(v) innovative operational improvements and designs of roadway and roadside features;
- “(vi) evaluation of countermeasure costs and benefits;
- “(vii) development of tools for projecting impacts of safety countermeasures;
- “(viii) rural road safety measures;
- “(ix) safety measures for vulnerable road users, including bicyclists and pedestrians;
- “(x) safety policy studies;
- “(xi) human factors studies and measures;
- “(xii) safety technology deployment;
- “(xiii) safety workforce professional capacity building initiatives;
- “(xiv) safety program and process improvements; and
- “(xv) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

“(3) IMPROVING INFRASTRUCTURE INTEGRITY.—

“(A) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—

- “(i) to maintain infrastructure integrity;
- “(ii) to meet user needs; and
- “(iii) to link Federal transportation investments to improvements in system performance.

“(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities—

- “(i) to reduce the number of fatalities attributable to infrastructure design characteristics and work zones;

“(ii) to improve the safety and security of highway infrastructure;

“(iii) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;

“(iv) to improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

“(v) to reduce user delay attributable to infrastructure system performance, maintenance, rehabilitation, and construction;

“(vi) to improve highway condition and performance through increased use of design, materials, construction, and maintenance innovations;

“(vii) to reduce the environmental impacts of highway infrastructure through innovations in design, construction, operation, preservation, and maintenance; and

“(viii) to study vulnerabilities of the transportation system to seismic activities and extreme events and methods to reduce those vulnerabilities.

“(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

“(i) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

“(ii) short-term and accelerated studies of infrastructure performance;

“(iii) research to develop more durable infrastructure materials and systems;

“(iv) advanced infrastructure design methods;

“(v) accelerated highway and bridge construction;

“(vi) performance-based specifications;

“(vii) construction and materials quality assurance;

“(viii) comprehensive and integrated infrastructure asset management;

“(ix) infrastructure safety assurance;

“(x) sustainable infrastructure design and construction;

“(xi) infrastructure rehabilitation and preservation techniques, including techniques to rehabilitate and preserve historic infrastructure;

“(xii) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

“(xiii) improved highway construction technologies and practices;

“(xiv) improved tools, technologies, and models for infrastructure management, including assessment and monitoring of infrastructure condition;

“(xv) studies to improve flexibility and resiliency of infrastructure systems to withstand climate variability;

“(xvi) studies on the effectiveness of fiber-based additives to improve the durability of surface transportation materials in various geographic regions;

“(xvii) studies of infrastructure resilience and other adaptation measures;



“(xviii) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability; and

“(xix) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions.

“(D) LIFECYCLE COSTS ANALYSIS STUDY.—

“(i) IN GENERAL.—In this subparagraph, the term ‘lifecycle costs analysis’ means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

Definition.

“(ii) STUDY.—The Comptroller General shall conduct a study of the best practices for calculating lifecycle costs and benefits for federally funded highway projects, which shall include, at a minimum, a thorough literature review and a survey of current lifecycle cost practices of State departments of transportation.

“(iii) CONSULTATION.—In carrying out the study, the Comptroller shall consult with, at a minimum—

“(I) the American Association of State Highway and Transportation Officials;

“(II) appropriate experts in the field of lifecycle cost analysis; and

“(III) appropriate industry experts and research centers.

“(E) REPORT.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives a report on the results of the study which shall include—

“(i) a summary of the latest research on lifecycle cost analysis; and

“(ii) recommendations on the appropriate—

“(I) period of analysis;

“(II) design period;

“(III) discount rates; and

“(IV) use of actual material life and maintenance cost data.

“(4) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISIONMAKING.—

“(A) IN GENERAL.—The Secretary may carry out research—

“(i) to minimize the cost of transportation planning and environmental decisionmaking processes;

“(ii) to improve transportation planning and environmental decisionmaking processes; and

“(iii) to minimize the potential impact of surface transportation on the environment.

“(B) OBJECTIVES.—In carrying out this paragraph the Secretary may carry out research and development activities—

“(i) to minimize the cost of highway infrastructure and operations;

“(ii) to reduce the potential impact of highway infrastructure and operations on the environment;

“(iii) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;

“(iv) to improve construction techniques;

“(v) to accelerate construction to reduce congestion and related emissions;

“(vi) to reduce the impact of highway runoff on the environment;

“(vii) to improve understanding and modeling of the factors that contribute to the demand for transportation; and

“(viii) to improve transportation planning decisionmaking and coordination.

“(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

“(i) creation of models and tools for evaluating transportation measures and transportation system designs, including the costs and benefits;

“(ii) congestion reduction efforts;

“(iii) transportation and economic development planning in rural areas and small communities;

“(iv) improvement of State, local, and tribal government capabilities relating to surface transportation planning and the environment; and

“(v) streamlining of project delivery processes.

“(5) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

“(A) IN GENERAL.—The Secretary shall carry out research under this paragraph with the goals of—

“(i) addressing congestion problems;

“(ii) reducing the costs of congestion;

“(iii) improving freight movement;

“(iv) increasing productivity; and

“(v) improving the economic competitiveness of the United States.

“(B) OBJECTIVES.—In carrying out this paragraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—

“(i) to reduce traffic congestion;

“(ii) to improve freight movement; and

“(iii) to reduce freight-related congestion throughout the transportation network.

“(C) CONTENTS.—Research and technology activities carried out under this paragraph may include—

“(i) active traffic and demand management;

“(ii) acceleration of the implementation of Intelligent Transportation Systems technology;

“(iii) advanced transportation concepts and analysis;

“(iv) arterial management and traffic signal operation;

“(v) congestion pricing;

“(vi) corridor management;

“(vii) emergency operations;

“(viii) research relating to enabling technologies and applications;

“(ix) freeway management;

“(x) evaluation of enabling technologies;

“(xi) impacts of vehicle size and weight on congestion;

“(xii) freight operations and technology;

“(xiii) operations and freight performance measurement and management;

“(xiv) organization and planning for operations;

“(xv) planned special events management;

“(xvi) real-time transportation information;

“(xvii) road weather management;

“(xviii) traffic and freight data and analysis tools;

“(xix) traffic control devices;

“(xx) traffic incident management;

“(xxi) work zone management;

“(xxii) communication of travel, roadway, and emergency information to persons with disabilities;

“(xxiii) research on enhanced mode choice and intermodal connectivity;

“(xxiv) techniques for estimating and quantifying public benefits derived from freight transportation projects; and

“(xxv) other research areas to identify and address emerging needs related to freight transportation by all modes.

“(6) EXPLORATORY ADVANCED RESEARCH.—The Secretary shall carry out research and development activities relating to exploratory advanced research—

“(A) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance; and

“(B) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact, productivity, and safety aspects of highway and intermodal transportation systems.

“(7) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

“(A) IN GENERAL.—The Secretary shall continue to operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

Operation.

“(B) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

“(i) the conduct of highway research and development relating to emerging highway technology;

“(ii) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and

environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

“(iii) the development of innovative highway products and practices; and

“(iv) the conduct of long-term, high-risk research to improve the materials used in highway infrastructure.

“(8) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

“(A) IN GENERAL.—Not later than July 31, 2013, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of current highway and bridge needs.

“(B) COMPARISONS.—Each report under subparagraph (A) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

“(C) INCLUSIONS.—Each report under subparagraph (A) shall provide recommendations to Congress on changes to the highway performance monitoring system that address—

“(i) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

“(ii) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection, storage, analysis, reporting, and display of data for Federal-aid highways and, to the maximum extent practical, all public roads.

“(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

“(A) significantly accelerating the adoption of innovative technologies by the surface transportation community;

“(B) providing leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction;

“(C) constructing longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges;

“(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and

“(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

“(2) IMPLEMENTATION.—

“(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program established under paragraph (1) to distribute the products, technologies, tools, methods, or other findings that result from highway research and development activities, including research and development activities carried out under this chapter.

“(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

“(i) establish and carry out demonstration programs;

“(ii) provide technical assistance, and training to researchers and developers; and

“(iii) develop improved tools and methods to accelerate the adoption of proven innovative practices and technologies as standard practices.

“(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

“(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall promote research results and products developed under the future strategic highway research program administered by the Transportation Research Board of the National Academy of Sciences.

“(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).

“(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph.

“(3) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF PAVEMENT TECHNOLOGIES.—

“(A) IN GENERAL.—The Secretary shall establish and implement a program under the technology and innovation deployment program to promote, implement, deploy, demonstrate, showcase, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

“(B) GOALS.—The goals of the accelerated implementation and deployment of pavement technologies program shall include—

“(i) the deployment of new, cost-effective designs, materials, recycled materials, and practices to extend the pavement life and performance and to improve user satisfaction;

“(ii) the reduction of initial costs and lifecycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

“(iii) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

“(iv) the deployment of engineering design criteria and specifications for new and efficient practices, products, and materials for use in highway pavements;

“(v) the deployment of new nondestructive and real-time pavement evaluation technologies and construction techniques; and

“(vi) effective technology transfer and information dissemination to accelerate implementation of new technologies and to improve life, performance, cost effectiveness, safety, and user satisfaction.

“(C) FUNDING.—The Secretary shall obligate for each of fiscal years 2013 through 2014 from funds made available to carry out this subsection \$12,000,000 to accelerate the deployment and implementation of pavement technology.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 503 and inserting the following:

“503. Research and technology development and deployment.”.

#### SEC. 52004. TRAINING AND EDUCATION.

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A) by inserting “and the employees of any other applicable Federal agency” before the semicolon at the end; and

(B) in paragraph (3)(A)(ii)(V) by striking “expediting” and inserting “reducing the amount of time required for”;

(2) in subsection (b) by striking paragraph (3) and inserting the following:

“(3) FEDERAL SHARE.—

“(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—

“(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.

“(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

“(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of an activity carried out by a tribal technical assistance center under paragraph (2)(D)(ii) shall be 100 percent.”;

(3) in subsection (c)(2)—

(A) by striking “The Secretary” and inserting the following:

“(A) IN GENERAL.—The Secretary”;

(B) in subparagraph (A) (as designated by subparagraph (A)) by striking “. The program” and inserting “, which program”; and

(C) by adding at the end the following:

“(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.”;

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by striking “sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)” and inserting “paragraphs (1) through (4) of section 104(b)”;

(ii) in subparagraph (D) by striking “and” at the end;

(iii) in subparagraph (E) by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

“(F) activities carried out by the National Highway Institute under subsection (a); and

“(G) local technical assistance programs under subsection (b).”; and

(B) in paragraph (2) by inserting “, except for activities carried out under paragraph (1)(G), for which the Federal share shall be 50 percent” before the period at the end;

(5) in subsection (f) in the heading, by striking “PILOT”;

(6) in subsection (g)(4)(F) by striking “excellence” and inserting “stewardship”; and

(7) by adding at the end the following:

“(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

“(1) IN GENERAL.—The Secretary shall make grants under this section to establish and maintain centers for surface transportation excellence.

Grants.

“(2) GOALS.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.

“(3) ROLE OF THE CENTERS.—To achieve the goals set forth in paragraph (2), any centers established under paragraph (1) shall provide technical assistance, information sharing of best practices, and training in the use of tools and decisionmaking processes that can assist States in effectively implementing surface transportation programs, projects, and policies.

“(4) PROGRAM ADMINISTRATION.—

“(A) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary under this subsection, or receiving a grant to perform research or provide technical assistance under this subsection, shall be selected on a competitive basis.

Contracts.  
Grants.

“(B) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan, that—

“(i) is submitted to the Secretary at such time as the Secretary requires; and

“(ii) describes—

“(I) the activities to be undertaken by the center; and

“(II) how the work of the center will be coordinated with the activities of the Federal Highway Administration and the various other research,

development, and technology transfer activities authorized under this chapter.”.

**SEC. 52005. STATE PLANNING AND RESEARCH.**

Section 505 of title 23, United States Code, is amended—  
(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking “section 104 (other than sections 104(f) and 104(h)) and under section 144” and inserting “paragraphs (1) through (4) of section 104(b)”; and

(B) in paragraph (3) by striking “under section 303” and inserting “, plans, and processes under sections 119, 148, 149, and 167”;

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following:

“(c) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

“(1) FUNDS.—A State shall make available to the Secretary to carry out section 503(c)(2)(C) a percentage of funds subject to subsection (a) that are apportioned to that State, that is agreed to by  $\frac{3}{4}$  of States for each of fiscal years 2013 and 2014.

“(2) TREATMENT OF FUNDS.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).”; and

(4) in subsection (e) (as so redesignated) by striking “section 118(b)(2)” and inserting “section 118(b)”.

**SEC. 52006. INTERNATIONAL HIGHWAY TRANSPORTATION PROGRAM.**

Repeal. (a) IN GENERAL.—Section 506 of title 23, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 506.

**SEC. 52007. SURFACE TRANSPORTATION ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.**

Repeal. (a) IN GENERAL.—Section 507 of title 23, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 507.

**SEC. 52008. NATIONAL COOPERATIVE FREIGHT RESEARCH.**

Repeal. (a) IN GENERAL.—Section 509 of title 23, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 509.

**SEC. 52009. UNIVERSITY TRANSPORTATION CENTERS PROGRAM.**

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

Grants. “§ 5505. University transportation centers program

“(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—



“(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

“(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

“(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

“(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

“(C) to address critical workforce needs and educate the next generation of transportation leaders.

“(b) COMPETITIVE SELECTION PROCESS.—

“(1) APPLICATIONS.—To receive a grant under this section, a nonprofit institution of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

“(2) RESTRICTION.—A nonprofit institution of higher education or the lead institution of a consortium of nonprofit institutions of higher education, as applicable, that receives a grant for a national transportation center or a regional transportation center in a fiscal year shall not be eligible to receive as a lead institution or member of a consortium an additional grant in that fiscal year for a national transportation center or a regional transportation center.

“(3) COORDINATION.—The Secretary shall solicit grant applications for national transportation centers, regional transportation centers, and Tier 1 university transportation centers with identical advertisement schedules and deadlines.

“(4) GENERAL SELECTION CRITERIA.—

“(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.

“(B) CRITERIA.—The Secretary, in consultation as appropriate with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

Assessment.

“(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

“(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

“(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

“(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

“(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

“(I) degree-granting programs; and

“(II) outreach activities to attract new entrants into the transportation field;

“(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

“(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

“(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

“(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

“(5) TRANSPARENCY.—

“(A) IN GENERAL.—The Secretary shall provide to each applicant, upon request, any materials, including copies of reviews (with any information that would identify a reviewer redacted), used in the evaluation process of the proposal of the applicant.

“(B) REPORTS.—The Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the overall review process under paragraph (3) that includes—

“(i) specific criteria of evaluation used in the review;

“(ii) descriptions of the review process; and

“(iii) explanations of the selected awards.

“(6) OUTSIDE STAKEHOLDERS.—The Secretary shall, to the maximum extent practicable, consult external stakeholders such as the Transportation Research Board of the National Academy of Sciences to evaluate and competitively review all proposals.

“(c) GRANTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary, in consultation as appropriate with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

“(2) NATIONAL TRANSPORTATION CENTERS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide grants to 5 recipients that the

Consultation.  
Evaluation.  
Review.

Deadline.

Secretary determines best meet the criteria described in subsection (b)(3).

“(B) RESTRICTIONS.—

“(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall be \$3,000,000 per recipient.

“(ii) FOCUSED RESEARCH.—The grant recipients under this paragraph shall focus research on national transportation issues, as determined by the Secretary.

Determination.

“(C) MATCHING REQUIREMENT.—

“(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

“(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under section 504(b) or 505 of title 23.

“(3) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

“(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled ‘Standard Federal Regions’ and dated April, 1974 (circular A-105).

“(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 recipients on the basis of—

“(i) the criteria described in subsection (b)(3);

“(ii) the location of the center within the Federal region to be served; and

“(iii) whether the institution (or, in the case of consortium of institutions, the lead institution) demonstrates that the institution has a well-established, nationally recognized program in transportation research and education, as evidenced by—

“(I) recent expenditures by the institution in highway or public transportation research;

“(II) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

“(III) an experienced faculty who specialize in professional fields closely related to highways and public transportation.

“(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall be \$2,750,000 for each recipient.

“(D) MATCHING REQUIREMENTS.—

“(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

“(ii) SOURCES.—The matching amounts referred to in the clause (i) may include amounts made available to the recipient under section 504(b) or 505 of title 23.

“(E) FOCUSED RESEARCH.—The Secretary shall make a grant to 1 of the 10 regional university transportation

centers established under this paragraph for the purpose of furthering the objectives described in subsection (a)(2) in the field of comprehensive transportation safety.

“(4) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

“(A) IN GENERAL.—The Secretary shall provide grants of \$1,500,000 each to not more than 20 recipients to carry out this paragraph.

“(B) RESTRICTION.—A lead institution of a consortium that receives a grant under paragraph (2) or (3) shall not be eligible to receive a grant under this paragraph.

“(C) MATCHING REQUIREMENT.—

“(i) IN GENERAL.—Subject to clause (iii), as a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

“(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under section 504(b) or 505 of title 23.

“(iii) EXEMPTION.—This subparagraph shall not apply on a demonstration of financial hardship by the applicant institution.

“(D) FOCUSED RESEARCH.—In awarding grants under this paragraph, consideration shall be given to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

“(d) PROGRAM COORDINATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

“(B) disseminate the results of that research through the establishment and operation of an information clearinghouse.

“(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall—

“(A) review and evaluate the programs carried out under this section by grant recipients; and

“(B) submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing that review and evaluation.

“(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 and 2014, the Secretary shall expend not more than 1½ percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section.

“(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are appropriated.

“(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry

Reports.

Time period.

out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

“5505. University transportation centers program.”.

**SEC. 52010. UNIVERSITY TRANSPORTATION RESEARCH.**

(a) IN GENERAL.—Section 5506 of title 49, United States Code, is repealed. Repeal.

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5506.

**SEC. 52011. BUREAU OF TRANSPORTATION STATISTICS.**

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

**“CHAPTER 63—BUREAU OF TRANSPORTATION  
STATISTICS**

“Sec.

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**“§ 6301. Definitions**

“In this chapter, the following definitions apply:

“(1) BUREAU.—The term ‘Bureau’ means the Bureau of Transportation Statistics established by section 6302(a).

“(2) DEPARTMENT.—The term ‘Department’ means the Department of Transportation.

“(3) DIRECTOR.—The term ‘Director’ means the Director of the Bureau.

“(4) LIBRARY.—The term ‘Library’ means the National Transportation Library established by section 6304(a).

“(5) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

**“§ 6302. Bureau of Transportation Statistics**

“(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration the Bureau of Transportation Statistics.

“(b) DIRECTOR.—

“(1) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary.

“(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director

by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

“(3) DUTIES.—

“(A) IN GENERAL.—The Director shall—

“(i) serve as the senior advisor to the Secretary on data and statistics; and

“(ii) be responsible for carrying out the duties described in subparagraph (B).

“(B) DUTIES.—The Director shall—

“(i) ensure that the statistics compiled under clause (vi) are designed to support transportation decisionmaking by—

“(I) the Federal Government;

“(II) State and local governments;

“(III) metropolitan planning organizations;

“(IV) transportation-related associations;

“(V) the private sector, including the freight community; and

“(VI) the public;

“(ii) establish on behalf of the Secretary a program—

“(I) to effectively integrate safety data across modes; and

“(II) to address gaps in existing safety data programs of the Department;

“(iii) work with the operating administrations of the Department—

“(I) to establish and implement the data programs of the Bureau; and

“(II) to improve the coordination of information collection efforts with other Federal agencies;

“(iv) continually improve surveys and data collection methods of the Department to improve the accuracy and utility of transportation statistics;

“(v) encourage the standardization of data, data collection methods, and data management and storage technologies for data collected by—

“(I) the Bureau;

“(II) the operating administrations of the Department;

“(III) State and local governments;

“(IV) metropolitan planning organizations; and

“(V) private sector entities;

“(vi) collect, compile, analyze, and publish a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

“(I) transportation safety across all modes and intermodally;

“(II) the state of good repair of United States transportation infrastructure;

“(III) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6310;

“(IV) economic efficiency across the entire transportation sector;

“(V) the effects of the transportation system on global and domestic economic competitiveness;

“(VI) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

“(VII) transportation-related variables that influence the domestic economy and global competitiveness;

“(VIII) economic costs and impacts for passenger travel and freight movement;

“(IX) intermodal and multimodal passenger movement;

“(X) intermodal and multimodal freight movement; and

“(XI) consequences of transportation for the human and natural environment;

“(vii) build and disseminate the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order), including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by other entities; Dissemination.

“(viii) issue guidelines for the collection of information by the Department that the Director determines necessary to develop transportation statistics and carry out modeling, economic assessment, and program assessment activities to ensure that such information is accurate, reliable, relevant, uniform, and in a form that permits systematic analysis by the Department; Guidelines.

“(ix) review and report to the Secretary on the sources and reliability of— Review. Reports.

“(I) the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285); and

“(II) at the request of the Secretary, any other data collected or statistical information published by the heads of the operating administrations of the Department; and

“(x) ensure that the statistics published under this section are readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

“(c) ACCESS TO FEDERAL DATA.—In carrying out subsection (b)(3)(B)(ii), the Director shall be given access to all safety data that the Director determines necessary to carry out that subsection that is held by the Department or any other Federal agency upon written request and subject to any statutory or regulatory restrictions.

**“§ 6303. Intermodal transportation database**

“(a) IN GENERAL.—In consultation with the Under Secretary Transportation for Policy, the Assistant Secretaries of the Department, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.

“(b) USE.—The database established under this section shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

“(c) CONTENTS.—The database established under this section shall include—

“(1) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation, intermodal combinations, and relevant classification;

“(2) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes), intermodal combinations, and relevant classification;

“(3) information on the location and connectivity of transportation facilities and services; and

“(4) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

**“§ 6304. National Transportation Library**

“(a) PURPOSE AND ESTABLISHMENT.—To support the information management and decisionmaking needs of transportation officials at the Federal, State, and local levels, there is established in the Bureau a National Transportation Library which shall—

“(1) be headed by an individual who is highly qualified in library and information science;

“(2) acquire, preserve, and manage transportation information and information products and services for use by the Department, other Federal agencies, and the general public;

“(3) provide reference and research assistance;

“(4) serve as a central depository for research results and technical publications of the Department;

“(5) provide a central clearinghouse for transportation data and information of the Federal Government;

“(6) serve as coordinator and policy lead for transportation information access;

“(7) provide transportation information and information products and services to—

“(A) the Department;

“(B) other Federal agencies;

“(C) public and private organizations; and

“(D) individuals, within the United States and internationally;

“(8) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with private industry and other transportation library and information centers, with the goal of developing a comprehensive transportation information and knowledge network that supports the activities described in section 6302(b)(3)(B)(vi); and



“(9) engage in such other activities as the Director determines to be necessary and as the resources of the Library permit.

“(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a), to improve the ability of the transportation community to share information and the ability of the Director to make statistics and other information readily accessible as required under section 6302(b)(3)(B)(x).

“(c) AGREEMENTS.—

“(1) IN GENERAL.—To carry out this section, the Director may enter into agreements with, award grants to, and receive amounts from, any—

“(A) State or local government;

“(B) organization;

“(C) business; or

“(D) individual.

“(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities in connection with matters relating to the Department’s strategic goals, knowledge networking, and national and international cooperation, by entering into contracts or other agreements or awarding grants for the conduct of such activities.

“(3) AMOUNTS.—Any amounts received by the Library as payment for library products and services or other activities shall be made available to the Director to carry out this section, deposited in the Research and Innovative Technology Administration’s general fund account, and remain available until expended.

#### “§ 6305. Advisory council on transportation statistics

“(a) IN GENERAL.—The Director shall establish and consult with an advisory council on transportation statistics.

Establishment.  
Consultation.

“(b) FUNCTION.—The advisory council established under this section shall advise the Director on—

“(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; and

“(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The advisory council shall be composed of not fewer than 9 and not more than 11 members appointed by the Director.

“(2) SELECTION.—In selecting members for the advisory council, the Director shall appoint individuals who—

“(A) are not officers or employees of the United States;

“(B) possess expertise in—

“(i) transportation data collection, analysis, or application;

“(ii) economics; or

“(iii) transportation safety; and

“(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

“(d) TERMS OF APPOINTMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), members of the advisory council shall be appointed to staggered terms not to exceed 3 years.

“(2) ADDITIONAL TERMS.—A member may be renominated for 1 additional 3-year term.

“(3) CURRENT MEMBERS.—A member serving on an advisory council on transportation statistics on the day before the date of enactment of the Transportation Research and Innovative Technology Act of 2012 shall serve until the end of the appointed term of the member.

“(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory council established under this section, except that section 14 of that Act shall not apply.

**“§ 6306. Transportation statistical collection, analysis, and dissemination**

“To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

“(1) use the services, equipment, records, personnel, information, and facilities of other Federal agencies, or State, local, and private agencies and instrumentalities, subject to the conditions that the applicable agency or instrumentality consents to that use and with or without reimbursement for such use;

“(2) enter into agreements with the agencies and instrumentalities described in paragraph (1) for purposes of data collection and analysis;

“(3) confer and cooperate with foreign governments, international organizations, and State, municipal, and other local agencies;

“(4) request such information, data, and reports from any Federal agency as the Director determines necessary to carry out this chapter;

“(5) encourage replication, coordination, and sharing of information among transportation agencies regarding information systems, information policy, and data; and

“(6) confer and cooperate with Federal statistical agencies as the Director determines necessary to carry out this chapter, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

**“§ 6307. Furnishing of information, data, or reports by Federal agencies**

“(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information, data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

“(b) PROHIBITION ON CERTAIN DISCLOSURES.—

“(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

“(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) can be identified;

“(B) use the information provided under section 6302(b)(3)(B) for a nonstatistical purpose; or

“(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B).

“(2) COPIES OF REPORTS.—

“(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) with the Bureau or retained by an individual respondent.

“(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of the employees, contractors, or agents of the Bureau—

“(i) shall be immune from legal process; and

“(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

“(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

“(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply the data or information of the nonstatistical purpose.

“(c) TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.—The Director shall be provided access to any transportation and transportation-related information in the possession of any Federal agency, except—

“(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

“(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

#### “§ 6308. Proceeds of data product sales

“Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products for necessary expenses incurred may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for those expenses.

**“§ 6309. National transportation atlas database**

“(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

- “(1) transportation networks;
- “(2) flows of people, goods, vehicles, and craft over the transportation networks; and
- “(3) social, economic, and environmental conditions that affect or are affected by the transportation networks.

“(b) INTERMODAL NETWORK ANALYSIS.—The databases referred to in subsection (a) shall be capable of supporting intermodal network analysis.

**“§ 6310. Limitations on statutory construction**

“Nothing in this chapter—

“(1) authorizes the Bureau to require any other Federal agency to collect data; or

“(2) alters or diminishes the authority of any other officer of the Department to collect and disseminate data independently.

**“§ 6311. Research and development grants**

“The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

“(1) investigation of the subjects described in section 6302(b)(3)(B)(vi);

“(2) research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

“(3) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

“(4) development of electronic clearinghouses of transportation data and related information, as part of the Library; and

“(5) development and improvement of methods for sharing geographic data, in support of the database under section 6310 and the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order).

**“§ 6312. Transportation statistics annual report**

“The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

“(1) information on the progress of the Director in carrying out the duties described in section 6302(b)(3)(B);

“(2) documentation of the methods used to obtain and ensure the quality of the statistics presented in the report; and

“(3) any recommendations of the Director for improving transportation statistical information.

**“§ 6313. Mandatory response authority for freight data collection**

“(a) FREIGHT DATA COLLECTION.—

“(1) IN GENERAL.—An owner, official, agent, person in charge, or assistant to the person in charge of a freight corporation, company, business, institution, establishment, or organization described in paragraph (2) shall be fined in accordance with subsection (b) if that individual neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau to submit data under section 6302(b)(3)(B)—

“(A) to answer completely and correctly to the best knowledge of that individual all questions relating to the corporation, company, business, institution, establishment, or other organization; or

“(B) to make available records or statistics in the official custody of the individual.

“(2) DESCRIPTION OF ENTITIES.—A freight corporation, company, business, institution, establishment, or organization referred to in paragraph (1) is a corporation, company, business, institution, establishment, or organization that—

“(A) receives Federal funds relating to the freight program; and

“(B) has consented to be subject to a fine under this subsection on—

“(i) refusal to supply any data requested; or

“(ii) failure to respond to a written request.

“(b) FINES.—

“(1) IN GENERAL.—Subject to paragraph (2), an individual described in subsection (a) shall be fined not more than \$500.

“(2) WILLFUL ACTIONS.—If an individual willfully gives a false answer to a question described in subsection (a)(1), the individual shall be fined not more than \$10,000.”.

(b) RULES OF CONSTRUCTION.—If the provisions of section 111 of title 49, United States Code, are transferred to chapter 63 of that title, the following rules of construction apply:

Applicability.  
49 USC 6301  
note.

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a chapter 63 provision is deemed to have been enacted on the date of enactment of the corresponding section 111 provision.

(2) A reference to a section 111 provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding chapter 63 provision.

(3) A regulation, order, or other administrative action in effect under a section 111 provision continues in effect under the corresponding chapter 63 provision.

(4) An action taken or an offense committed under a section 111 provision is deemed to have been taken or committed under the corresponding chapter 63 provision.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 111 of title 49, United States Code, is repealed, and the item relating to section 111 in the analysis for chapter 1 of that title is deleted.

(2) ANALYSIS FOR SUBTITLE III.—The analysis for subtitle III of title 49, United States Code, is amended by inserting after the items for chapter 61 the following:

“CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS.”.

**SEC. 52012. ADMINISTRATIVE AUTHORITY.**

Section 112 of title 49, United States Code, is amended by adding at the end the following:

“(f) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 and 2014, the Administrator is authorized to expend not more than 1½ percent of the amounts authorized to be appropriated for necessary expenses for administration and operations of the Research and Innovative Technology Administration for the coordination, evaluation, and oversight of the programs administered by the Administration.

“(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

“(B) Federal laboratories; and

“(C) other Federal agencies.

“(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

“(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this section.”.

**SEC. 52013. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.**

Section 508(a) of title 23, United States Code, is amended—  
(1) in paragraph (1), by striking “SAFETEA-LU” and inserting “Transportation Research and Innovative Technology Act of 2012”; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

“(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

- “(i) promoting safety;
- “(ii) reducing congestion and improving mobility;
- “(iii) preserving the environment;
- “(iv) preserving the existing transportation system;
- “(v) improving the durability and extending the life of transportation infrastructure; and
- “(vi) improving goods movement.”.

## **TITLE III—INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH**

**SEC. 53001. USE OF FUNDS FOR ITS ACTIVITIES.**

Section 513 of title 23, United States Code, is amended to read as follows:

**“§ 513. Use of funds for ITS activities**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a State or local government, tribal government, transit agency, public toll authority, metropolitan planning organization, other political subdivision of a State or local government, or a multistate or multijurisdictional group applying through a single lead applicant.

“(2) MULTIJURISDICTIONAL GROUP.—The term ‘multijurisdictional group’ means a combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State that—

“(A) have signed a written agreement to implement an activity that meets the grant criteria under this section; and

“(B) is comprised of at least 2 members, each of whom is an eligible entity.

“(b) PURPOSE.—The purpose of this section is to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs.

“(c) ITS ADOPTION.—

“(1) INNOVATIVE TECHNOLOGIES AND STRATEGIES.—The Secretary shall encourage the deployment of ITS technologies that will improve the performance of the National Highway System in such areas as traffic operations, emergency response, incident

management, surface transportation network management, freight management, traffic flow information, and congestion management by accelerating the adoption of innovative technologies through the use of—

“(A) demonstration programs;

“(B) grant funding;

“(C) incentives to eligible entities; and

“(D) other tools, strategies, or methods that will result in the deployment of innovative ITS technologies.

“(2) **COMPREHENSIVE PLAN.**—To carry out this section, the Secretary shall develop a detailed and comprehensive plan that addresses the manner in which incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.”.

#### **SEC. 53002. GOALS AND PURPOSES.**

(a) **IN GENERAL.**—Chapter 5 of title 23, United States Code, is amended by adding after section 513 the following:

##### **“§ 514. Goals and purposes**

“(a) **GOALS.**—The goals of the intelligent transportation system program include—

“(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

“(2) achievement of national transportation safety goals, including enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to collisions, with particular emphasis on decreasing the number and severity of collisions;

“(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

“(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles, and pedestrians (including individuals with disabilities); and

“(5) enhancement of national defense mobility and improvement of the ability of the United States to respond to security-related or other manmade emergencies and natural disasters.

“(b) **PURPOSES.**—The Secretary shall implement activities under the intelligent transportation system program, at a minimum—

“(1) to expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

“(2) to ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

“(3) to improve regional cooperation and operations planning for effective intelligent transportation system deployment;

“(4) to promote the innovative use of private resources in support of intelligent transportation system development;



“(5) to facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

“(6) to support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

“(7) to develop a workforce capable of developing, operating, and maintaining intelligent transportation systems;

“(8) to provide continuing support for operations and maintenance of intelligent transportation systems; and

“(9) to ensure a systems approach that includes cooperation among vehicles, infrastructure, and users.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 513 the following:

“514. Goals and purposes.”.

#### **SEC. 53003. GENERAL AUTHORITIES AND REQUIREMENTS.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 514 (as added by section 53002) the following:

##### **“§ 515. General authorities and requirements**

“(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program—

“(1) to research, develop, and operationally test intelligent transportation systems; and

“(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

“(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

“(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

“(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal agencies, as appropriate.

“(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

“(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

“(g) INFORMATION CLEARINGHOUSE.—

“(1) IN GENERAL.—The Secretary shall—

“(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

“(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

“(2) AGREEMENT.—

“(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

“(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

“(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

“(h) ADVISORY COMMITTEE.—

Establishment.

“(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this chapter.

“(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

“(A) a representative from a State highway department;

“(B) a representative from a local highway department who is not from a metropolitan planning organization;

“(C) a representative from a State, local, or regional transit agency;

“(D) a representative from a metropolitan planning organization;

“(E) a private sector user of intelligent transportation system technologies;

“(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

“(G) an academic researcher who is a civil engineer;

“(H) an academic researcher who is a social scientist with expertise in transportation issues;

“(I) a representative from a nonprofit group representing the intelligent transportation system industry;

“(J) a representative from a public interest group concerned with safety;

“(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

“(L) members with expertise in planning, safety, telecommunications, utilities, and operations.

“(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

“(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under section 508.

“(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

“(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

“(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

“(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

“(4) REPORT.—Not later than February 1 of each year after the date of enactment of the Transportation Research and Innovative Technology Act of 2012, the Secretary shall submit to Congress a report that includes—

“(A) all recommendations made by the Advisory Committee during the preceding calendar year;

“(B) an explanation of the manner in which the Secretary has implemented those recommendations; and

“(C) for recommendations not implemented, the reasons for rejecting the recommendations.

“(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

“(i) REPORTING.—

“(1) GUIDELINES AND REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this chapter.

“(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this chapter.

“(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

“(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this chapter shall not be subject to chapter 35 of title 44, United States Code.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 514 (as added by section 53002) the following:

“515. General authorities and requirements.”.

**SEC. 53004. RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 515 (as added by section 53003) the following:

**“§ 516. Research and development**

“(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research and development, and operational tests of intelligent vehicles, intelligent infrastructure systems, and other similar activities that are necessary to carry out this chapter.

“(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

“(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

“(2) use interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

“(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

“(4) incorporate research on the potential impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

“(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

“(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; or

“(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

“(c) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out under subsection (a) shall not exceed 80 percent.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 515 (as added by section 53003) the following:

“516. Research and development.”.

**SEC. 53005. NATIONAL ARCHITECTURE AND STANDARDS.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 516 (as added by section 53004) the following:

**“§ 517. National architecture and standards**

“(a) IN GENERAL.—

“(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783; 115 Stat. 1241), the Secretary shall develop and maintain a national ITS architecture and supporting ITS standards and protocols to promote the use of systems

engineering methods in the widespread deployment and evaluation of intelligent transportation systems as a component of the surface transportation systems of the United States.

“(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture and supporting ITS standards and protocols shall promote interoperability among, and efficiency of, intelligent transportation systems and technologies implemented throughout the United States.

“(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall support the development and maintenance of standards and protocols using the services of such standards development organizations as the Secretary determines to be necessary and whose memberships are comprised of, and represent, the surface transportation and intelligent transportation systems industries.

“(b) STANDARDS FOR NATIONAL POLICY IMPLEMENTATION.—If the Secretary finds that a standard is necessary for implementation of a nationwide policy relating to user fee collection or other capability requiring nationwide uniformity, the Secretary, after consultation with stakeholders, may establish and require the use of that standard.

“(c) PROVISIONAL STANDARDS.—

“(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives described in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the maximum extent practicable, the work product of appropriate standards development organizations.

“(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

“(d) CONFORMITY WITH NATIONAL ARCHITECTURE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that intelligent transportation system projects carried out using amounts made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under subsection (a) or (c).

“(2) DISCRETION OF THE SECRETARY.—The Secretary, at the discretion of the Secretary, may offer an exemption from paragraph (1) for projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 516 (as added by section 53004) the following:

“517. National architecture and standards.”.

**SEC. 53006. VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 53005) the following:

**“§ 518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment**

Deadline.

“(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure, Energy and Commerce, and Science, Space, and Technology of the House of Representatives that—

“(1) assesses the status of dedicated short-range communications technology and applications developed through research and development;

“(2) analyzes the known and potential gaps in short-range communications technology and applications;

“(3) defines a recommended implementation path for dedicated short-range communications technology and applications that—

“(A) is based on the assessment described in paragraph (1); and

“(B) takes into account the analysis described in paragraph (2);

“(4) includes guidance on the relationship of the proposed deployment of dedicated short-range communications to the National ITS Architecture and ITS Standards; and

“(5) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

Contracts.

“(b) REPORT REVIEW.—The Secretary shall enter into agreements with the National Research Council and an independent third party with subject matter expertise for the review of the report described in subsection (a).”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 53005) the following:

“518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.”.

## DIVISION F—MISCELLANEOUS

### TITLE I—REAUTHORIZATION OF CERTAIN PROGRAMS

#### Subtitle A—Secure Rural Schools and Community Self-determination Program

##### SEC. 100101. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.

(a) AMENDMENTS.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7101 *et seq.*) is amended—

(1) in section 3(11)—

16 USC 7102.

(A) in subparagraph (A), by striking “and” after the semicolon at the end;

(B) in subparagraph (B)—

(i) by striking “fiscal year 2009 and each fiscal year thereafter” and inserting “each of fiscal years 2009 through 2011”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(C) for fiscal year 2012 and each fiscal year thereafter, the amount that is equal to 95 percent of the full funding amount for the preceding fiscal year.”;

(2) in sections 101, 102, 203, 207, 208, 304, and 402, by striking “2011” each place it appears and inserting “2012”;

16 USC 7111  
*et seq.*

(3) in section 102—

16 USC 7112.

(A) by striking “2008” each place it appears and inserting “2012”;

(B) in subsection (b)(2)(B), by inserting “in 2012” before “; the election”; and

(C) in subsection (d)—

(i) in paragraph (1)(A), by striking “paragraph (3)(B)” and inserting “subparagraph (D)”; and

(ii) in paragraph (3)—

(I) by striking subparagraph (A) and inserting the following:

“(A) NOTIFICATION.—The Governor of each eligible State shall notify the Secretary concerned of an election by an eligible county under this subsection not later than September 30, 2012, and each September 30 thereafter for each succeeding fiscal year.”;

Deadlines.

(II) by redesignating subparagraph (B) as subparagraph (D) and moving the subparagraph so as to appear at the end of paragraph (1) of subsection (d); and

(III) by inserting after subparagraph (A) the following:

“(B) FAILURE TO ELECT.—If the Governor of an eligible State fails to notify the Secretary concerned of the election for an eligible county by the date specified in subparagraph (A)—

“(i) the eligible county shall be considered to have elected to expend 80 percent of the funds in accordance with paragraph (1)(A); and

“(ii) the remainder shall be available to the Secretary concerned to carry out projects in the eligible county to further the purpose described in section 202(b).”;

16 USC 7113. (4) in section 103(d)(2), by striking “fiscal year 2011” and inserting “each of fiscal years 2011 and 2012”;

16 USC 7122. (5) in section 202, by adding at the end the following:

“(c) ADMINISTRATIVE EXPENSES.—A resource advisory committee may, in accordance with section 203, propose to use not more than 10 percent of the project funds of an eligible county for any fiscal year for administrative expenses associated with operating the resource advisory committee under this title.”;

16 USC 7124. (6) in section 204(e)(3)(B)(iii), by striking “and 2011” and inserting “through 2012”;

16 USC 7125. (7) in section 205(a)(4), by striking “2006” each place it appears and inserting “2011”;

16 USC 7128. (8) in section 208(b), by striking “2012” and inserting “2013”;

16 USC 7142. (9) in section 302(a)(2)(A), by inserting “and” after the semicolon; and

16 USC 7144. (10) in section 304(b), by striking “2012” and inserting “2013”.

(b) FAILURE TO MAKE ELECTION.—For each county that failed to make an election for fiscal year 2011 in accordance with section 102(d)(3)(A) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7112(d)(3)(A)), there shall be available to the Secretary of Agriculture to carry out projects to further the purpose described in section 202(b) of that Act (16 U.S.C. 7122(b)), from amounts in the Treasury not otherwise appropriated, the amount that is equal to 15 percent of the total share of the State payment that otherwise would have been made to the county under that Act for fiscal year 2011.

## Subtitle B—Payment in Lieu of Taxes Program

### SEC. 100111. PAYMENTS IN LIEU OF TAXES.

Section 6906 of title 31, United States Code, is amended by striking “2012” and inserting “2013”.

## Subtitle C—Offsets

### SEC. 100121. PHASED RETIREMENT AUTHORITY.

(a) CSRS.—Chapter 83 of title 5, United States Code, is amended—

5 USC 8331. (1) in section 8331—



(A) in paragraph (30) by striking “and” at the end;  
(B) in paragraph (31) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(32) ‘Director’ means the Director of the Office of Personnel Management.”;

(2) by inserting after section 8336 the following:

**“§ 8336a. Phased retirement**

“(a) For the purposes of this section—

Definitions.

“(1) the term ‘composite retirement annuity’ means the annuity computed when a phased retiree attains full retirement status;

“(2) the term ‘full retirement status’ means that a phased retiree has ceased employment and is entitled, upon application, to a composite retirement annuity;

“(3) the term ‘phased employment’ means the less-than-full-time employment of a phased retiree;

“(4) the term ‘phased retiree’ means a retirement-eligible employee who—

“(A) makes an election under subsection (b); and

“(B) has not entered full retirement status;

“(5) the term ‘phased retirement annuity’ means the annuity payable under this section before full retirement;

“(6) the term ‘phased retirement percentage’ means the percentage which, when added to the working percentage for a phased retiree, produces a sum of 100 percent;

“(7) the term ‘phased retirement period’ means the period beginning on the date on which an individual becomes entitled to receive a phased retirement annuity and ending on the date on which the individual dies or separates from phased employment;

“(8) the term ‘phased retirement status’ means that a phased retiree is concurrently employed in phased employment and eligible to receive a phased retirement annuity;

“(9) the term ‘retirement-eligible employee’—

“(A) means an individual who, if the individual separated from the service, would meet the requirements for retirement under subsection (a) or (b) of section 8336; but

“(B) does not include an employee described in section 8335 after the date on which the employee is required to be separated from the service by reason of such section; and

“(10) the term ‘working percentage’ means the percentage of full-time employment equal to the quotient obtained by dividing—

“(A) the number of hours per pay period to be worked by a phased retiree, as scheduled in accordance with subsection (b)(2); by

“(B) the number of hours per pay period to be worked by an employee serving in a comparable position on a full-time basis.

“(b)(1) With the concurrence of the head of the employing agency, and under regulations promulgated by the Director, a retirement-eligible employee who has been employed on a full-time basis for not less than the 3-year period ending on the date on which

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the retirement-eligible employee makes an election under this subsection may elect to enter phased retirement status.

“(2)(A) Subject to subparagraph (B), at the time of entering phased retirement status, a phased retiree shall be appointed to a position for which the working percentage is 50 percent.

“(B) The Director may, by regulation, provide for working percentages different from the percentage specified under subparagraph (A), which shall be not less than 20 percent and not more than 80 percent.

“(C) The working percentage for a phased retiree may not be changed during the phased retiree’s phased retirement period.

“(D)(i) Not less than 20 percent of the hours to be worked by a phased retiree shall consist of mentoring.

“(ii) The Director may, by regulation, provide for exceptions to the requirement under clause (i).

“(iii) Clause (i) shall not apply to a phased retiree serving in the United States Postal Service. Nothing in this clause shall prevent the application of clause (i) or (ii) with respect to a phased retiree serving in the Postal Regulatory Commission.

“(3) A phased retiree—

“(A) may not be employed in more than one position at any time; and

“(B) may transfer to another position in the same or a different agency, only if the transfer does not result in a change in the working percentage.

“(4) A retirement-eligible employee may make not more than one election under this subsection during the retirement-eligible employee’s lifetime.

“(5) A retirement-eligible employee who makes an election under this subsection may not make an election under section 8343a.

“(c)(1) Except as otherwise provided under this subsection, the phased retirement annuity for a phased retiree is the product obtained by multiplying—

“(A) the amount of an annuity computed under section 8339 that would have been payable to the phased retiree if, on the date on which the phased retiree enters phased retirement status, the phased retiree had separated from service and retired under section 8336(a) or (b); by

“(B) the phased retirement percentage for the phased retiree.

“(2) A phased retirement annuity shall be paid in addition to the basic pay for the position to which a phased retiree is appointed during phased employment.

“(3) A phased retirement annuity shall be adjusted in accordance with section 8340.

“(4)(A) A phased retirement annuity shall not be subject to reduction for any form of survivor annuity, shall not serve as the basis of the computation of any survivor annuity, and shall not be subject to any court order requiring a survivor annuity to be provided to any individual.

“(B) A phased retirement annuity shall be subject to a court order providing for division, allotment, assignment, execution, levy, attachment, garnishment, or other legal process on the same basis as other annuities.

“(5) Any reduction of a phased retirement annuity based on an election under section 8334(d)(2) shall be applied to the phased retirement annuity after computation under paragraph (1).” Applicability.

“(6)(A) Any deposit, or election of an actuarial annuity reduction in lieu of a deposit, for military service or for creditable civilian service for which retirement deductions were not made or refunded shall be made by a retirement-eligible employee at or before the time the retirement-eligible employee enters phased retirement status. No such deposit may be made, or actuarial adjustment in lieu thereof elected, at the time a phased retiree enters full retirement status.

“(B) Notwithstanding subparagraph (A), if a phased retiree does not make such a deposit and dies in service as a phased retiree, a survivor of the phased retiree shall have the same right to make such deposit as would have been available had the employee not entered phased retirement status and died in service.

“(C) If a phased retiree makes an election for an actuarial annuity reduction under section 8334(d)(2) and dies in service as a phased retiree, the amount of any deposit upon which such actuarial reduction shall have been based shall be deemed to have been fully paid.

“(7) A phased retirement annuity shall commence on the date on which a phased retiree enters phased employment.” Effective date.

“(8) No unused sick leave credit may be used in the computation of the phased retirement annuity.

“(d) All basic pay not in excess of the full-time rate of pay for the position to which a phased retiree is appointed shall be deemed to be basic pay for purposes of section 8334.

“(e) Under such procedures as the Director may prescribe, a phased retiree may elect to enter full retirement status at any time. Upon making such an election, a phased retiree shall be entitled to a composite retirement annuity.

“(f)(1) Except as provided otherwise under this subsection, a composite retirement annuity is a single annuity computed under regulations prescribed by the Director, equal to the sum of—” Regulations.

“(A) the amount of the phased retirement annuity as of the date of full retirement, before any reduction based on an election under section 8334(d)(2), and including any adjustments made under section 8340; and

“(B) the product obtained by multiplying—

“(i) the amount of an annuity computed under section 8339 that would have been payable at the time of full retirement if the individual had not elected a phased retirement and as if the individual was employed on a full-time basis in the position occupied during the phased retirement period and before any reduction for survivor annuity or reduction based on an election under section 8334(d)(2); by

“(ii) the working percentage.

“(2) After computing a composite retirement annuity under paragraph (1), the Director shall adjust the amount of the annuity for any applicable reductions for a survivor annuity and any previously elected actuarial reduction under section 8334(d)(2).

“(3) A composite retirement annuity shall be adjusted in accordance with section 8340, except that subsection (c)(1) of that section shall not apply.

“(4) In computing a composite retirement annuity under paragraph (1)(B)(i), the unused sick leave to the credit of a phased retiree at the time of entry into full retirement status shall be adjusted by dividing the number of hours of unused sick leave by the working percentage.

“(g)(1) Under such procedures and conditions as the Director may provide, and with the concurrence of the head of the employing agency, a phased retiree may elect to terminate phased retirement status and return to a full-time work schedule.

“(2) Upon entering a full-time work schedule based upon an election under paragraph (1), the phased retirement annuity of a phased retiree shall terminate.

“(3) After the termination of a phased retirement annuity under this subsection, the individual’s rights under this subchapter shall be determined based on the law in effect at the time of any subsequent separation from service. For purposes of this subchapter or chapter 84, at time of the subsequent separation from service, the phased retirement period shall be treated as if it had been a period of part-time employment with the work schedule described in subsection (b)(2).

“(h) For purposes of section 8341—

“(1) the death of a phased retiree shall be deemed to be the death in service of an employee; and

“(2) the phased retirement period shall be deemed to have been a period of part-time employment with the work schedule described in subsection (b)(2).

“(i) Employment of a phased retiree shall not be deemed to be part-time career employment, as defined in section 3401(2).

“(j) A phased retiree is not eligible to apply for an annuity under section 8337.

“(k) For purposes of section 8341(h)(4), retirement shall be deemed to occur on the date on which a phased retiree enters into full retirement status.

“(l) For purposes of sections 8343 and 8351, and subchapter III of chapter 84, a phased retiree shall be deemed to be an employee.

“(m) A phased retiree is not subject to section 8344.

“(n) For purposes of chapter 87, a phased retiree shall be deemed to be receiving basic pay at the rate of a full-time employee in the position to which the phased retiree is appointed.”; and

(3) in the table of sections by inserting after the item relating to section 8336 the following:

“8336a. Phased retirement.”.

(b) FERS.—Chapter 84 of title 5, United States Code, is amended—

(1) by inserting after section 8412 the following new section:

**“§ 8412a. Phased retirement**

“(a) For the purposes of this section—

“(1) the term ‘composite retirement annuity’ means the annuity computed when a phased retiree attains full retirement status;

“(2) the term ‘full retirement status’ means that a phased retiree has ceased employment and is entitled, upon application, to a composite retirement annuity;

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“(3) the term ‘phased employment’ means the less-than-full-time employment of a phased retiree;

“(4) the term ‘phased retiree’ means a retirement-eligible employee who—

“(A) makes an election under subsection (b); and

“(B) has not entered full retirement status;

“(5) the term ‘phased retirement annuity’ means the annuity payable under this section before full retirement;

“(6) the term ‘phased retirement percentage’ means the percentage which, when added to the working percentage for a phased retiree, produces a sum of 100 percent;

“(7) the term ‘phased retirement period’ means the period beginning on the date on which an individual becomes entitled to receive a phased retirement annuity and ending on the date on which the individual dies or separates from phased employment;

“(8) the term ‘phased retirement status’ means that a phased retiree is concurrently employed in phased employment and eligible to receive a phased retirement annuity;

“(9) the term ‘retirement-eligible employee’—

“(A) means an individual who, if the individual separated from the service, would meet the requirements for retirement under subsection (a) or (b) of section 8412; and

“(B) does not include—

“(i) an individual who, if the individual separated from the service, would meet the requirements for retirement under subsection (d) or (e) of section 8412; but

“(ii) does not include an employee described in section 8425 after the date on which the employee is required to be separated from the service by reason of such section; and

“(10) the term ‘working percentage’ means the percentage of full-time employment equal to the quotient obtained by dividing—

“(A) the number of hours per pay period to be worked by a phased retiree, as scheduled in accordance with subsection (b)(2); by

“(B) the number of hours per pay period to be worked by an employee serving in a comparable position on a full-time basis.

“(b)(1) With the concurrence of the head of the employing agency, and under regulations promulgated by the Director, a retirement-eligible employee who has been employed on a full-time basis for not less than the 3-year period ending on the date on which the retirement-eligible employee makes an election under this subsection may elect to enter phased retirement status.

“(2)(A) Subject to subparagraph (B), at the time of entering phased retirement status, a phased retiree shall be appointed to a position for which the working percentage is 50 percent.

“(B) The Director may, by regulation, provide for working percentages different from the percentage specified under subparagraph (A), which shall be not less than 20 percent and not more than 80 percent.

“(C) The working percentage for a phased retiree may not be changed during the phased retiree’s phased retirement period.

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“(D)(i) Not less than 20 percent of the hours to be worked by a phased retiree shall consist of mentoring.

“(ii) The Director may, by regulation, provide for exceptions to the requirement under clause (i).

“(iii) Clause (i) shall not apply to a phased retiree serving in the United States Postal Service. Nothing in this clause shall prevent the application of clause (i) or (ii) with respect to a phased retiree serving in the Postal Regulatory Commission.

“(3) A phased retiree—

“(A) may not be employed in more than one position at any time; and

“(B) may transfer to another position in the same or a different agency, only if the transfer does not result in a change in the working percentage.

“(4) A retirement-eligible employee may make not more than one election under this subsection during the retirement-eligible employee’s lifetime.

“(5) A retirement-eligible employee who makes an election under this subsection may not make an election under section 8420a.

“(c)(1) Except as otherwise provided under this subsection, the phased retirement annuity for a phased retiree is the product obtained by multiplying—

“(A) the amount of an annuity computed under section 8415 that would have been payable to the phased retiree if, on the date on which the phased retiree enters phased retirement status, the phased retiree had separated from service and retired under section 8412 (a) or (b); by

“(B) the phased retirement percentage for the phased retiree.

“(2) A phased retirement annuity shall be paid in addition to the basic pay for the position to which a phased retiree is appointed during the phased employment.

“(3) A phased retirement annuity shall be adjusted in accordance with section 8462.

“(4)(A) A phased retirement annuity shall not be subject to reduction for any form of survivor annuity, shall not serve as the basis of the computation of any survivor annuity, and shall not be subject to any court order requiring a survivor annuity to be provided to any individual.

“(B) A phased retirement annuity shall be subject to a court order providing for division, allotment, assignment, execution, levy, attachment, garnishment, or other legal process on the same basis as other annuities.

“(5)(A) Any deposit, or election of an actuarial annuity reduction in lieu of a deposit, for military service or for creditable civilian service for which retirement deductions were not made or refunded, shall be made by a retirement-eligible employee at or before the time the retirement-eligible employee enters phased retirement status. No such deposit may be made, or actuarial adjustment in lieu thereof elected, at the time a phased retiree enters full retirement status.

“(B) Notwithstanding subparagraph (A), if a phased retiree does not make such a deposit and dies in service as a phased retiree, a survivor of the phased retiree shall have the same right to make such deposit as would have been available had the employee not entered phased retirement status and died in service.

“(6) A phased retirement annuity shall commence on the date on which a phased retiree enters phased employment. Effective date.

“(7) No unused sick leave credit may be used in the computation of the phased retirement annuity.

“(d) All basic pay not in excess of the full-time rate of pay for the position to which a phased retiree is appointed shall be deemed to be basic pay for purposes of sections 8422 and 8423.

“(e) Under such procedures as the Director may prescribe, a phased retiree may elect to enter full retirement status at any time. Upon making such an election, a phased retiree shall be entitled to a composite retirement annuity.

“(f)(1) Except as provided otherwise under this subsection, a composite retirement annuity is a single annuity computed under regulations prescribed by the Director, equal to the sum of— Regulations.

“(A) the amount of the phased retirement annuity as of the date of full retirement, including any adjustments made under section 8462; and

“(B) the product obtained by multiplying—

“(i) the amount of an annuity computed under section 8412 that would have been payable at the time of full retirement if the individual had not elected a phased retirement and as if the individual was employed on a full-time basis in the position occupied during the phased retirement period and before any adjustment to provide for a survivor annuity; by

“(ii) the working percentage.

“(2) After computing a composite retirement annuity under paragraph (1), the Director shall adjust the amount of the annuity for any applicable reductions for a survivor annuity.

“(3) A composite retirement annuity shall be adjusted in accordance with section 8462, except that subsection (c)(1) of that section shall not apply.

“(4) In computing a composite retirement annuity under paragraph (1)(B)(i), the unused sick leave to the credit of a phased retiree at the time of entry into full retirement status shall be adjusted by dividing the number of hours of unused sick leave by the working percentage.

“(g)(1) Under such procedures and conditions as the Director may provide, and with the concurrence of the head of employing agency, a phased retiree may elect to terminate phased retirement status and return to a full-time work schedule.

“(2) Upon entering a full-time work schedule based on an election under paragraph (1), the phased retirement annuity of a phased retiree shall terminate.

“(3) After termination of the phased retirement annuity under this subsection, the individual’s rights under this chapter shall be determined based on the law in effect at the time of any subsequent separation from service. For purposes of this chapter, at the time of the subsequent separation from service, the phased retirement period shall be treated as if it had been a period of part-time employment with the work schedule described in subsection (b)(2).

“(h) For purposes of subchapter IV—

“(1) the death of a phased retiree shall be deemed to be the death in service of an employee;

“(2) except for purposes of section 8442(b)(1)(A)(i), the phased retirement period shall be deemed to have been a period

of part-time employment with the work schedule described in subsection (b)(2) of this section; and

“(3) for purposes of section 8442(b)(1)(A)(i), the phased retiree shall be deemed to have been at the full-time rate of pay for the position occupied.

“(i) Employment of a phased retiree shall not be deemed to be part-time career employment, as defined in section 3401(2).

“(j) A phased retiree is not eligible to receive an annuity supplement under section 8421.

“(k) For purposes of subchapter III, a phased retiree shall be deemed to be an employee.

“(l) For purposes of section 8445(d), retirement shall be deemed to occur on the date on which a phased retiree enters into full retirement status.

“(m) A phased retiree is not eligible to apply for an annuity under subchapter V.

“(n) A phased retiree is not subject to section 8468.

“(o) For purposes of chapter 87, a phased retiree shall be deemed to be receiving basic pay at the rate of a full-time employee in the position to which the phased retiree is appointed.”; and

(2) in the table of sections by inserting after the item relating to section 8412 the following:

“8412a. Phased retirement.”.

26 USC 72. (c) EXEMPTION FROM 10-PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTIONS.—Section 72(t)(2)(A) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of clause (vi), by striking the period at the end of clause (vii) and inserting “; or”, and by adding at the end the following:

“(viii) payments under a phased retirement annuity under section 8366a(a)(5) or 8412a(a)(5) of title 5, United States Code, or a composite retirement annuity under section 8366a(a)(1) or 8412a(a)(1) of such title.”.

5 USC 8331 note. (d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the effective date of the implementing regulations issued by the Director of the Office of Personnel Management.

#### **SEC. 100122. ROLL-YOUR-OWN CIGARETTE MACHINES.**

(a) IN GENERAL.—Subsection (d) of section 5702 of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

Definition. “Such term shall include any person who for commercial purposes makes available for consumer use (including such consumer’s personal consumption or use under paragraph (1)) a machine capable of making cigarettes, cigars, or other tobacco products. A person making such a machine available for consumer use shall be deemed the person making the removal as defined by subsection (j) with respect to any tobacco products manufactured by such machine. A person who sells a machine directly to a consumer at retail for a consumer’s personal home use is not making a machine available for commercial purposes if such machine is not used at a retail premises and is designed to produce tobacco products only in personal use quantities.”.



(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to articles removed after the date of the enactment of this Act. 26 USC 5702 note.

**SEC. 100123. CHANGE IN FMAP INCREASE FOR DISASTER RECOVERY STATES.**

(a) **ACCELERATED DATE FOR PRIOR AMENDMENTS.**—Section 3204(b) of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112–96) is amended by striking “October 1, 2013” and inserting “October 1, 2012”. 42 USC 1396d note.

(b) **APPLICATION OF 50 PERCENT IN FISCAL YEAR 2013.**—Subparagraph (B) of section 1905(aa)(1) of the Social Security Act (42 U.S.C. 1396d(aa)(1)), as amended by section 3204(a) of Public Law 112–96, is amended by striking “25 percent” and inserting “25 percent (or 50 percent in the case of fiscal year 2013)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall be effective as if included in the enactment of section 3204 of Public Law 112–96. 42 USC 1396d note.

**SEC. 100124. REPEALS.**

(a) **TRANSPORTATION REQUIREMENTS FOR CERTAIN EXPORTS SPONSORED BY THE SECRETARY OF AGRICULTURE.**—

(1) **REPEAL.**—Subsections (a) and (c) of section 55314 of title 46, United States Code, are repealed.

(2) **ACTIVITIES DESCRIBED.**—Subsection (b) of section 55314 of title 46, United States Code, is amended by striking “This section applies to export activity” and inserting “The activities specified in this subsection are export activities”.

(b) **FINANCING THE TRANSPORTATION OF AGRICULTURAL COMMODITIES.**—Subsection (a) of section 55316 of title 46, United States Code, is repealed.

(c) **CONFORMING AMENDMENTS.**—

(1) **MINIMUM TONNAGE.**—Section 55315(b) of title 46, United States Code, is amended by striking “subject to section 55314” and inserting “specified in section 55314(b)”.

(2) **ISSUANCE AND PURCHASE OF OBLIGATIONS AND NOTIFICATION TO CONGRESS OF INSUFFICIENCY.**—Section 55316 of title 46, United States Code, is amended—

(A) in subsection (c)(1) by striking “under subsections (a) and (b)” and inserting “under subsection (b)”; and

(B) in subsection (f) by striking “subsections (a) and (b) and section 55314(a) of this title” and inserting “subsection (b)”.

(3) **TERMINATION OF SUBCHAPTER.**—Section 55317 of title 46, United States Code, is amended by striking “sections 55314(a) and 55316(a) and (b)” and inserting “section 55316(b)”.

**SEC. 100125. LIMITATION ON PAYMENTS FROM THE ABANDONED MINE RECLAMATION FUND.**

Section 411(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(h)) is amended by adding at the end the following:

“(5) **LIMITATION ON ANNUAL PAYMENTS.**—Notwithstanding any other provision of this subsection, the total annual payment to a certified State or Indian tribe under this subsection shall be not more than \$15,000,000.”.

Biggert-Waters  
Flood Insurance  
Reform Act  
of 2012.

## TITLE II—FLOOD INSURANCE

### Subtitle A—Flood Insurance Reform and Modernization

42 USC 4001  
note.

#### SEC. 100201. SHORT TITLE.

This subtitle may be cited as the “Biggert-Waters Flood Insurance Reform Act of 2012”.

42 USC 4004.

#### SEC. 100202. DEFINITIONS.

(a) IN GENERAL.—In this subtitle, the following definitions shall apply:

(1) 100-YEAR FLOODPLAIN.—The term “100-year floodplain” means that area which is subject to inundation from a flood having a 1-percent chance of being equaled or exceeded in any given year.

(2) 500-YEAR FLOODPLAIN.—The term “500-year floodplain” means that area which is subject to inundation from a flood having a 0.2-percent chance of being equaled or exceeded in any given year.

(3) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(4) NATIONAL FLOOD INSURANCE PROGRAM.—The term “National Flood Insurance Program” means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

(5) WRITE YOUR OWN.—The term “Write Your Own” means the cooperative undertaking between the insurance industry and the Federal Insurance Administration which allows participating property and casualty insurance companies to write and service standard flood insurance policies.

(b) COMMON TERMINOLOGY.—Except as otherwise provided in this subtitle, any terms used in this subtitle shall have the meaning given to such terms under section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121).

#### SEC. 100203. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) FINANCING.—Section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amended by striking “July 31, 2012” and inserting “September 30, 2017”.

(b) PROGRAM EXPIRATION.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking “July 31, 2012” and inserting “September 30, 2017”.

#### SEC. 100204. AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.

Section 1305 of the National Flood Insurance Act of 1968 (42 U.S.C. 4012) is amended—

(1) in subsection (b)(2)(A), by inserting “not described in subsection (a) or (d)” after “properties”; and

(2) by adding at the end the following:

“(d) AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.—

“(1) IN GENERAL.—The Administrator shall make flood insurance available to cover residential properties of 5 or more residences. Notwithstanding any other provision of law, the

maximum coverage amount that the Administrator may make available under this subsection to such residential properties shall be equal to the coverage amount made available to commercial properties.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the ability of individuals residing in residential properties of 5 or more residences to obtain insurance for the contents and personal articles located in such residences.”.

**SEC. 100205. REFORM OF PREMIUM RATE STRUCTURE.**

(a) TO EXCLUDE CERTAIN PROPERTIES FROM RECEIVING SUBSIDIZED PREMIUM RATES.—

(1) IN GENERAL.—Section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended—

(A) in subsection (a)(2), by striking “for any residential property which is not the primary residence of an individual; and” and inserting the following: “for—

“(A) any residential property which is not the primary residence of an individual;

“(B) any severe repetitive loss property;

“(C) any property that has incurred flood-related damage in which the cumulative amounts of payments under this title equaled or exceeded the fair market value of such property;

“(D) any business property; or

“(E) any property which on or after the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 has experienced or sustained—

“(i) substantial damage exceeding 50 percent of the fair market value of such property; or

“(ii) substantial improvement exceeding 30 percent of the fair market value of such property; and”; and

(B) by adding at the end the following:

“(g) NO EXTENSION OF SUBSIDY TO NEW POLICIES OR LAPSED POLICIES.—The Administrator shall not provide flood insurance to prospective insureds at rates less than those estimated under subsection (a)(1), as required by paragraph (2) of that subsection, for—

“(1) any property not insured by the flood insurance program as of the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012;

“(2) any property purchased after the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012;

“(3) any policy under the flood insurance program that has lapsed in coverage, as a result of the deliberate choice of the holder of such policy; or

“(4) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—

“(A) following a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); or

“(B) in connection with—

“(i) a repetitive loss property; or

“(ii) a severe repetitive loss property.

“(h) DEFINITION.—In this section, the term ‘severe repetitive loss property’ has the following meaning:

“(1) SINGLE-FAMILY PROPERTIES.—In the case of a property consisting of 1 to 4 residences, such term means a property that—

“(A) is covered under a contract for flood insurance made available under this title; and

“(B) has incurred flood-related damage—

“(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this chapter, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

“(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

Regulations.

“(2) MULTIFAMILY PROPERTIES.—In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director shall by regulation provide.”.

42 USC 4014  
note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective 90 days after the date of enactment of this Act.

(b) ESTIMATES OF PREMIUM RATES.—Section 1307(a)(1)(B) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)(1)(B)) is amended—

(1) in clause (ii), by striking “and” at the end;

(2) in clause (iii), by adding “and” at the end; and

(3) by inserting after clause (iii) the following:

“(iv) all costs, as prescribed by principles and standards of practice in ratemaking adopted by the American Academy of Actuaries and the Casualty Actuarial Society, including—

“(I) an estimate of the expected value of future costs,

“(II) all costs associated with the transfer of risk, and

“(III) the costs associated with an individual risk transfer with respect to risk classes, as defined by the Administrator.”.

(c) INCREASE IN ANNUAL LIMITATION ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “or (3)”; and

(B) by inserting “any properties” after “under this title for”;

(2) in paragraph (1)—

(A) by striking “any properties within any single” and inserting “within any single”; and

(B) by striking “10 percent” and inserting “20 percent”; and

(3) by striking paragraph (2) and inserting the following:

“(2) described in subparagraphs (A) through (E) of section 1307(a)(2) shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal

to the average of the risk premium rates for properties described under paragraph (1).”.

(d) PREMIUM PAYMENT FLEXIBILITY FOR NEW AND EXISTING POLICYHOLDERS.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following:

“(g) FREQUENCY OF PREMIUM COLLECTION.—With respect to any chargeable premium rate prescribed under this section, the Administrator shall provide policyholders that are not required to escrow their premiums and fees for flood insurance as set forth under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) with the option of paying their premiums either annually or in more frequent installments.”.

(e) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section may be construed to affect the requirement under section 2(c) of the Act entitled “An Act to extend the National Flood Insurance Program, and for other purposes”, approved May 31, 2012 (Public Law 112–123), that the first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual take effect on July 1, 2012.

Effective date.  
42 USC 4015  
note.

#### SEC. 100207. PREMIUM ADJUSTMENT.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015), as amended by section 100205, is further amended by adding at the end the following:

“(h) PREMIUM ADJUSTMENT TO REFLECT CURRENT RISK OF FLOOD.—Notwithstanding subsection (f), upon the effective date of any revised or updated flood insurance rate map under this Act, the Flood Disaster Protection Act of 1973, or the Biggert-Waters Flood Insurance Reform Act of 2012, any property located in an area that is participating in the national flood insurance program shall have the risk premium rate charged for flood insurance on such property adjusted to accurately reflect the current risk of flood to such property, subject to any other provision of this Act. Any increase in the risk premium rate charged for flood insurance on any property that is covered by a flood insurance policy on the effective date of such an update that is a result of such updating shall be phased in over a 5-year period, at the rate of 20 percent for each year following such effective date. In the case of any area that was not previously designated as an area having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in a flood insurance map, becomes designated as such an area, the chargeable risk premium rate for flood insurance under this title that is purchased on or after the date of enactment of this subsection with respect to any property that is located within such area shall be phased in over a 5-year period, at the rate of 20 percent for each year following the effective date of such issuance, revision, updating, or change.”.

Time period.

#### SEC. 100208. ENFORCEMENT.

Section 102(f)(5) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(5)) is amended—

(1) in the first sentence, by striking “\$350” and inserting “\$2,000”; and

(2) by striking the second sentence.

**SEC. 100209. ESCROW OF FLOOD INSURANCE PAYMENTS.**

(a) **IN GENERAL.**—Paragraph (1) of section 102(d) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)) is amended to read as follows:

“(1) **REGULATED LENDING INSTITUTIONS.**—

“(A) **FEDERAL ENTITIES RESPONSIBLE FOR LENDING REGULATIONS.**—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that all premiums and fees for flood insurance under the National Flood Insurance Act of 1968, for improved real estate or a mobile home, shall be paid to the regulated lending institution or servicer for any loan secured by the improved real estate or mobile home, with the same frequency as payments on the loan are made, for the duration of the loan. Except as provided in subparagraph (C), upon receipt of any premiums or fees, the regulated lending institution or servicer shall deposit such premiums and fees in an escrow account on behalf of the borrower. Upon receipt of a notice from the Administrator or the provider of the flood insurance that insurance premiums are due, the premiums deposited in the escrow account shall be paid to the provider of the flood insurance.

“(B) **LIMITATION.**—Except as may be required under applicable State law, a Federal entity for lending regulation may not direct or require a regulated lending institution to deposit premiums or fees for flood insurance under the National Flood Insurance Act of 1968 in an escrow account on behalf of a borrower under subparagraph (A) or (B), if—

“(i) the regulated lending institution has total assets of less than \$1,000,000,000; and

“(ii) on or before the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012, the regulated lending institution—

“(I) in the case of a loan secured by residential improved real estate or a mobile home, was not required under Federal or State law to deposit taxes, insurance premiums, fees, or any other charges in an escrow account for the entire term of the loan; and

“(II) did not have a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for loans secured by residential improved real estate or a mobile home.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to any mortgage outstanding or entered into on or after the expiration of the 2-year period beginning on the date of enactment of this Act.

**SEC. 100210. MINIMUM DEDUCTIBLES FOR CLAIMS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.**

Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019) is amended—

(1) by striking “The Director is” and inserting the following:

“(a) **IN GENERAL.**—The Administrator is”; and

Time period.  
42 USC 4012a  
note.

(2) by adding at the end the following:

“(b) MINIMUM ANNUAL DEDUCTIBLE.—

“(1) PRE-FIRM PROPERTIES.—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Administrator under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

“(A) \$1,500, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

“(B) \$2,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.

“(2) POST-FIRM PROPERTIES.—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Administrator under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

“(A) \$1,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

“(B) \$1,250, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.”.

**SEC. 100211. CONSIDERATIONS IN DETERMINING CHARGEABLE PREMIUM RATES.**

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015), as amended by this Act, is amended—

(1) in subsection (a), by striking “, after consultation with” and all that follows through “by regulation” and inserting “prescribe, after providing notice”;

(2) in subsection (b)—

(A) in paragraph (1), by striking the period at the end and inserting a semicolon;

(B) in paragraph (2), by striking the comma at the end and inserting a semicolon;

(C) in paragraph (3), by striking “, and” and inserting a semicolon;

(D) in paragraph (4), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(5) adequate, on the basis of accepted actuarial principles, to cover the average historical loss year obligations incurred by the National Flood Insurance Fund.”; and

(3) by adding at the end the following:

“(i) RULE OF CONSTRUCTION.—For purposes of this section, the calculation of an ‘average historical loss year’—

“(1) includes catastrophic loss years; and

“(2) shall be computed in accordance with generally accepted actuarial principles.”.

**SEC. 100212. RESERVE FUND.**

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by inserting after section 1310 (42 U.S.C. 4017) the following:

42 USC 4017a.

**“SEC. 1310A. RESERVE FUND.**

“(a) ESTABLISHMENT OF RESERVE FUND.—In carrying out the flood insurance program authorized by this chapter, the Administrator shall establish in the Treasury of the United States a National Flood Insurance Reserve Fund (in this section referred to as the ‘Reserve Fund’) which shall—

“(1) be an account separate from any other accounts or funds available to the Administrator; and

“(2) be available for meeting the expected future obligations of the flood insurance program, including—

“(A) the payment of claims;

“(B) claims adjustment expenses; and

“(C) the repayment of amounts outstanding under any note or other obligation issued by the Administrator under section 1309(a).

“(b) RESERVE RATIO.—Subject to the phase-in requirements under subsection (d), the Reserve Fund shall maintain a balance equal to—

“(1) 1 percent of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year; or

“(2) such higher percentage as the Administrator determines to be appropriate, taking into consideration any circumstance that may raise a significant risk of substantial future losses to the Reserve Fund.

“(c) MAINTENANCE OF RESERVE RATIO.—

“(1) IN GENERAL.—The Administrator shall have the authority to establish, increase, or decrease the amount of aggregate annual insurance premiums to be collected for any fiscal year necessary—

“(A) to maintain the reserve ratio required under subsection (b); and

“(B) to achieve such reserve ratio, if the actual balance of such reserve is below the amount required under subsection (b).

“(2) CONSIDERATIONS.—In exercising the authority granted under paragraph (1), the Administrator shall consider—

“(A) the expected operating expenses of the Reserve Fund;

“(B) the insurance loss expenditures under the flood insurance program;

“(C) any investment income generated under the flood insurance program; and

“(D) any other factor that the Administrator determines appropriate.

“(3) LIMITATIONS.—

“(A) RATES.—In exercising the authority granted under paragraph (1), the Administrator shall be subject to all other provisions of this Act, including any provisions relating to chargeable premium rates or annual increases of such rates.



“(B) USE OF ADDITIONAL ANNUAL INSURANCE PREMIUMS.—Notwithstanding any other provision of law or any agreement entered into by the Administrator, the Administrator shall ensure that all amounts attributable to the establishment or increase of annual insurance premiums under paragraph (1) are transferred to the Administrator for deposit into the Reserve Fund, to be available for meeting the expected future obligations of the flood insurance program as described in subsection (a)(2).

“(d) PHASE-IN REQUIREMENTS.—The phase-in requirements under this subsection are as follows:

“(1) IN GENERAL.—Beginning in fiscal year 2013 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved, in each such fiscal year the Administrator shall place in the Reserve Fund an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

Effective date.

“(2) AMOUNT SATISFIED.—As soon as the ratio required under subsection (b) is achieved, and except as provided in paragraph (3), the Administrator shall not be required to set aside any amounts for the Reserve Fund.

“(3) EXCEPTION.—If at any time after the ratio required under subsection (b) is achieved, the Reserve Fund falls below the required ratio under subsection (b), the Administrator shall place in the Reserve Fund for that fiscal year an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

“(e) LIMITATION ON RESERVE RATIO.—In any given fiscal year, if the Administrator determines that the reserve ratio required under subsection (b) cannot be achieved, the Administrator shall submit a report to Congress that—

Determination.  
Reports.

“(1) describes and details the specific concerns of the Administrator regarding the consequences of the reserve ratio not being achieved;

“(2) demonstrates how such consequences would harm the long-term financial soundness of the flood insurance program; and

“(3) indicates the maximum attainable reserve ratio for that particular fiscal year.

“(f) INVESTMENT.—The Secretary of the Treasury shall invest such amounts of the Reserve Fund as the Secretary determines advisable in obligations issued or guaranteed by the United States.”.

#### SEC. 100213. REPAYMENT PLAN FOR BORROWING AUTHORITY.

(a) REPAYMENT PLAN REQUIRED.—Section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016) is amended by adding at the end the following:

“(c) Upon the exercise of the authority established under subsection (a), the Administrator shall transmit a schedule for repayment of such amounts to—

“(1) the Secretary of the Treasury;

“(2) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(3) the Committee on Financial Services of the House of Representatives.

“(d) In connection with any funds borrowed by the Administrator under the authority established in subsection (a), the

Deadline.  
Reports.

Administrator, beginning 6 months after the date on which such funds are borrowed, and continuing every 6 months thereafter until such borrowed funds are fully repaid, shall submit a report on the progress of such repayment to—

- “(1) the Secretary of the Treasury;
- “(2) the Committee on Banking, Housing, and Urban Affairs of the Senate; and
- “(3) the Committee on Financial Services of the House of Representatives.”.

(b) **REPORT.**—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Administrator shall submit a report to the Congress setting forth options for repaying within 10 years all amounts, including any amounts previously borrowed but not yet repaid, owed pursuant to clause (2) of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)(2)).

#### **SEC. 100214. PAYMENT OF CONDOMINIUM CLAIMS.**

Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019), as amended by section 100210, is amended by adding at the end the following:

“(c) **PAYMENT OF CLAIMS TO CONDOMINIUM OWNERS.**—The Administrator may not deny payment for any damage to or loss of property which is covered by flood insurance to condominium owners who purchased such flood insurance separate and apart from the flood insurance purchased by the condominium association in which such owner is a member, based solely, or in any part, on the flood insurance coverage of the condominium association or others on the overall property owned by the condominium association.”.

42 USC 4101a.

#### **SEC. 100215. TECHNICAL MAPPING ADVISORY COUNCIL.**

(a) **ESTABLISHMENT.**—There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the “Council”).

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Council shall consist of—

- (A) the Administrator (or the designee thereof);
- (B) the Secretary of the Interior (or the designee thereof);
- (C) the Secretary of Agriculture (or the designee thereof);
- (D) the Under Secretary of Commerce for Oceans and Atmosphere (or the designee thereof); and
- (E) 16 additional members appointed by the Administrator or the designee of the Administrator, who shall be—

- (i) a member of a recognized professional surveying association or organization;
- (ii) a member of a recognized professional mapping association or organization;
- (iii) a member of a recognized professional engineering association or organization;
- (iv) a member of a recognized professional association or organization representing flood hazard determination firms;
- (v) a representative of the United States Geological Survey;

(vi) a representative of a recognized professional association or organization representing State geographic information;

(vii) a representative of State national flood insurance coordination offices;

(viii) a representative of the Corps of Engineers;

(ix) a member of a recognized regional flood and storm water management organization;

(x) 2 representatives of different State government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce flood insurance rate maps;

(xi) 2 representatives of different local government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce flood insurance maps;

(xii) a member of a recognized floodplain management association or organization;

(xiii) a member of a recognized risk management association or organization; and

(xiv) a State mitigation officer.

(2) **QUALIFICATIONS.**—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps. In appointing members under paragraph (1)(E), the Administrator shall, to the maximum extent practicable, ensure that the membership of the Council has a balance of Federal, State, local, tribal, and private members, and includes geographic diversity, including representation from areas with coastline on the Gulf of Mexico and other States containing areas identified by the Administrator as at high risk for flooding or as areas having special flood hazards.

(c) **DUTIES.**—The Council shall—

(1) recommend to the Administrator how to improve in a cost-effective manner the—

(A) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and

(B) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States;

(2) recommend to the Administrator mapping standards and guidelines for—

(A) flood insurance rate maps; and

(B) data accuracy, data quality, data currency, and data eligibility;

(3) recommend to the Administrator how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification;

(4) recommend procedures for delegating mapping activities to State and local mapping partners;

(5) recommend to the Administrator and other Federal agencies participating in the Council—

Recommendations.

Deadline.  
Reports.

(A) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination; and

(B) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies; and

(6) submit an annual report to the Administrator that contains—

(A) a description of the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as required under section 100216; and

(C) a summary of recommendations made by the Council to the Administrator.

(d) FUTURE CONDITIONS RISK ASSESSMENT AND MODELING REPORT.—

Consultation.

(1) IN GENERAL.—The Council shall consult with scientists and technical experts, other Federal agencies, States, and local communities to—

(A) develop recommendations on how to—

(i) ensure that flood insurance rate maps incorporate the best available climate science to assess flood risks; and

(ii) ensure that the Federal Emergency Management Agency uses the best available methodology to consider the impact of—

(I) the rise in the sea level; and

(II) future development on flood risk; and

(B) not later than 1 year after the date of enactment of this Act, prepare written recommendations in a future conditions risk assessment and modeling report and to submit such recommendations to the Administrator.

(2) RESPONSIBILITY OF THE ADMINISTRATOR.—The Administrator, as part of the ongoing program to review and update National Flood Insurance Program rate maps under section 100216, shall incorporate any future risk assessment submitted under paragraph (1)(B) in any such revision or update.

(e) CHAIRPERSON.—The members of the Council shall elect 1 member to serve as the chairperson of the Council (in this section referred to as the “Chairperson”).

(f) COORDINATION.—To ensure that the Council’s recommendations are consistent, to the maximum extent practicable, with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to Office of Management and Budget Circular A–16).

(g) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(h) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less frequently than twice each year at the request of the Chairperson or a majority of its members, and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Administrator, or a person designated by the Administrator, shall request and coordinate the initial meeting of the Council.

(i) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(j) STAFF.—

(1) STAFF OF FEMA.—Upon the request of the Chairperson, the Administrator may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(2) STAFF OF OTHER FEDERAL AGENCIES.—Upon request of the Chairperson, any other Federal agency that is a member of the Council may detail, on a nonreimbursable basis, personnel to assist the Council in carrying out its duties.

(k) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research, as it considers appropriate.

(l) REPORT TO CONGRESS.—The Administrator, on an annual basis, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Office of Management and Budget on the—

(1) recommendations made by the Council;

(2) actions taken by the Federal Emergency Management Agency to address such recommendations to improve flood insurance rate maps and flood risk data; and

(3) any recommendations made by the Council that have been deferred or not acted upon, together with an explanatory statement.

#### **SEC. 100216. NATIONAL FLOOD MAPPING PROGRAM.**

42 USC 4101b.

(a) REVIEWING, UPDATING, AND MAINTAINING MAPS.—The Administrator, in coordination with the Technical Mapping Advisory Council established under section 100215, shall establish an ongoing program under which the Administrator shall review, update, and maintain National Flood Insurance Program rate maps in accordance with this section.

(b) MAPPING.—

(1) IN GENERAL.—In carrying out the program established under subsection (a), the Administrator shall—

(A) identify, review, update, maintain, and publish National Flood Insurance Program rate maps with respect to—

(i) all populated areas and areas of possible population growth located within the 100-year floodplain;

(ii) all populated areas and areas of possible population growth located within the 500-year floodplain;

(iii) areas of residual risk, including areas that are protected by levees, dams, and other flood control structures;

(iv) areas that could be inundated as a result of the failure of a levee, dam, or other flood control structure; and

(v) the level of protection provided by flood control structures;

(B) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each such area; and

(C) use, in identifying, reviewing, updating, maintaining, or publishing any National Flood Insurance Program rate map required under this section or under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), the most accurate topography and elevation data available.

(2) MAPPING ELEMENTS.—Each map updated under this section shall—

(A) assess the accuracy of current ground elevation data used for hydrologic and hydraulic modeling of flooding sources and mapping of the flood hazard and wherever necessary acquire new ground elevation data utilizing the most up-to-date geospatial technologies in accordance with guidelines and specifications of the Federal Emergency Management Agency; and

(B) develop National Flood Insurance Program flood data on a watershed basis—

(i) to provide the most technically effective and efficient studies and hydrologic and hydraulic modeling; and

(ii) to eliminate, to the maximum extent possible, discrepancies in base flood elevations between adjacent political subdivisions.

(3) OTHER INCLUSIONS.—In updating maps under this section, the Administrator shall include—

(A) any relevant information on coastal inundation from—

(i) an applicable inundation map of the Corps of Engineers; and

(ii) data of the National Oceanic and Atmospheric Administration relating to storm surge modeling;

(B) any relevant information of the United States Geological Survey on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Administrator;

(C) any relevant information on land subsidence, coastal erosion areas, changing lake levels, and other flood-related hazards;

(D) any relevant information or data of the National Oceanic and Atmospheric Administration and the United States Geological Survey relating to the best available science regarding future changes in sea levels, precipitation, and intensity of hurricanes; and

(E) any other relevant information as may be recommended by the Technical Mapping Advisory Committee.

(c) STANDARDS.—In updating and maintaining maps under this section, the Administrator shall—

(1) establish standards to—

(A) ensure that maps are adequate for—

(i) flood risk determinations; and

(ii) use by State and local governments in managing development to reduce the risk of flooding; and

(B) facilitate identification and use of consistent methods of data collection and analysis by the Administrator, in conjunction with State and local governments, in developing maps for communities with similar flood risks, as determined by the Administrator; and

(2) publish maps in a format that is—

(A) digital geospatial data compliant;

(B) compliant with the open publishing and data exchange standards established by the Open Geospatial Consortium; and

(C) aligned with official data defined by the National Geodetic Survey.

(d) COMMUNICATION AND OUTREACH.—

(1) IN GENERAL.—The Administrator shall—

(A) work to enhance communication and outreach to States, local communities, and property owners about the effects—

(i) of any potential changes to National Flood Insurance Program rate maps that may result from the mapping program required under this section; and

(ii) that any such changes may have on flood insurance purchase requirements;

(B) engage with local communities to enhance communication and outreach to the residents of such communities, including tenants (with regard to contents insurance), on the matters described under subparagraph (A); and

(C) upon the issuance of any proposed map and any notice of an opportunity to make an appeal relating to the proposed map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the proposed map of any action taken by the Administrator with respect to the proposed map or an appeal relating to the proposed map.

Notification.

(2) REQUIRED ACTIVITIES.—The communication and outreach activities required under paragraph (1) shall include—

(A) notifying property owners when their properties become included in, or when they are excluded from, an area covered by the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a);

(B) educating property owners regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;

(C) educating property owners regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) for such properties and the contents of such properties;

(D) educating property owners about flood map revisions and the process available to such owners to appeal proposed changes in flood elevations through their community, including by notifying local radio and television stations; and

(E) encouraging property owners to maintain or acquire flood insurance coverage.

Notification.

(e) COMMUNITY REMAPPING REQUEST.—Upon the adoption by the Administrator of any recommendation by the Technical Mapping Advisory Council for reviewing, updating, or maintaining National Flood Insurance Program rate maps in accordance with this section,

Protocol.  
Evaluation.

a community that believes that its flood insurance rates in effect prior to adoption would be affected by the adoption of such recommendation may submit a request for an update of its rate maps, which may be considered at the Administrator's sole discretion. The Administrator shall establish a protocol for the evaluation of such community map update requests.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Administrator to carry out this section \$400,000,000 for each of fiscal years 2013 through 2017.

**SEC. 100217. SCOPE OF APPEALS.**

Section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104) is amended—

(1) in subsection (a)—

(A) by inserting “and designating areas having special flood hazards” after “flood elevations”; and

(B) by striking “such determinations” and inserting “such determinations and designations”; and

(2) in subsection (b)—

(A) in the first sentence, by inserting “and designations of areas having special flood hazards” after “flood elevation determinations”; and

(B) by amending the third sentence to read as follows: “The sole grounds for appeal shall be the possession of knowledge or information indicating that (1) the elevations being proposed by the Administrator with respect to an identified area having special flood hazards are scientifically or technically incorrect, or (2) the designation of an identified special flood hazard area is scientifically or technically incorrect.”.

**SEC. 100218. SCIENTIFIC RESOLUTION PANEL.**

(a) **ESTABLISHMENT.**—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by inserting after section 1363 (42 U.S.C. 4104) the following:

42 USC 4104–1.

**“SEC. 1363A. SCIENTIFIC RESOLUTION PANEL.**

“(a) **AVAILABILITY.**—

“(1) **IN GENERAL.**—Pursuant to the authority provided under section 1363(e), the Administrator shall make available an independent review panel, to be known as the Scientific Resolution Panel, to any community—

“(A) that has—

“(i) filed a timely map appeal in accordance with section 1363;

“(ii) completed 60 days of consultation with the Federal Emergency Management Agency on the appeal; and

“(iii) not allowed more than 120 days, or such longer period as may be provided by the Administrator by waiver, to pass since the end of the appeal period; or

“(B) that has received an unsatisfactory ruling under the map revision process established pursuant to section 1360(f).

“(2) **APPEALS BY OWNERS AND LESSEES.**—If a community and an owner or lessee of real property within the community



appeal a proposed determination of a flood elevation under section 1363(b), upon the request of the community—

“(A) the owner or lessee shall submit scientific and technical data relating to the appeals to the Scientific Resolution Panel; and

“(B) the Scientific Resolution Panel shall make a determination with respect to the appeals in accordance with subsection (c).

Determination.

“(3) DEFINITION.—For purposes of paragraph (1)(B), an ‘unsatisfactory ruling’ means that a community—

“(A) received a revised Flood Insurance Rate Map from the Federal Emergency Management Agency, via a Letter of Final Determination, after September 30, 2008, and prior to the date of enactment of this section;

“(B) has subsequently applied for a Letter of Map Revision or Physical Map Revision with the Federal Emergency Management Agency; and

“(C) has received an unfavorable ruling on their request for a map revision.

“(b) MEMBERSHIP.—The Scientific Resolution Panel made available under subsection (a) shall consist of 5 members with expertise that relates to the creation and study of flood hazard maps and flood insurance. The Scientific Resolution Panel may include representatives from Federal agencies not involved in the mapping study in question and from other impartial experts. Employees of the Federal Emergency Management Agency may not serve on the Scientific Resolution Panel.

“(c) DETERMINATION.—

“(1) IN GENERAL.—Following deliberations, and not later than 90 days after its formation, the Scientific Resolution Panel shall issue a determination of resolution of the dispute. Such determination shall set forth recommendations for the base flood elevation determination or the designation of an area having special flood hazards that shall be reflected in the Flood Insurance Rate Maps.

Deadline.

“(2) BASIS.—The determination of the Scientific Resolution Panel shall be based on—

“(A) data previously provided to the Administrator by the community, and, in the case of a dispute submitted under subsection (a)(2), an owner or lessee of real property in the community; and

“(B) data provided by the Administrator.

“(3) NO ALTERNATIVE DETERMINATIONS PERMISSIBLE.—The Scientific Resolution Panel—

“(A) shall provide a determination of resolution of a dispute that—

“(i) is either in favor of the Administrator or in favor of the community on each distinct element of the dispute; or

“(ii) in the case of a dispute submitted under subsection (a)(2), is in favor of the Administrator, in favor of the community, or in favor of the owner or lessee of real property in the community on each distinct element of the dispute; and

“(B) may not offer as a resolution any other alternative determination.

“(4) EFFECT OF DETERMINATION.—

“(A) BINDING.—The recommendations of the Scientific Resolution Panel shall be binding on all appellants and not subject to further judicial review unless the Administrator determines that implementing the determination of the panel would—

“(i) pose a significant threat due to failure to identify a substantial risk of special flood hazards; or

“(ii) violate applicable law.

Deadline.

“(B) WRITTEN JUSTIFICATION NOT TO ENFORCE.—If the Administrator elects not to implement the determination of the Scientific Resolution Panel pursuant to subparagraph (A), then not later than 60 days after the issuance of the determination, the Administrator shall issue a written justification explaining such election.

“(C) APPEAL OF DETERMINATION NOT TO ENFORCE.—If the Administrator elects not to implement the determination of the Scientific Resolution Panel pursuant to subparagraph (A), the community may appeal the determination of the Administrator as provided for under section 1363(g).

“(d) MAPS USED FOR INSURANCE AND MANDATORY PURCHASE REQUIREMENTS.—With respect to any community that has a dispute that is being considered by the Scientific Resolution Panel formed pursuant to this subsection, the Federal Emergency Management Agency shall ensure that for each such community that—

“(1) the Flood Insurance Rate Map described in the most recently issued Letter of Final Determination shall be in force and effect with respect to such community; and

“(2) flood insurance shall continue to be made available to the property owners and residents of the participating community.”.

42 USC 4104.

(b) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE REVIEW.—Section 1363(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(e)) is amended, in the second sentence, by striking “an independent scientific body or appropriate Federal agency for advice” and inserting “the Scientific Resolution Panel provided for in section 1363A”.

(2) JUDICIAL REVIEW.—The first sentence of section 1363(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(g)) is amended by striking “Any appellant” and inserting “Except as provided in section 1363A, any appellant”.

#### **SEC. 100219. REMOVAL OF LIMITATION ON STATE CONTRIBUTIONS FOR UPDATING FLOOD MAPS.**

Section 1360(f)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(f)(2)) is amended by striking “, but which may not exceed 50 percent of the cost of carrying out the requested revision or update”.

42 USC 4101c.

#### **SEC. 100220. COORDINATION.**

(a) INTERAGENCY BUDGET CROSSCUT AND COORDINATION REPORT.—

(1) IN GENERAL.—The Secretary of Homeland Security, the Administrator, the Director of the Office of Management and Budget, and the heads of each Federal department or agency carrying out activities under sections 100215 and 100216 shall work together to ensure that flood risk determination data and geospatial data are shared among Federal agencies in

order to coordinate the efforts of the Nation to reduce its vulnerability to flooding hazards.

(2) **REPORT.**—Not later than 30 days after the submission of the budget of the United States Government by the President to Congress, the Director of the Office of Management and Budget, in coordination with the Federal Emergency Management Agency, the United States Geological Survey, the National Oceanic and Atmospheric Administration, the Corps of Engineers, and other Federal agencies, as appropriate, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives an interagency budget crosscut and coordination report, certified by the Secretary or head of each such agency, that—

Certification.

(A) contains an interagency budget crosscut report that displays relevant sections of the budget proposed for each of the Federal agencies working on flood risk determination data and digital elevation models, including any planned interagency or intra-agency transfers; and

(B) describes how the efforts aligned with such sections complement one another.

(b) **DUTIES OF THE ADMINISTRATOR.**—In carrying out sections 100215 and 100216, the Administrator shall—

(1) participate, pursuant to section 216 of the E-Government Act of 2002 (44 U.S.C. 3501 note), in the establishment of such standards and common protocols as are necessary to assure the interoperability of geospatial data for all users of such information;

(2) coordinate with, seek assistance and cooperation of, and provide a liaison to the Federal Geographic Data Committee pursuant to the Office of Management and Budget Circular A-16 and Executive Order 12906 (43 U.S.C. 1457 note; relating to the National Spatial Data Infrastructure) for the implementation of and compliance with such standards;

(3) integrate with, leverage, and coordinate funding of, to the maximum extent practicable, the current flood mapping activities of each unit of State and local government;

(4) integrate with, leverage, and coordinate, to the maximum extent practicable, the current geospatial activities of other Federal agencies and units of State and local government; and

(5) develop a funding strategy to leverage and coordinate budgets and expenditures, and to maintain or establish joint funding and other agreement mechanisms with other Federal agencies and units of State and local government to share in the collection and utilization of geospatial data among all governmental users.

#### **SEC. 100221. INTERAGENCY COORDINATION STUDY.**

(a) **IN GENERAL.**—The Administrator shall enter into a contract with the National Academy of Public Administration to conduct a study on how the Federal Emergency Management Agency—

Contracts.

(1) should improve interagency and intergovernmental coordination on flood mapping, including a funding strategy to leverage and coordinate budgets and expenditures; and

(2) can establish joint funding mechanisms with other Federal agencies and units of State and local government to share

the collection and utilization of data among all governmental users.

Reports.

(b) **TIMING.**—A contract entered into under subsection (a) shall require that, not later than 180 days after the date of enactment of this subtitle, the National Academy of Public Administration shall report the findings of the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) the Committee on Financial Services of the House of Representatives;

(3) the Committee on Appropriations of the Senate; and

(4) the Committee on Appropriations of the House of Representatives.

**SEC. 100222. NOTICE OF FLOOD INSURANCE AVAILABILITY UNDER RESPA.**

Section 5(b) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(b)), as amended by section 1450 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203; 124 Stat. 2174), is amended by adding at the end the following:

“(14) An explanation of flood insurance and the availability of flood insurance under the National Flood Insurance Program or from a private insurance company, whether or not the real estate is located in an area having special flood hazards.”.

**SEC. 100223. PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.**

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by inserting after section 1313 (42 U.S.C. 4020) the following:

42 USC 4021.

**“SEC. 1314. PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.**

“(a) **REQUIREMENT TO PARTICIPATE.**—In the case of the occurrence of a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), that may have resulted in flood damage covered under the national flood insurance program established under this title and other personal lines residential property insurance coverage offered by a State regulated insurer, upon a request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Administrator in a program sponsored by such State for nonbinding mediation of insurance claims resulting from a major disaster, the Administrator shall cause representatives of the national flood insurance program to participate in such a State program where claims under the national flood insurance program are involved to expedite settlement of flood damage claims resulting from such disaster.

“(b) **EXTENT OF PARTICIPATION.**—In satisfying the requirements of subsection (a), the Administrator shall require that each representative of the Administrator—

Certification.

“(1) be certified for purposes of the national flood insurance program to settle claims against such program resulting from such disaster in amounts up to the limits of policies under such program;

“(2) attend State-sponsored mediation meetings regarding flood insurance claims resulting from such disaster at such times and places as may be arranged by the State; Mediation.

“(3) participate in good-faith negotiations toward the settlement of such claims with policyholders of coverage made available under the national flood insurance program; and

“(4) finalize the settlement of such claims on behalf of the national flood insurance program with such policyholders.

“(c) COORDINATION.—Representatives of the Administrator shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purposes of consolidating and expediting settlement of claims under the national flood insurance program resulting from such disaster.

“(d) QUALIFICATIONS OF MEDIATORS.—Each State mediator participating in State-sponsored mediation under this section shall be—

“(1)(A) a member in good standing of the State bar in the State in which the mediation is to occur with at least 2 years of practical experience; and

“(B) an active member of such bar for at least 1 year prior to the year in which such mediator’s participation is sought; or

“(2) a retired trial judge from any United States jurisdiction who was a member in good standing of the bar in the State in which the judge presided for at least 5 years prior to the year in which such mediator’s participation is sought.

“(e) MEDIATION PROCEEDINGS AND DOCUMENTS PRIVILEGED.—As a condition of participation, all statements made and documents produced pursuant to State-sponsored mediation involving representatives of the Administrator shall be deemed privileged and confidential settlement negotiations made in anticipation of litigation.

“(f) LIABILITY, RIGHTS, OR OBLIGATIONS NOT AFFECTED.—Participation in State-sponsored mediation, as described in this section does not—

“(1) affect or expand the liability of any party in contract or in tort; or

“(2) affect the rights or obligations of the parties, as established—

“(A) in any regulation issued by the Administrator, including any regulation relating to a standard flood insurance policy;

“(B) under this title; and

“(C) under any other provision of Federal law.

“(g) EXCLUSIVE FEDERAL JURISDICTION.—Participation in State-sponsored mediation shall not alter, change, or modify the original exclusive jurisdiction of United States courts, as set forth in this title.

“(h) COST LIMITATION.—Nothing in this section shall be construed to require the Administrator or a representative of the Administrator to pay additional mediation fees relating to flood insurance claims associated with a State-sponsored mediation program in which such representative of the Administrator participates.

“(i) EXCEPTION.—In the case of the occurrence of a major disaster that results in flood damage claims under the national flood

insurance program and that does not result in any loss covered by a personal lines residential property insurance policy—

“(1) this section shall not apply; and

“(2) the provisions of the standard flood insurance policy under the national flood insurance program and the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note) and the regulations issued pursuant to such section shall apply exclusively.

Definition.

“(j) REPRESENTATIVES OF THE ADMINISTRATOR.—For purposes of this section, the term ‘representatives of the Administrator’ means representatives of the national flood insurance program who participate in the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).”.

42 USC 4081  
note.

**SEC. 100224. OVERSIGHT AND EXPENSE REIMBURSEMENTS OF INSURANCE COMPANIES.**

(a) SUBMISSION OF BIENNIAL REPORTS.—

(1) TO THE ADMINISTRATOR.—Not later than 20 days after the date of enactment of this Act, each property and casualty insurance company participating in the Write Your Own program shall submit to the Administrator any biennial report required by the Federal Emergency Management Agency to be prepared in the prior 5 years by such company.

(2) TO GAO.—Not later than 10 days after the submission of the biennial reports under paragraph (1), the Administrator shall submit all such reports to the Comptroller General of the United States.

(3) NOTICE TO CONGRESS OF FAILURE TO COMPLY.—The Administrator shall notify and report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on any property and casualty insurance company participating in the Write Your Own program that failed to submit its biennial reports as required under paragraph (1).

(4) FAILURE TO COMPLY.—A property and casualty insurance company participating in the Write Your Own program which fails to comply with the reporting requirement under this subsection or the requirement under section 62.23(j)(1) of title 44, Code of Federal Regulations (relating to biennial audit of the flood insurance financial statements) shall be subject to a civil penalty in an amount of not more than \$1,000 per day for each day that the company remains in noncompliance with either such requirement.

Deadline.

(b) METHODOLOGY TO DETERMINE REIMBURSED EXPENSES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall develop a methodology for determining the appropriate amounts that property and casualty insurance companies participating in the Write Your Own program should be reimbursed for selling, writing, and servicing flood insurance policies and adjusting flood insurance claims on behalf of the National Flood Insurance Program. The methodology shall be developed using actual expense data for the flood insurance line and can be derived from—

(1) flood insurance expense data produced by the property and casualty insurance companies;

(2) flood insurance expense data collected by the National Association of Insurance Commissioners; or

(3) a combination of the methodologies described in paragraphs (1) and (2).

(c) SUBMISSION OF EXPENSE REPORTS.—To develop the methodology established under subsection (b), the Administrator may require each property and casualty insurance company participating in the Write Your Own program to submit a report to the Administrator, in a format determined by the Administrator and within 60 days of the request, that details the expense levels of each such company for selling, writing, and servicing standard flood insurance policies and adjusting and servicing claims.

(d) FEMA RULEMAKING ON REIMBURSEMENT OF EXPENSES UNDER THE WRITE YOUR OWN PROGRAM.—Not later than 12 months after the date of enactment of this Act, the Administrator shall issue a rule to formulate revised expense reimbursements to property and casualty insurance companies participating in the Write Your Own program for their expenses (including their operating and administrative expenses for adjustment of claims) in selling, writing, and servicing standard flood insurance policies, including how such companies shall be reimbursed in both catastrophic and noncatastrophic years. Such reimbursements shall be structured to ensure reimbursements track the actual expenses, including standard business costs and operating expenses, of such companies as closely as practicably possible.

Deadline.

(e) REPORT OF THE ADMINISTRATOR.—Not later than 60 days after the effective date of the final rule issued pursuant to subsection (d), the Administrator shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—

(1) the specific rationale and purposes of such rule;

(2) the reasons for the adoption of the policies contained in such rule; and

(3) the degree to which such rule accurately represents the true operating costs and expenses of property and casualty insurance companies participating in the Write Your Own program.

(f) GAO STUDY AND REPORT ON EXPENSES OF WRITE YOUR OWN PROGRAM.—

(1) STUDY.—Not later than 180 days after the effective date of the final rule issued pursuant to subsection (d), the Comptroller General of the United States shall—

(A) conduct a study on the efficacy, adequacy, and sufficiency of the final rules issued pursuant to subsection (d); and

(B) report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the findings of the study conducted under subparagraph (A).

(2) GAO AUTHORITY.—In conducting the study and report required under paragraph (1), the Comptroller General—

(A) may use any previous findings, studies, or reports that the Comptroller General previously completed on the Write Your Own program;

(B) shall determine if—

Determination.

(i) the final rule issued pursuant to subsection (d) allows the Federal Emergency Management Agency to access adequate information regarding the actual expenses of property and casualty insurance companies participating in the Write Your Own program; and

(ii) the actual reimbursements paid out under the final rule issued pursuant to subsection (d) accurately reflect the expenses reported by property and casualty insurance companies participating in the Write Your Own program, including the standard business costs and operating expenses of such companies; and

(C) shall analyze the effect of the final rule issued pursuant to subsection (d) on the level of participation of property and casualty insurers in the Write Your Own program.

**SEC. 100225. MITIGATION.**

(a) **MITIGATION ASSISTANCE GRANTS.**—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended—

(1) by striking subsections (b), (d), (f), (g), (h), (k), and (m);

(2) by redesignating subsections (c), (e), (i), and (j) as subsections (b), (c), (e), and (f), respectively;

(3) in subsection (a), by striking the last sentence and inserting the following: “Such financial assistance shall be made available—

“(1) to States and communities in the form of grants under this section for carrying out mitigation activities;

“(2) to States and communities in the form of grants under this section for carrying out mitigation activities that reduce flood damage to severe repetitive loss structures; and

“(3) to property owners in the form of direct grants under this section for carrying out mitigation activities that reduce flood damage to individual structures for which 2 or more claim payments for losses have been made under flood insurance coverage under this title if the Administrator, after consultation with the State and community, determines that neither the State nor community in which such a structure is located has the capacity to manage such grants.”;

(4) in subsection (b), as so redesignated, in the first sentence—

(A) by striking “and provides protection against” and inserting “provides for reduction of”; and

(B) by inserting before the period at the end the following: “, and may be included in a multihazard mitigation plan”;

(5) in subsection (c), as so redesignated—

(A) in paragraph (1), by striking “(1) USE OF AMOUNTS.—” and all that follows through the end of the first sentence and inserting the following:

“(1) **REQUIREMENT OF CONSISTENCY WITH APPROVED MITIGATION PLAN.**—Amounts provided under this section may be used only for mitigation activities that are consistent with mitigation plans that are approved by the Administrator and identified under paragraph (4).”;



(B) by striking paragraphs (2), (3), and (4) and inserting the following new paragraphs:

“(2) REQUIREMENTS OF TECHNICAL FEASIBILITY, COST EFFECTIVENESS, AND INTEREST OF NATIONAL FLOOD INSURANCE FUND.—

“(A) IN GENERAL.—The Administrator may approve only mitigation activities that the Administrator determines—

“(i) are technically feasible and cost-effective; or

“(ii) will eliminate future payments from the National Flood Insurance Fund for severe repetitive loss structures through an acquisition or relocation activity.

“(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator shall take into consideration recognized ancillary benefits.”;

(C) by redesignating paragraph (5) as paragraph (3);

(D) in paragraph (3), as so redesignated—

(i) in the matter preceding subparagraph (A), by striking “The Director” and all that follows through “Such activities may” and inserting “Eligible activities under a mitigation plan may”;

(ii) by striking subparagraphs (E) and (H);

(iii) by redesignating subparagraphs (D), (F), and (G) as subparagraphs (E), (G), and (H), respectively;

(iv) by inserting after subparagraph (C) the following new subparagraph:

“(D) elevation, relocation, or floodproofing of utilities (including equipment that serves structures);”;

(v) by inserting after subparagraph (E), as so redesignated, the following new subparagraph:

“(F) the development or update of mitigation plans by a State or community which meet the planning criteria established by the Administrator, except that the amount from grants under this section that may be used under this subparagraph may not exceed \$50,000 for any mitigation plan of a State or \$25,000 for any mitigation plan of a community;”;

(vi) in subparagraph (H); as so redesignated, by striking “and” at the end; and

(vii) by adding at the end the following new subparagraphs:

“(I) other mitigation activities not described in subparagraphs (A) through (G) or the regulations issued under subparagraph (H), that are described in the mitigation plan of a State or community; and

“(J) without regard to the requirements under paragraphs (1) and (2) of subsection (d), and if the State applied for and was awarded at least \$1,000,000 in grants available under this section in the prior fiscal year, technical assistance to communities to identify eligible activities, to develop grant applications, and to implement grants awarded under this section, not to exceed \$50,000 to any 1 State in any fiscal year.”; and

(E) by striking paragraph (6) and inserting the following:

“(4) ELIGIBILITY OF DEMOLITION AND REBUILDING OF PROPERTIES.—The Administrator shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood elevation or greater, if required by the Administrator or if required by any State regulation or local ordinance, and in accordance with criteria established by the Administrator.”;

(6) by inserting after subsection (c), as so redesignated, the following new subsection:

“(d) MATCHING REQUIREMENT.—The Administrator may provide grants for eligible mitigation activities as follows:

“(1) SEVERE REPETITIVE LOSS STRUCTURES.—In the case of mitigation activities to severe repetitive loss structures, in an amount up to—

“(A) 100 percent of all eligible costs, if the activities are approved under subsection (c)(2)(A)(i); or

“(A) the expected savings to the National Flood Insurance Fund from expected avoided damages through acquisition or relocation activities, if the activities are approved under subsection (c)(2)(A)(ii).

“(2) REPETITIVE LOSS STRUCTURES.—In the case of mitigation activities to repetitive loss structures, in an amount up to 90 percent of all eligible costs.

“(3) OTHER MITIGATION ACTIVITIES.—In the case of all other mitigation activities, in an amount up to 75 percent of all eligible costs.”.

(7) in subsection (e)(2), as so redesignated—

(A) by striking “certified under subsection (g)” and inserting “required under subsection (d)”; and

(B) by striking “3 times the amount” and inserting “the amount”;

(8) in subsection (f), as so redesignated, by striking “Riegle Community Development and Regulatory Improvement Act of 1994” and inserting “Biggert-Waters Flood Insurance Reform Act of 2012”; and

(9) by adding at the end the following new subsections:

“(g) FAILURE TO MAKE GRANT AWARD WITHIN 5 YEARS.—For any application for a grant under this section for which the Administrator fails to make a grant award within 5 years of the date of the application, the grant application shall be considered to be denied and any funding amounts allocated for such grant applications shall remain in the National Flood Mitigation Fund under section 1367 of this title and shall be made available for grants under this section.

“(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) COMMUNITY.—The term ‘community’ means—

“(A) a political subdivision that—

“(i) has zoning and building code jurisdiction over a particular area having special flood hazards; and

“(ii) is participating in the national flood insurance program; or

“(B) a political subdivision of a State, or other authority, that is designated by political subdivisions, all of which meet the requirements of subparagraph (A), to administer grants for mitigation activities for such political subdivisions.

“(2) REPETITIVE LOSS STRUCTURE.—The term ‘repetitive loss structure’ has the meaning given such term in section 1370.

“(3) SEVERE REPETITIVE LOSS STRUCTURE.—The term ‘severe repetitive loss structure’ means a structure that—

“(A) is covered under a contract for flood insurance made available under this title; and

“(B) has incurred flood-related damage—

“(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

“(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the insured structure.”.

(b) ELIMINATION OF GRANTS PROGRAM FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.—Chapter I of the National Flood Insurance Act of 1968 is amended by striking section 1323 (42 U.S.C. 4030).

(c) ELIMINATION OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.—Chapter III of the National Flood Insurance Act of 1968 is amended by striking section 1361A (42 U.S.C. 4102a).

(d) NATIONAL FLOOD INSURANCE FUND.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (6), by inserting “and” after the semicolon;

(2) in paragraph (7), by striking the semicolon and inserting a period; and

(3) by striking paragraphs (8) and (9).

(e) NATIONAL FLOOD MITIGATION FUND.—Section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d) is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and inserting the following new paragraph:

“(1) in each fiscal year, amounts from the National Flood Insurance Fund not to exceed \$90,000,000 and to remain available until expended, of which—

“(A) not more than \$40,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 1366(a)(1);

“(B) not more than \$40,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 1366(a)(2); and

“(C) not more than \$10,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 1366(a)(3);”;

(B) in paragraph (3), by striking “section 1366(i)” and inserting “section 1366(e)”;

(2) in subsection (c), by striking “sections 1366 and 1323” and inserting “section 1366”;

(3) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(4) by inserting after subsection (c) the following new subsections:

“(d) PROHIBITION ON OFFSETTING COLLECTIONS.—Notwithstanding any other provision of this title, amounts made available pursuant to this section shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

“(e) CONTINUED AVAILABILITY AND REALLOCATION.—Any amounts made available pursuant to subparagraph (A), (B), or (C) of subsection (b)(1) that are not used in any fiscal year shall continue to be available for the purposes specified in the subparagraph of subsection (b)(1) pursuant to which such amounts were made available, unless the Administrator determines that reallocation of such unused amounts to meet demonstrated need for other mitigation activities under section 1366 is in the best interest of the National Flood Insurance Fund.”

(f) INCREASED COST OF COMPLIANCE COVERAGE.—Section 1304(b)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)(4)) is amended—

- (1) by striking subparagraph (B); and
- (2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

42 USC 4101  
note.

**SEC. 100226. FLOOD PROTECTION STRUCTURE ACCREDITATION TASK FORCE.**

(a) DEFINITIONS.—In this section—

(1) the term “flood protection structure accreditation requirements” means the requirements established under section 65.10 of title 44, Code of Federal Regulations, for levee systems to be recognized on maps created for purposes of the National Flood Insurance Program;

(2) the term “National Committee on Levee Safety” means the Committee on Levee Safety established under section 9003 of the National Levee Safety Act of 2007 (33 U.S.C. 3302); and

(3) the term “task force” means the Flood Protection Structure Accreditation Task Force established under subsection (b).

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, in cooperation with the National Committee on Levee Safety, shall jointly establish a Flood Protection Structure Accreditation Task Force.

(2) DUTIES.—

(A) DEVELOPING PROCESS.—The task force shall develop a process to better align the information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program with the flood protection structure accreditation requirements so that—

(i) information and data collected for either purpose can be used interchangeably; and

(ii) information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program is sufficient to satisfy the flood protection structure accreditation requirements.

(B) GATHERING RECOMMENDATIONS.—The task force shall gather, and consider in the process developed under subparagraph (A), recommendations from interested persons in each region relating to the information, data, and accreditation requirements described in subparagraph (A).

(3) CONSIDERATIONS.—In developing the process under paragraph (2), the task force shall consider changes to—

(A) the information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program; and

(B) the flood protection structure accreditation requirements.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a reduction in the level of public safety and flood control provided by accredited levees, as determined by the Administrator for purposes of this section.

(c) IMPLEMENTATION.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, shall implement the process developed by the task force under subsection (b) not later than 1 year after the date of enactment of this Act and shall complete the process under subsection (b) not later than 2 years after the date of enactment of this Act. Deadlines.

(d) REPORTS.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, in cooperation with the National Committee on Levee Safety, shall jointly submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Financial Services, the Committee on Transportation and Infrastructure, and the Committee on Natural Resources of the House of Representatives reports concerning the activities of the task force and the implementation of the process developed by the task force under subsection (b), including—

(1) an interim report, not later than 180 days after the date of enactment of this Act; and

(2) a final report, not later than 1 year after the date of enactment of this Act.

(e) TERMINATION.—The task force shall terminate on the date of submission of the report under subsection (d)(2).

#### SEC. 100227. FLOOD IN PROGRESS DETERMINATIONS.

42 USC 4011  
note.

(a) REPORT.—

(1) REVIEW.—The Administrator shall review—

(A) the processes and procedures for determining that a flood event has commenced or is in progress for purposes of flood insurance coverage made available under the National Flood Insurance Program;

(B) the processes and procedures for providing public notification that such a flood event has commenced or is in progress;

(C) the processes and procedures regarding the timing of public notification of flood insurance requirements and availability; and

(D) the effects and implications that weather conditions, including rainfall, snowfall, projected snowmelt, existing water levels, and other conditions, have on the determination that a flood event has commenced or is in progress.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to Congress that describes—

(A) the results and conclusions of the review under paragraph (1); and

(B) any actions taken, or proposed actions to be taken, by the Administrator to provide for more precise and technical processes and procedures for determining that a flood event has commenced or is in progress.

(b) EFFECTIVE DATE OF POLICIES COVERING PROPERTIES AFFECTED BY FLOODING OF THE MISSOURI RIVER IN 2011.—

Definition.  
Time period.

(1) ELIGIBLE COVERAGE.—For purposes of this subsection, the term “eligible coverage” means coverage under a new contract for flood insurance coverage under the National Flood Insurance Program, or a modification to coverage under an existing flood insurance contract, for property damaged by the flooding of the Missouri River that commenced on June 1, 2011, that was purchased or made during the period beginning May 1, 2011, and ending June 6, 2011.

(2) EFFECTIVE DATES.—Notwithstanding section 1306(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)), or any other provision of law, any eligible coverage shall—

(A) be deemed to take effect on the date that is 30 days after the date on which all obligations for the eligible coverage (including completion of the application and payment of any initial premiums owed) are satisfactorily completed; and

(B) cover damage to property occurring after the effective date described in subparagraph (A) that resulted from the flooding of the Missouri River that commenced on June 1, 2011, if the property did not suffer damage or loss as a result of such flooding before the effective date described in subparagraph (A).

Procedures.

(c) TIMELY NOTIFICATION.—Not later than 90 days after the date on which the Administrator submits the report required under subsection (a)(2), the Administrator shall, taking into consideration the results of the review under subsection (a)(1)(B), develop procedures for providing timely notification, to the extent practicable, to policyholders who have purchased flood insurance coverage under the National Flood Insurance Program within 30 days of a determination of a flood in progress and who may be affected by the flood of the determination and how the determination may affect their coverage.

**SEC. 100228. CLARIFICATION OF RESIDENTIAL AND COMMERCIAL COVERAGE LIMITS.**

Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (2)—

(A) by striking “in the case of any residential property” and inserting “in the case of any residential building designed for the occupancy of from 1 to 4 families”; and

(B) by striking “shall be made available to every insured upon renewal and every applicant for insurance so as to enable such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(i)) of \$250,000” and inserting “shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i)) of \$250,000”; and

(2) in paragraph (4)—

(A) by striking “in the case of any nonresidential property, including churches,” and inserting “in the case of any nonresidential building, including a church,”; and

(B) by striking “shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000 for each structure and \$500,000 for any contents related to each structure” and inserting “shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000, and coverage shall be made available up to a total of \$500,000 aggregate liability for contents owned by the building owner and \$500,000 aggregate liability for each unit within the building for contents owned by the tenant”.

**SEC. 100229. LOCAL DATA REQUIREMENT.**

(a) IN GENERAL.—Notwithstanding any other provision of this subtitle, no area or community participating in the National Flood Insurance Program that is or includes a community that is identified by the Administrator as Community Identification Number 360467 and impacted by the Jamaica Bay flooding source or identified by the Administrator as Community Identification Number 360495 may be or become designated as an area having special flood hazards for purposes of the National Flood Insurance Program, unless the designation is made on the basis of—

(1) flood hazard analyses of hydrologic, hydraulic, or coastal flood hazards that have been properly calibrated and validated, and are specific and directly relevant to the geographic area being studied; and

(2) ground elevation information of sufficient accuracy and precision to meet the guidelines of the Administration for accuracy at the 95 percent confidence level.

(b) REMAPPING.—

(1) REMAPPING REQUIRED.—If the Administrator determines that an area described in subsection (a) has been designated as an area of special flood hazard on the basis of information that does not comply with the requirements under subsection (a), the Administrator shall revise and update any National Flood Insurance Program rate map for the area—

Determination.

(A) using information that complies with the requirements under subsection (a); and

(B) in accordance with the procedures established under section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104) for flood elevation determinations.

(2) INTERIM PERIOD.—A National Flood Insurance Program rate map in effect on the date of enactment of this Act for an area for which the Administrator has made a determination under paragraph (1) shall continue in effect with respect to the area during the period—

(A) beginning on the date of enactment of this Act; and

(B) ending on the date on which the Administrator determines that the requirements under section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104)

for flood elevation determinations have been met with respect to a revision and update under paragraph (1) of a National Flood Insurance Program rate map for the area.

(3) DEADLINE.—The Administrator shall issue a preliminary National Flood Insurance Program rate map resulting from a revision and update required under paragraph (1) not later than 1 year after the date of enactment of this Act.

(4) RISK PREMIUM RATE CLARIFICATION.—

(A) IN GENERAL.—If a revision and update required under paragraph (1) results in a reduction in the risk premium rate for a property in an area for which the Administrator has made a determination under paragraph (1), the Administrator shall—

(i) calculate the difference between the reduced risk premium rate and the risk premium rate paid by a policyholder with respect to the property during the period—

(I) beginning on the date on which the National Flood Insurance Program rate map in effect for the area on the date of enactment of this Act took effect; and

(II) ending on the date on which the revised or updated National Flood Insurance Program rate map takes effect; and

(ii) reimburse the policyholder an amount equal to such difference.

(B) FUNDING.—Notwithstanding section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), there shall be available to the Administrator from premiums deposited in the National Flood Insurance Fund pursuant to subsection (d) of such section 1310, of amounts not otherwise obligated, the amount necessary to carry out this paragraph.

(c) TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall cease to have effect on the effective date of a National Flood Insurance Program rate map revised and updated under subsection (b)(1).

(2) REIMBURSEMENTS.—Subsection (b)(4) shall cease to have effect on the date on which the Administrator has made all reimbursements required under subsection (b)(4).

42 USC 4014  
note.

**SEC. 100230. ELIGIBILITY FOR FLOOD INSURANCE FOR PERSONS RESIDING IN COMMUNITIES THAT HAVE MADE ADEQUATE PROGRESS ON THE RECONSTRUCTION OR IMPROVEMENT OF A FLOOD PROTECTION SYSTEM.**

(a) ELIGIBILITY FOR FLOOD INSURANCE COVERAGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including section 1307(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(e))), a person residing in a community that the Administrator determines has made adequate progress on the reconstruction or improvement of a flood protection system that will afford flood protection for a 100-year floodplain (without regard to the level of Federal funding of



or participation in the construction, reconstruction, or improvement), shall be eligible for flood insurance coverage under the National Flood Insurance Program—

(A) if the person resides in a community that is a participant in the National Flood Insurance Program; and

(B) at a risk premium rate that does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed.

(2) ADEQUATE PROGRESS.—

(A) RECONSTRUCTION OR IMPROVEMENT.—For purposes of paragraph (1), the Administrator shall determine that a community has made adequate progress on the reconstruction or improvement of a flood protection system if—

Determination.

(i) 100 percent of the project cost has been authorized;

(ii) not less than 60 percent of the project cost has been secured or appropriated;

(iii) not less than 50 percent of the flood protection system has been assessed as being without deficiencies; and

(iv) the reconstruction or improvement has a project schedule that does not exceed 5 years, beginning on the date on which the reconstruction or construction of the improvement commences.

(B) CONSIDERATIONS.—In determining whether a flood protection system has been assessed as being without deficiencies, the Administrator shall consider the requirements under section 65.10 of chapter 44, Code of Federal Regulations, or any successor thereto.

(C) DATE OF COMMENCEMENT.—For purposes of subparagraph (A)(iv) of this paragraph and subsection (b)(2)(B), the date of commencement of the reconstruction or improvement of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act shall be deemed to be the date on which the owner of the flood protection system submits a request under paragraph (3).

(3) REQUEST FOR DETERMINATION.—The owner of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act may submit to the Administrator a request for a determination under paragraph (2) that the community in which the flood protection system is located has made adequate progress on the reconstruction or improvement of the flood protection system.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the Administrator from making a determination under paragraph (2) for any community in which a flood protection system is not undergoing reconstruction or improvement on the date of enactment of this Act.

(b) TERMINATION OF ELIGIBILITY.—

(1) ADEQUATE CONTINUING PROGRESS.—The Administrator shall issue rules to establish a method of determining whether a community has made adequate continuing progress on the reconstruction or improvement of a flood protection system that includes—

Regulations.

(A) a requirement that the Administrator shall—

Consultation.

(i) consult with the owner of the flood protection system—

(I) 6 months after the date of a determination under subsection (a);

(II) 18 months after the date of a determination under subsection (a); and

(III) 36 months after the date of a determination under subsection (a); and

(ii) after each consultation under clause (i), determine whether the reconstruction or improvement is reasonably likely to be completed in accordance with the project schedule described in subsection (a)(2)(A)(iv); and

(B) a requirement that, if the Administrator makes a determination under subparagraph (A)(ii) that reconstruction or improvement is not reasonably likely to be completed in accordance with the project schedule, the Administrator shall—

Deadline.  
Notification.

(i) not later than 30 days after the date of the determination, notify the owner of the flood protection system of the determination and provide the rationale and evidence for the determination; and

(ii) provide the owner of the flood protection system the opportunity to appeal the determination.

(2) TERMINATION.—The Administrator shall terminate the eligibility for flood insurance coverage under subsection (a) for persons residing in a community with respect to which the Administrator made a determination under subsection (a) if—

(A) the Administrator determines that the community has not made adequate continuing progress; or

(B) on the date that is 5 years after the date on which the reconstruction or construction of the improvement commences, the project has not been completed.

(3) WAIVER.—A person whose eligibility would otherwise be terminated under paragraph (2)(B) shall continue to be eligible to purchase flood insurance coverage described in subsection (a) if the Administrator determines—

(A) the community has made adequate continuing progress on the reconstruction or improvement of a flood protection system; and

Deadline.

(B) there is a reasonable expectation that the reconstruction or improvement of the flood protection system will be completed not later than 1 year after the date of the determination under this paragraph.

(4) RISK PREMIUM RATE.—If the Administrator terminates the eligibility of persons residing in a community to purchase flood insurance coverage described in subsection (a), the Administrator shall establish an appropriate risk premium rate for flood insurance coverage under the National Flood Insurance Program for persons residing in the community that purchased flood insurance coverage before the date on which the termination of eligibility takes effect, taking into consideration the then-current state of the flood protection system.

(c) ADDITIONAL AUTHORITY.—

(1) ADDITIONAL AUTHORITY.—Notwithstanding subsection (a), in exceptional and exigent circumstances, the Administrator

may, in the Administrator's sole discretion, determine that a person residing in a community, which is a participant in the National Flood Insurance Program, that has begun reconstruction or improvement of a flood protection system that will afford flood protection for a 100-year floodplain (without regard to the level of Federal funding of or participation in the reconstruction or improvement) shall be eligible for flood insurance coverage under the National Flood Insurance Program at a risk premium rate that does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed, provided—

(A) the community makes a written request for the determination setting forth the exceptional and exigent circumstances, including why the community cannot meet the criteria for adequate progress set forth in under subsection (a)(2)(A) and why immediate relief is necessary;

(B) the Administrator submits a written report setting forth findings of the exceptional and exigent circumstances on which the Administrator based an affirmative determination to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives not later than 15 days before making the determination; and

(C) the eligibility for flood insurance coverage at a risk premium rate determined under this subsection terminates no later than 1 year after the date on which the Administrator makes the determination.

(2) LIMITATION.—Upon termination of eligibility under paragraph (1)(C), a community may submit another request pursuant to paragraph (1)(A). The Administrator may make no more than two determinations under paragraph (1) with respect to persons residing within any single requesting community.

(3) TERMINATION.—The authority provided under paragraphs (1) and (2) shall terminate two years after the enactment of this Act.

Reports.  
Deadline.

Deadline.

#### SEC. 100231. STUDIES AND REPORTS.

(a) REPORT ON IMPROVING THE NATIONAL FLOOD INSURANCE PROGRAM.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on—

(1) the number of flood insurance policy holders currently insuring—

(A) a residential structure up to the maximum available coverage amount, as established in section 61.6 of title 44, Code of Federal Regulations, of—

(i) \$250,000 for the structure; and

(ii) \$100,000 for the contents of such structure;

or

(B) a commercial structure up to the maximum available coverage amount, as established in section 61.6 of title 44, Code of Federal Regulations, of \$500,000;

(2) the increased losses the National Flood Insurance Program would have sustained during the 2004 and 2005 hurricane

season if the National Flood Insurance Program had insured all policyholders up to the maximum conforming loan limit for fiscal year 2006 of \$417,000, as established under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2));

(3) the availability in the private marketplace of flood insurance coverage in amounts that exceed the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations; and

(4) what effect, if any—

(A) raising the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations, would have on the ability of private insurers to continue providing flood insurance coverage; and

(B) reducing the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations, would have on the ability of private insurers to provide sufficient flood insurance coverage to effectively replace the current level of flood insurance coverage being provided under the National Flood Insurance Program.

42 USC 4027a.

(b) REPORT OF THE ADMINISTRATOR ON ACTIVITIES UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—

(1) IN GENERAL.—The Administrator shall, on an annual basis, submit a full report on the operations, activities, budget, receipts, and expenditures of the National Flood Insurance Program for the preceding 12-month period to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) TIMING.—Each report required under paragraph (1) shall be submitted to the committees described in paragraph (1) not later than 3 months following the end of each fiscal year.

(3) CONTENTS.—Each report required under paragraph (1) shall include—

(A) the current financial condition and income statement of the National Flood Insurance Fund established under section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), including—

- (i) premiums paid into such Fund;
- (ii) policy claims against such Fund; and
- (iii) expenses in administering such Fund;

(B) the number and face value of all policies issued under the National Flood Insurance Program that are in force;

(C) a description and summary of the losses attributable to repetitive loss structures;

(D) a description and summary of all losses incurred by the National Flood Insurance Program due to—

- (i) hurricane related damage; and
- (ii) nonhurricane related damage;

(E) the amounts made available by the Administrator for mitigation assistance under section 1366(c)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(c)(4)), as so redesignated by this Act, for the purchase of properties substantially damaged by flood for that fiscal year, and the actual number of flood damaged properties

purchased and the total cost expended to purchase such properties;

(F) the estimate of the Administrator as to the average historical loss year, and the basis for that estimate;

(G) the estimate of the Administrator as to the maximum amount of claims that the National Flood Insurance Program would have to expend in the event of a catastrophic year;

(H) the average—

(i) amount of insurance carried per flood insurance policy;

(ii) premium per flood insurance policy; and

(iii) loss per flood insurance policy; and

(I) the number of claims involving damages in excess of the maximum amount of flood insurance available under the National Flood Insurance Program and the sum of the amount of all damages in excess of such amount.

(c) GAO STUDY ON PRE-FIRM STRUCTURES.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on the— Deadline.

(1) composition of the remaining pre-FIRM structures that are explicitly receiving discounted premium rates under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014), including the historical basis for the receipt of such subsidy and the extent to which pre-FIRM structures are currently owned by the same owners of the property at the time of the original National Flood Insurance Program rate map;

(2) number and fair market value of such structures;

(3) respective income level of the owners of such structures;

(4) number of times each such structure has been sold since 1968, including specific dates, sales price, and any other information the Secretary determines appropriate;

(5) total losses incurred by such structures since the establishment of the National Flood Insurance Program compared to the total losses incurred by all structures that are charged a nondiscounted premium rate;

(6) total cost of foregone premiums since the establishment of the National Flood Insurance Program, as a result of the subsidies provided to such structures;

(7) annual cost as a result of the subsidies provided to such structures;

(8) the premium income collected and the losses incurred by the National Flood Insurance Program as a result of such explicitly subsidized structures compared to the premium income collected and the losses incurred by such Program as a result of structures that are charged a nondiscounted premium rate, on a State-by-State basis; and

(9) the options for eliminating the subsidy to such structures.

(d) GAO REVIEW OF FEMA CONTRACTORS.—The Comptroller General of the United States, in conjunction with the Office of the Inspector General of the Department of Homeland Security, shall—

- (1) conduct a review of the 3 largest contractors the Administrator uses in administering the National Flood Insurance Program; and
- Deadline.  
Reports. (2) not later than 18 months after the date of enactment of this Act, submit a report on the findings of such review to the Administrator, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.
- (e) STUDY AND REPORT ON GRADUATED RISK.—
- (1) STUDY.—
- Contracts. (A) STUDY REQUIRED.—The Administrator shall enter into a contract under which the National Academy of Sciences shall conduct a study exploring methods for understanding graduated risk behind levees and the associated land development, insurance, and risk communication dimensions.
- (B) CONTENTS OF STUDY.—The study under this paragraph shall—
- (i) research, review, and recommend current best practices for estimating direct annualized flood losses behind levees for residential and commercial structures;
- (ii) rank each best practice recommended under clause (i) based on the best value, balancing cost, scientific integrity, and the inherent uncertainties associated with all aspects of the loss estimate, including geotechnical engineering, flood frequency estimates, economic value, and direct damages;
- (iii) research, review, and identify current best floodplain management and land use practices behind levees that effectively balance social, economic, and environmental considerations as part of an overall flood risk management strategy;
- (iv) identify areas in which the best floodplain management and land use practices described in clause (iii) have proven effective and recommend methods and processes by which such practices could be applied more broadly across the United States, given the variety of different flood risks, State and local legal frameworks, and evolving judicial opinions;
- (v) research, review, and identify a variety of flood insurance pricing options for flood hazards behind levees that are actuarially sound and based on the flood risk data developed using the 3 best practices recommended under clause (i) that have the best value as determined under clause (ii);
- (vi) evaluate and recommend methods to reduce insurance costs through creative arrangements between insureds and insurers while keeping a clear accounting of how much financial risk is being borne by various parties such that the entire risk is accounted for, including establishment of explicit limits on disaster aid or other assistance in the event of a flood; and
- (vii) taking into consideration the recommendations under clauses (i) through (iii), recommend approaches to communicate the associated risks to

community officials, homeowners, and other residents of communities.

(2) **REPORT.**—The contract under paragraph (1)(A) shall provide that not later than 12 months after the date of enactment of this Act, the National Academy of Sciences shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives a report on the study under paragraph (1) that includes the information and recommendations required under paragraph (1).

**SEC. 100232. REINSURANCE.**

(a) **FEMA AND GAO REPORTS ON PRIVATIZATION.**—Not later than 18 months after the date of enactment of this Act, the Administrator and the Comptroller General of the United States shall each—

(1) conduct a separate study to assess a broad range of options, methods, and strategies for privatizing the National Flood Insurance Program; and Study.

(2) submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate with recommendations for the best manner to accomplish the privatization described in paragraph (1).

(b) **PRIVATE RISK-MANAGEMENT INITIATIVES.**—The Administrator may carry out such private risk-management initiatives as are otherwise authorized under applicable law, as the Administrator considers appropriate to determine the capacity of private insurers, reinsurers, and financial markets to assist communities, on a voluntary basis only, in managing the full range of financial risks associated with flooding.

(c) **REINSURANCE ASSESSMENT.**—

(1) **PRIVATE MARKET PRICING ASSESSMENT.**—Not later than Deadline. Reports.  
12 months after the date of enactment of this Act, the Administrator shall submit to Congress a report that—

(A) assesses the capacity of the private reinsurance, capital, and financial markets to assist communities, on a voluntary basis, in managing the full range of financial risks associated with flooding by requesting proposals to assume a portion of the insurance risk of the National Flood Insurance Program;

(B) describes any responses to the request for proposals under subparagraph (A);

(C) assesses whether the rates and terms contained in any proposals received by the Administrator are—

(i) reasonable and appropriate; and

(ii) in an amount sufficient to maintain the ability of the National Flood Insurance Program to pay claims;

(D) describes the extent to which carrying out the proposals received by the Administrator would minimize the likelihood that the Administrator would use the borrowing authority under section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016);

(E) describes fluctuations in historical reinsurance rates; and

(F) includes an economic cost-benefit analysis of the impact on the National Flood Insurance Program if the Administrator were to exercise the authority under section 1335(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4055(a)(2)), as added by this section, to secure reinsurance of coverage provided by the National Flood Insurance Program from the private market.

(2) **PROTOCOL FOR RELEASE OF DATA.**—The Administrator shall develop a protocol, including adequate privacy protections, to provide for the release of data sufficient to conduct the assessment required under paragraph (1).

(d) **REINSURANCE.**—The National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is amended—

(1) in section 1331(a)(2) (42 U.S.C. 4051(a)(2)), by inserting “, including as reinsurance of coverage provided by the flood insurance program” before “, on such terms”;

(2) in section 1332(c)(2) (42 U.S.C. 4052(c)(2)), by inserting “or reinsurance” after “flood insurance coverage”;

(3) in section 1335(a) (42 U.S.C. 4055(a))—

(A) by striking “The Director” and inserting the following:

“(1) **IN GENERAL.**—The Administrator”; and

(B) by adding at the end the following:

“(2) **PRIVATE REINSURANCE.**—The Administrator is authorized to secure reinsurance of coverage provided by the flood insurance program from the private market at rates and on terms determined by the Administrator to be reasonable and appropriate, in an amount sufficient to maintain the ability of the program to pay claims.”;

(4) in section 1346(a) (42 U.S.C. 4082(a))—

(A) in the matter preceding paragraph (1), by inserting after “for the purpose of” the following: “securing reinsurance of insurance coverage provided by the program or for the purpose of”;

(B) in paragraph (1)—

(i) by striking “estimating” and inserting “Estimating”; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking “receiving” and inserting “Receiving”; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking “making” and inserting “Making”; and

(ii) by striking “; and” and inserting a period;

(E) by redesignating paragraph (4) as paragraph (5);

(F) in paragraph (5), as so redesignated, by striking “otherwise” and inserting “Otherwise”; and

(G) by inserting after paragraph (3) the following new paragraph:

“(4) Placing reinsurance coverage on insurance provided by such program.”; and

(5) in section 1370(a)(3) (42 U.S.C. 4121(a)(3)), by striking “include any” and all that follows and inserting the following:



“include any organization or person that is authorized to engage in the business of insurance under the laws of any State, subject to the reporting requirements of the Securities Exchange Act of 1934 pursuant to section 13(a) or 15(d) of such Act (15 U.S.C. 78m(a) and 78o(d)), or authorized by the Administrator to assume reinsurance on risks insured by the flood insurance program;”.

(e) ASSESSMENT OF CLAIMS-PAYING ABILITY.—

Deadlines.  
42 USC 4027b.

(1) ASSESSMENT.—

(A) ASSESSMENT REQUIRED.—

(i) IN GENERAL.—Not later than September 30 of each year, the Administrator shall conduct an assessment of the ability of the National Flood Insurance Program to pay claims.

(ii) PRIVATE MARKET REINSURANCE.—The assessment under this paragraph for any year in which the Administrator exercises the authority under section 1335(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4055(a)(2)), as added by this section, to secure reinsurance of coverage provided by the National Flood Insurance Program from the private market shall include information relating the use of private sector reinsurance and reinsurance equivalents by the Administrator, whether or not the Administrator used the borrowing authority under section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016).

(iii) FIRST ASSESSMENT.—The Administrator shall conduct the first assessment required under this paragraph not later than September 30, 2012.

(B) CONSIDERATIONS.—In conducting an assessment under subparagraph (A), the Administrator shall take into consideration regional concentrations of coverage written by the National Flood Insurance Program, peak flood zones, and relevant mitigation measures.

(2) ANNUAL REPORT OF THE ADMINISTRATOR OF ACTIVITIES UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—The Administrator shall—

(A) include the results of each assessment in the report required under section 100231(b); and

(B) not later than 30 days after the date on which the Administrator completes an assessment required under paragraph (1), make the results of the assessment available to the public.

Public  
information.

#### **SEC. 100233. GAO STUDY ON BUSINESS INTERRUPTION AND ADDITIONAL LIVING EXPENSES COVERAGES.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study concerning—

(1) the availability of additional living expenses and business interruption coverage in the private marketplace for flood insurance;

(2) the feasibility of allowing the National Flood Insurance Program to offer such coverage at the option of the consumer;

(3) the estimated cost to consumers if the National Flood Insurance Program priced such optional coverage at true actuarial rates;

(4) the impact such optional coverage would have on consumer participation in the National Flood Insurance Program; and

(5) the fiscal impact such optional coverage would have upon the National Flood Insurance Fund if such optional coverage were included in the National Flood Insurance Program, as described in paragraph (2), at the price described in paragraph (3).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing the results of the study under subsection (a).

42 USC 4013a.

**SEC. 100234. POLICY DISCLOSURES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, in addition to any other disclosures that may be required, each policy under the National Flood Insurance Program shall state all conditions, exclusions, and other limitations pertaining to coverage under the subject policy, regardless of the underlying insurance product, in plain English, in boldface type, and in a font size that is twice the size of the text of the body of the policy.

(b) VIOLATIONS.—The Administrator may impose a civil penalty of not more than \$50,000 on any person that fails to comply with subsection (a).

**SEC. 100235. REPORT ON INCLUSION OF BUILDING CODES IN FLOOD-PLAIN MANAGEMENT CRITERIA.**

Determination.

Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the impact, effectiveness, and feasibility of amending section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) to include widely used and nationally recognized building codes as part of the floodplain management criteria developed under such section, and shall determine—

(1) the regulatory, financial, and economic impacts of such a building code requirement on homeowners, States and local communities, local land use policies, and the Federal Emergency Management Agency;

(2) the resources required of State and local communities to administer and enforce such a building code requirement;

(3) the effectiveness of such a building code requirement in reducing flood-related damage to buildings and contents;

(4) the impact of such a building code requirement on the actuarial soundness of the National Flood Insurance Program;

(5) the effectiveness of nationally recognized codes in allowing innovative materials and systems for flood-resistant construction;

(6) the feasibility and effectiveness of providing an incentive in lower premium rates for flood insurance coverage under such Act for structures meeting whichever of such widely used and nationally recognized building codes or any applicable local building codes provides greater protection from flood damage;

(7) the impact of such a building code requirement on rural communities with different building code challenges than urban communities; and

(8) the impact of such a building code requirement on Indian reservations.

**SEC. 100236. STUDY OF PARTICIPATION AND AFFORDABILITY FOR CERTAIN POLICYHOLDERS.**

(a) **FEMA STUDY.**—The Administrator shall conduct a study of—

(1) methods to encourage and maintain participation in the National Flood Insurance Program;

(2) methods to educate consumers about the National Flood Insurance Program and the flood risk associated with their property;

(3) methods for establishing an affordability framework for the National Flood Insurance Program, including methods to aid individuals to afford risk-based premiums under the National Flood Insurance Program through targeted assistance rather than generally subsidized rates, including means-tested vouchers; and

(4) the implications for the National Flood Insurance Program and the Federal budget of using each such method.

(b) **NATIONAL ACADEMY OF SCIENCES ECONOMIC ANALYSIS.**—Contracts.  
To inform the Administrator in the conduct of the study under subsection (a), the Administrator shall enter into a contract under which the National Academy of Sciences, in consultation with the Comptroller General of the United States, shall conduct and submit to the Administrator an economic analysis of the costs and benefits to the Federal Government of a flood insurance program with full risk-based premiums, combined with means-tested Federal assistance to aid individuals who cannot afford coverage, through an insurance voucher program. The analysis shall compare the costs of a program of risk-based rates and means-tested assistance to the current system of subsidized flood insurance rates and federally funded disaster relief for people without coverage.

(c) **REPORT.**—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that contains the results of the study and analysis under this section.

(d) **FUNDING.**—Notwithstanding section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), there shall be available to the Administrator from the National Flood Insurance Fund, of amounts not otherwise obligated, not more than \$750,000 to carry out this section.

**SEC. 100237. STUDY AND REPORT CONCERNING THE PARTICIPATION OF INDIAN TRIBES AND MEMBERS OF INDIAN TRIBES IN THE NATIONAL FLOOD INSURANCE PROGRAM.**

(a) **DEFINITION.**—In this section, the term “Indian tribe” has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) **FINDINGS.**—Congress finds that participation by Indian tribes in the National Flood Insurance Program is low. Only 45 of 565 Indian tribes participate in the National Flood Insurance Program.

(c) **STUDY.**—The Comptroller General of the United States, in coordination and consultation with Indian tribes and members of Indian tribes throughout the United States, shall carry out a study that examines—

(1) the factors contributing to the current rates of participation by Indian tribes and members of Indian tribes in the National Flood Insurance Program; and

(2) methods of encouraging participation by Indian tribes and members of Indian tribes in the National Flood Insurance Program.

(d) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report that—

(1) contains the results of the study carried out under subsection (c);

(2) describes the steps that the Administrator should take to increase awareness and encourage participation by Indian tribes and members of Indian tribes in the National Flood Insurance Program; and

(3) identifies any legislative changes that would encourage participation by Indian tribes and members of Indian tribes in the National Flood Insurance Program.

#### **SEC. 100238. TECHNICAL CORRECTIONS.**

(a) **FLOOD DISASTER PROTECTION ACT OF 1973.**—The Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 et seq.) is amended—

42 USC 4003  
et seq.

(1) by striking “Director” each place that term appears, except in section 102(f)(3) (42 U.S.C. 4012a(f)(3)), and inserting “Administrator”; and

(2) in section 201(b) (42 U.S.C. 4105(b)), by striking “Director’s” and inserting “Administrator’s”.

(b) **NATIONAL FLOOD INSURANCE ACT OF 1968.**—The National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is amended—

42 USC 4011  
et seq.

(1) by striking “Director” each place that term appears and inserting “Administrator”;

(2) in section 1363 (42 U.S.C. 4104), by striking “Director’s” each place that term appears and inserting “Administrator’s”; and

(3) in section 1370(a)(9) (42 U.S.C. 4121(a)(9)), by striking “the Office of Thrift Supervision,”.

(c) **FEDERAL FLOOD INSURANCE ACT OF 1956.**—Section 15(e) of the Federal Flood Insurance Act of 1956 (42 U.S.C. 2414(e)) is amended by striking “Director” each place that term appears and inserting “Administrator”.

#### **SEC. 100239. USE OF PRIVATE INSURANCE TO SATISFY MANDATORY PURCHASE REQUIREMENT.**

(a) **AMENDMENTS.**—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended—

(1) in paragraph (1)—

(A) by striking the period at the end and inserting “; and”;

(B) by striking “lending institutions not to make” and inserting “lending institutions—

“(A) not to make”; and

(C) by adding at the end the following:

“(B) to accept private flood insurance as satisfaction of the flood insurance coverage requirement under subparagraph (A) if the coverage provided by such private flood insurance meets the requirements for coverage under such subparagraph.”;

(2) in paragraph (2)—

(A) by striking “paragraph (1)” each place that term appears and inserting “paragraph (1)(A)”; and

(B) by inserting after the first sentence the following: “Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence.”;

(3) in paragraph (3), in the matter following subparagraph (B), by striking “paragraph (1).” and inserting “paragraph (1)(A). The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under paragraph (1)(A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such paragraph and any requirements established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, respectively, relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation will accept private flood insurance.”; and

(4) by adding at the end the following:

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to supersede or limit the authority of a Federal entity for lending regulation, the Federal Housing Finance Agency, a Federal agency lender, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation to establish requirements relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the entity or agency will accept private flood insurance.

“(6) NOTICE.—

“(A) IN GENERAL.—Each lender shall disclose to a borrower that is subject to this subsection that—

“(i) flood insurance is available from private insurance companies that issue standard flood insurance policies on behalf of the national flood insurance program or directly from the national flood insurance program;

“(ii) flood insurance that provides the same level of coverage as a standard flood insurance policy under the national flood insurance program may be available from a private insurance company that issues policies on behalf of the company; and

“(iii) the borrower is encouraged to compare the flood insurance coverage, deductibles, exclusions, conditions and premiums associated with flood insurance policies issued on behalf of the national flood insurance

program and policies issued on behalf of private insurance companies and to direct inquiries regarding the availability, cost, and comparisons of flood insurance coverage to an insurance agent.

“(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting or otherwise limiting the authority of a Federal entity for lending regulation to approve any disclosure made by a regulated lending institution for purposes of complying with subparagraph (A).

“(7) PRIVATE FLOOD INSURANCE DEFINED.—In this subsection, the term ‘private flood insurance’ means an insurance policy that—

“(A) is issued by an insurance company that is—

“(i) licensed, admitted, or otherwise approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located, by the insurance regulator of that State or jurisdiction; or

“(ii) in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction where the property to be insured is located;

“(B) provides flood insurance coverage which is at least as broad as the coverage provided under a standard flood insurance policy under the national flood insurance program, including when considering deductibles, exclusions, and conditions offered by the insurer;

“(C) includes—

“(i) a requirement for the insurer to give 45 days’ written notice of cancellation or non-renewal of flood insurance coverage to—

“(I) the insured; and

“(II) the regulated lending institution or Federal agency lender;

“(ii) information about the availability of flood insurance coverage under the national flood insurance program;

“(iii) a mortgage interest clause similar to the clause contained in a standard flood insurance policy under the national flood insurance program; and

“(iv) a provision requiring an insured to file suit not later than 1 year after date of a written denial of all or part of a claim under the policy; and

“(D) contains cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the national flood insurance program.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1364(a)(3)(C) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a(a)(3)(C)) is amended by inserting after “private insurers” the following: “, as required under section 102(b)(6) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(6))”.

Deadline.

**SEC. 100240. LEVEES CONSTRUCTED ON CERTAIN PROPERTIES.**

(a) **DEFINITION.**—In this section, the term “covered hazard mitigation land” means land that—

(1) was acquired and deed restricted under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) during the period beginning on January 1, 1999, and ending December 31, 2011;

(2) is located at—

- (A) 1029 Oak Street, Fargo, North Dakota;
- (B) 27 South Terrace, Fargo, North Dakota;
- (C) 1033 Oak Street, Fargo, North Dakota;
- (D) 308 Schnell Drive, Oxbow, North Dakota; or
- (E) 306 Schnell Drive, Oxbow, North Dakota; and

(3) is located in a community that—

(A) is participating in the National Flood Insurance Program on the date on which a State, local, or tribal government submits an application requesting to construct a permanent flood risk reduction levee under subsection (b); and

(B) certifies to the Administrator and the Chief of Engineers that the community will continue to participate in the National Flood Insurance Program.

Certification.

(b) **AUTHORITY.**—Notwithstanding any other prohibition on construction on property acquired with funding from the Federal Emergency Management Agency for conversion to open space purposes, the Administrator shall allow the construction of a permanent flood risk reduction levee by a State, local, or tribal government on covered hazard mitigation land if—

(1) the Administrator and the Chief of Engineers make a determination that—

Determination.

(A) construction of the proposed permanent flood risk reduction levee would more effectively mitigate against flooding risk than an open floodplain or other flood risk reduction measures;

(B) the proposed permanent flood risk reduction levee complies with Federal, State, and local requirements, including mitigation of adverse impacts and implementation of floodplain management requirements, which shall include an evaluation of whether the construction, operation, and maintenance of the proposed levee—

(i) would continue to meet best available industry standards and practices;

(ii) would be the most cost-effective measure to protect against the assessed flood risk; and

(iii) minimizes future costs to the Federal Government;

(C) the State, local, or tribal government seeking to construct the proposed permanent flood risk reduction levee has provided an adequate maintenance plan that documents the procedures the State, local, or tribal government will use to ensure that the stability, height, and overall integrity of the proposed levee and the structure and systems of the proposed levee are maintained, including—

(i) specifying the maintenance activities to be performed;

(ii) specifying the frequency with which maintenance activities will be performed;

(iii) specifying the person responsible for performing each maintenance activity (by name or title);

(iv) detailing the plan for financing the maintenance of the levee; and

(v) documenting the ability of the State, local, or tribal government to finance the maintenance of the levee; and

(2) before the commencement of construction, the State, local, or tribal government provides to the Administrator an amount—

(A) equal to the Federal share of all project costs previously provided by the Administrator under the applicable program for each deed restricted parcel of the covered hazard mitigation land, which the Administrator shall deposit in the National Flood Insurance Fund; and

(B) that does not include any Federal funds.

**(c) MAINTENANCE CERTIFICATION.—**

(1) **IN GENERAL.**—A State, local, or tribal government that constructs a permanent flood risk reduction levee under subsection (b) shall submit to the Administrator and the Chief of Engineers an annual certification indicating whether the State, local, or tribal government is in compliance with the maintenance plan provided under subsection (b)(1)(C).

Determination.

(2) **REVIEW.**—The Chief of Engineers shall review each certification submitted under paragraph (1) and determine whether the State, local, or tribal government has complied with the maintenance plan.

**SEC. 100241. INSURANCE COVERAGE FOR PRIVATE PROPERTIES AFFECTED BY FLOODING FROM FEDERAL LANDS.**

Section 1306(c)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(2)) is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) the initial purchase of flood insurance coverage for private property if—

Determination.

“(i) the Administrator determines that the property is affected by flooding on Federal land that is a result of, or is exacerbated by, post-wildfire conditions, after consultation with an authorized employee of the Federal agency that has jurisdiction of the land on which the wildfire that caused the post-wildfire conditions occurred; and

Deadline.

“(ii) the flood insurance coverage was purchased not later than 60 days after the fire containment date, as determined by the appropriate Federal employee, relating to the wildfire that caused the post-wildfire conditions described in clause (i).”.

**SEC. 100242. PERMISSIBLE LAND USE UNDER FEDERAL FLOOD INSURANCE PLAN.**

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by adding at the end the following:



**“SEC. 1325. TREATMENT OF SWIMMING POOL ENCLOSURES OUTSIDE 42 USC 4032.  
OF HURRICANE SEASON.**

“(a) IN GENERAL.—Notwithstanding any other provision of law, including the adequate land use and control measures developed pursuant to section 1361 and applicable to non-one- and two-family structures located within coastal areas, as identified by the Administrator, the following may be permitted: Time period.

“(1) Nonsupporting breakaway walls in the space below the lowest elevated floor of a building, if the space is used solely for a swimming pool between November 30 and June 1 of any year, in an area designated as Zone V on a flood insurance rate map.

“(2) Openings in walls in the space below the lowest elevated floor of a building, if the space is used solely for a swimming pool between November 30 and June 1 of any year, in an area designated as Zone A on a flood insurance rate map.

“(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to alter the terms and conditions of eligibility and insurability of coverage for a building under the standard flood insurance policy under the national flood insurance program.”.

**SEC. 100243. CDBG ELIGIBILITY FOR FLOOD INSURANCE OUTREACH  
ACTIVITIES AND COMMUNITY BUILDING CODE  
ADMINISTRATION GRANTS.**

(a) AMENDMENTS.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) by redesignating paragraph (25) as paragraph (26);

(2) by redesignating the second paragraph designated as paragraph (24) (relating to tornado-safe shelters) as paragraph (25);

(3) in paragraph (24) (relating to homeownership among persons with low and moderate income), by striking “and” at the end;

(4) in paragraph (25), as so redesignated, by striking “and” at the end;

(5) in paragraph (26), as so redesignated, by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following new paragraphs:

“(27) supplementing existing State or local funding for administration of building code enforcement by local building code enforcement departments, including for increasing staffing, providing staff training, increasing staff competence and professional qualifications, and supporting individual certification or departmental accreditation, and for capital expenditures specifically dedicated to the administration of the building code enforcement department, except that, to be eligible to use amounts as provided in this paragraph—

“(A) a building code enforcement department shall provide matching, non-Federal funds to be used in conjunction with amounts used under this paragraph in an amount— Waiver authority.

“(i) in the case of a building code enforcement department serving an area with a population of more than 50,000, equal to not less than 50 percent of the total amount of any funds made available under this title that are used under this paragraph;

“(ii) in the case of a building code enforcement department serving an area with a population of between 20,001 and 50,000, equal to not less than 25 percent of the total amount of any funds made available under this title that are used under this paragraph; and

“(iii) in the case of a building code enforcement department serving an area with a population of less than 20,000, equal to not less than 12.5 percent of the total amount of any funds made available under this title that are used under this paragraph,

except that the Secretary may waive the matching fund requirements under this subparagraph, in whole or in part, based upon the level of economic distress of the jurisdiction in which is located the local building code enforcement department that is using amounts for purposes under this paragraph, and shall waive such matching fund requirements in whole for any recipient jurisdiction that has dedicated all building code permitting fees to the conduct of local building code enforcement; and

“(B) any building code enforcement department using funds made available under this title for purposes under this paragraph shall empanel a code administration and enforcement team consisting of at least 1 full-time building code enforcement officer, a city planner, and a health planner or similar officer; and

“(28) provision of assistance to local governmental agencies responsible for floodplain management activities (including such agencies of Indians tribes, as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) in communities that participate in the national flood insurance program under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), only for carrying out outreach activities to encourage and facilitate the purchase of flood insurance protection under such Act by owners and renters of properties in such communities and to promote educational activities that increase awareness of flood risk reduction; except that—

“(A) amounts used as provided under this paragraph shall be used only for activities designed to—

“(i) identify owners and renters of properties in communities that participate in the national flood insurance program, including owners of residential and commercial properties;

“(ii) notify such owners and renters when their properties become included in, or when they are excluded from, an area having special flood hazards and the effect of such inclusion or exclusion on the applicability of the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) to such properties;

“(iii) educate such owners and renters regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;

Notification.

“(iv) educate such owners and renters regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under this title for such properties and the contents of such properties;

“(v) encourage such owners and renters to maintain or acquire such coverage;

“(vi) notify such owners of where to obtain information regarding how to obtain such coverage, including a telephone number, mailing address, and Internet site of the Administrator of the Federal Emergency Management Agency (in this paragraph referred to as the ‘Administrator’) where such information is available; and

Notification.

“(vii) educate local real estate agents in communities participating in the national flood insurance program regarding the program and the availability of coverage under the program for owners and renters of properties in such communities, and establish coordination and liaisons with such real estate agents to facilitate purchase of coverage under the National Flood Insurance Act of 1968 and increase awareness of flood risk reduction;

“(B) in any fiscal year, a local governmental agency may not use an amount under this paragraph that exceeds 3 times the amount that the agency certifies, as the Secretary, in consultation with the Administrator, shall require, that the agency will contribute from non-Federal funds to be used with such amounts used under this paragraph only for carrying out activities described in subparagraph (A); and for purposes of this subparagraph, the term ‘non-Federal funds’ includes State or local government agency amounts, in-kind contributions, any salary paid to staff to carry out the eligible activities of the local governmental agency involved, the value of the time and services contributed by volunteers to carry out such services (at a rate determined by the Secretary), and the value of any donated material or building and the value of any lease on a building;

“(C) a local governmental agency that uses amounts as provided under this paragraph may coordinate or contract with other agencies and entities having particular capacities, specialties, or experience with respect to certain populations or constituencies, including elderly or disabled families or persons, to carry out activities described in subparagraph (A) with respect to such populations or constituencies; and

“(D) each local government agency that uses amounts as provided under this paragraph shall submit a report to the Secretary and the Administrator, not later than 12 months after such amounts are first received, which shall include such information as the Secretary and the Administrator jointly consider appropriate to describe the activities conducted using such amounts and the effect of such activities on the retention or acquisition of flood insurance coverage.”.

Reports.  
Deadline.

(b) **SUNSET.**—Effective on the date that is 2 years after the date of enactment of this Act, section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (25), as so redesignated by subsection (a) of this subsection, by adding “and” at the end;

(2) in paragraph (26), as so redesignated by subsection (a) of this subsection, by striking the semicolon at the end and inserting a period; and

(3) by striking paragraphs (27) and (28), as added by subsection (a) of this subsection.

**SEC. 100244. TERMINATION OF FORCE-PLACED INSURANCE.**

(a) **IN GENERAL.**—Section 102(e) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(e)) is amended—

(1) in paragraph (2), by striking “purchasing the insurance” and inserting “purchasing the insurance, including premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

“(3) **TERMINATION OF FORCE-PLACED INSURANCE.**—Within 30 days of receipt by the lender or servicer of a confirmation of a borrower’s existing flood insurance coverage, the lender or servicer shall—

“(A) terminate any insurance purchased by the lender or servicer under paragraph (2); and

“(B) refund to the borrower all premiums paid by the borrower for any insurance purchased by the lender or servicer under paragraph (2) during any period during which the borrower’s flood insurance coverage and the insurance coverage purchased by the lender or servicer were each in effect, and any related fees charged to the borrower with respect to the insurance purchased by the lender or servicer during such period.

“(4) **SUFFICIENCY OF DEMONSTRATION.**—For purposes of confirming a borrower’s existing flood insurance coverage, a lender or servicer for a loan shall accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or agent.”.

**SEC. 100245. FEMA AUTHORITY ON TRANSFER OF POLICIES.**

Section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) is amended by adding at the end the following new subsection:

“(d) **FEMA AUTHORITY ON TRANSFER OF POLICIES.**—Notwithstanding any other provision of this title, the Administrator may, at the discretion of the Administrator, refuse to accept the transfer of the administration of policies for coverage under the flood insurance program under this title that are written and administered by any insurance company or other insurer, or any insurance agent or broker.”.

**SEC. 100246. REIMBURSEMENT OF CERTAIN EXPENSES.**

Section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104) is amended by striking subsection (f) and inserting the following:

“(f) REIMBURSEMENT OF CERTAIN EXPENSES.—When, incident to any appeal under subsection (b) or (c) of this section, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal based on a scientific or technical error on the part of the Federal Emergency Management Agency, which is successful in whole or part, the Administrator shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. The amounts available for implementing this subsection shall not exceed \$250,000. The Administrator shall promulgate regulations to carry out this subsection.”.

Regulations.

**SEC. 100247. FIO STUDY ON RISKS, HAZARDS, AND INSURANCE.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the Federal Insurance Office shall conduct a study and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report providing an assessment of the current state of the market for natural catastrophe insurance in the United States.

Deadline.  
Reports.

(b) FACTORS.—The study and report required under subsection (a) shall assess—

(1) the current condition of, as well as the outlook for, the availability and affordability of insurance for natural catastrophe perils in all regions of the United States;

(2) the current ability of States, communities, and individuals to mitigate their natural catastrophe risks, including the affordability and feasibility of such mitigation activities;

(3) the current state of catastrophic insurance and reinsurance markets and the current approaches in providing insurance protection to different sectors of the population of the United States;

(4) the current financial condition of State residual markets and catastrophe funds in high-risk regions, including the likelihood of insolvency following a natural catastrophe, the concentration of risks within such funds, the reliance on post-event assessments and State funding, and the adequacy of rates; and

(5) the current role of the Federal Government and State and local governments in providing incentives for feasible risk mitigation efforts and the cost of providing post-natural catastrophe aid in the absence of insurance.

(c) ADDITIONAL FACTORS.—The study and report required under subsection (a) shall also contain an assessment of current approaches to insuring natural catastrophe risks in the United States and such other information as the Director of the Federal Insurance Office determines necessary or appropriate.

(d) **CONSULTATION.**—In carrying out the study and report under subsection (a), the Director of the Federal Insurance Office shall consult with the National Academy of Sciences, State insurance regulators, consumer organizations, representatives of the insurance and reinsurance industry, policyholders, and other organizations and experts, as appropriate.

**SEC. 100248. FLOOD PROTECTION IMPROVEMENTS CONSTRUCTED ON CERTAIN PROPERTIES.**

(a) **DEFINITION.**—In this section, the term “covered hazard mitigation land” means land that—

(1) was acquired and deed restricted under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) during the period beginning on March 1, 2008, and ending on December 31, 2008;

(2) is located at—

(A) 809 East Main Cross Street, Findlay, Ohio, 45840;

(B) 801 East Main Cross Street, Findlay, Ohio, 45840;

(C) 725 East Main Cross Street, Findlay, Ohio, 45840;

or

(D) 631 East Main Cross Street, Findlay, Ohio, 45840;

and

(3) is located in a community that—

(A) is participating in the National Flood Insurance Program on the date on which a State, local, or tribal government submits an application requesting to construct a flood protection improvement under subsection (b); and

(B) certifies to the Administrator and the Chief of Engineers that the community will continue to participate in the National Flood Insurance Program.

Certification.

(b) **AUTHORITY.**—Notwithstanding any other prohibition on construction on property acquired with funding from the Federal Emergency Management Agency for conversion to open space purposes, the Administrator shall allow the construction of a flood protection improvement by a State, local, or tribal government on covered hazard mitigation land if—

Determination.

(1) the Administrator and the Chief of Engineers make a determination that—

(A) construction of the proposed flood protection improvement would more effectively mitigate against flooding risk than an open floodplain or other flood risk reduction measures;

(B) the proposed flood protection improvement complies with Federal, State, and local requirements, including mitigation of adverse impacts and implementation of floodplain management requirements, which shall include an evaluation of whether the construction, operation, and maintenance of the proposed flood protection improvement—

(i) would continue to meet best available industry standards and practices;

(ii) would be the most cost-effective measure to protect against the assessed flood risk; and

(iii) minimizes future costs to the Federal Government;

(C) the State, local, or tribal government seeking to construct the flood protection improvement has provided

an adequate maintenance plan that documents the procedures the State, local, or tribal government will use to ensure that the stability, height, and overall integrity of the proposed flood protection improvement and the structure and systems of the proposed flood protection improvement are maintained, including—

(i) specifying the maintenance activities to be performed;

(ii) specifying the frequency with which maintenance activities will be performed;

(iii) specifying the person responsible for performing each maintenance activity (by name or title);

(iv) detailing the plan for financing the maintenance of the flood protection improvement; and

(v) documenting the ability of the State, local, or tribal government to finance the maintenance of the flood protection improvement; and

(2) before the commencement of construction, the State, local, or tribal government provides to the Administrator an amount—

(A) equal to the Federal share of all project costs previously provided by the Administrator under the applicable program for each deed restricted parcel of the covered hazard mitigation land, which the Administrator shall deposit in the National Flood Insurance Fund; and

(B) that does not include any Federal funds.

(c) MAINTENANCE CERTIFICATION.—

(1) IN GENERAL.—A State, local, or tribal government that constructs a flood protection improvement under subsection (b) shall submit to the Administrator and the Chief of Engineers an annual certification indicating whether the State, local, or tribal government is in compliance with the maintenance plan provided under subsection (b)(1)(C).

(2) REVIEW.—The Chief of Engineers shall review each certification submitted under paragraph (1) and determine whether the State, local, or tribal government has complied with the maintenance plan.

Determination.

#### **SEC. 100249. NO CAUSE OF ACTION.**

42 USC 4130.

No cause of action shall exist and no claim may be brought against the United States for violation of any notification requirement imposed upon the United States by this subtitle or any amendment made by this subtitle.

## **Subtitle B—Alternative Loss Allocation**

#### **SEC. 100251. SHORT TITLE.**

This subtitle may be cited as the “Consumer Option for an Alternative System to Allocate Losses Act of 2012” or the “COASTAL Act of 2012”.

Consumer Option  
for an  
Alternative  
System to  
Allocate Losses  
Act of 2012.  
42 USC 4001  
note.

#### **SEC. 100252. ASSESSING AND MODELING NAMED STORMS OVER COASTAL STATES.**

Subtitle C of title XII of the Omnibus Public Land Management Act of 2009 (33 U.S.C. 3601 et seq.) (also known as the “Integrated Coastal and Ocean Observation System Act of 2009”) is amended by adding at the end the following:

33 USC 3611.

**“SEC. 12312. ASSESSING AND MODELING NAMED STORMS OVER COASTAL STATES.**

“(a) DEFINITIONS.—In this section:

“(1) COASTAL FORMULA.—The term ‘COASTAL Formula’ has the meaning given the term in section 1337(a) of the National Flood Insurance Act of 1968.

“(2) COASTAL STATE.—The term ‘coastal State’ has the meaning given the term ‘coastal state’ in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

“(3) COASTAL WATERS.—The term ‘coastal waters’ has the meaning given the term in such section.

“(4) COVERED DATA.—The term ‘covered data’ means, with respect to a named storm identified by the Administrator under subsection (b)(2)(A), empirical data that are—

“(A) collected before, during, or after such storm; and

“(B) necessary to determine magnitude and timing of wind speeds, rainfall, the barometric pressure, river flows, the extent, height, and timing of storm surge, topographic and bathymetric data, and other measures required to accurately model and assess damage from such storm.

“(5) INDETERMINATE LOSS.—The term ‘indeterminate loss’ has the meaning given the term in section 1337(a) of the National Flood Insurance Act of 1968.

“(6) NAMED STORM.—The term ‘named storm’ means any organized weather system with a defined surface circulation and maximum winds of at least 39 miles per hour which the National Hurricane Center of the United States National Weather Service names as a tropical storm or a hurricane.

“(7) NAMED STORM EVENT MODEL.—The term ‘Named Storm Event Model’ means the official meteorological and oceanographic computerized model, developed by the Administrator under subsection (b)(1)(A), which utilizes covered data to replicate the magnitude, timing, and spatial variations of winds, rainfall, and storm surges associated with named storms that threaten any portion of a coastal State.

“(8) PARTICIPANT.—The term ‘participant’ means a Federal, State, or private entity that chooses to cooperate with the Administrator in carrying out the provisions of this section by collecting, contributing, and maintaining covered data.

“(9) POST-STORM ASSESSMENT.—The term ‘post-storm assessment’ means a scientific assessment produced and certified by the Administrator to determine the magnitude, timing, and spatial variations of winds, rainfall, and storm surges associated with a specific named storm to be used in the COASTAL Formula.

“(10) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

“(b) NAMED STORM EVENT MODEL AND POST-STORM ASSESSMENT.—

“(1) ESTABLISHMENT OF NAMED STORM EVENT MODEL.—

“(A) IN GENERAL.—Not later than 540 days after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall develop by regulation the Named Storm Event Model.

Deadline.  
Regulations.



“(B) ACCURACY.—The Named Storm Event Model shall be designed to generate post-storm assessments, as provided in paragraph (2), that have a degree of accuracy of not less than 90 percent for every indeterminate loss for which a post-storm assessment is utilized.

“(2) POST-STORM ASSESSMENT.—

“(A) IDENTIFICATION OF NAMED STORMS THREATENING COASTAL STATES.—After the establishment of the COASTAL Formula, the Administrator shall, in consultation with the Secretary of Homeland Security, identify named storms that may reasonably constitute a threat to any portion of a coastal State.

“(B) POST-STORM ASSESSMENT REQUIRED.—Upon identification of a named storm under subparagraph (A), the Administrator shall develop a post-storm assessment for such named storm using the Named Storm Event Model and covered data collected for such named storm pursuant to the protocol established under subsection (c)(1).

“(C) SUBMITTAL OF POST-STORM ASSESSMENT.—Not later than 90 days after an identification of a named storm is made under subparagraph (A), the Administrator shall submit to the Secretary of Homeland Security the post-storm assessment developed for such storm under subparagraph (B).

Deadline.

“(3) ACCURACY.—The Administrator shall ensure, to the greatest extent practicable, that each post-storm assessment developed under paragraph (2) has a degree of accuracy of not less than 90 percent.

“(4) CERTIFICATION.—For each post-storm assessment carried out under paragraph (2), the Administrator shall—

“(A) certify the degree of accuracy for such assessment, including specific reference to any segments or geographic areas for which the assessment is less than 90 percent accurate; and

“(B) report such certification to the Secretary of Homeland Security for the purposes of use with indeterminate loss claims under section 1337 of the National Flood Insurance Act of 1968.

Reports.

“(5) FINALITY OF DETERMINATIONS.—A certification of the degree of accuracy of a post-storm assessment under this subsection by the Administrator shall be final and shall not be subject to judicial review.

“(6) AVAILABILITY.—The Administrator shall make available to the public the Named Storm Event Model and any post-storm assessment developed under this subsection.

Public information.

“(c) ESTABLISHMENT OF A PROTOCOL FOR POST-STORM ASSESSMENT.—

“(1) IN GENERAL.—Not later than 540 days after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall establish a protocol, based on the plan submitted under subsection (d)(3), to collect and assemble all covered data required by the Administrator to produce post-storm assessments required by subsection (b), including assembling data collected by participants and stored in the database established under subsection (f) and from such other sources as the Administrator considers appropriate.

Deadline.

“(2) ACQUISITION OF SENSORS AND STRUCTURES.—If the Administrator is unable to use a public or private asset to obtain covered data as part of the protocol established under paragraph (1), the Administrator may acquire such sensors and structures for the placement of sensors as may be necessary to obtain such data.

“(3) USE OF FEDERAL ASSETS.—If the protocol requires placement of a sensor to develop assessments pursuant to subsection (b), the Administrator shall, to the extent practicable, use Federal assets for the placement of such sensors.

“(4) USE OF ACQUIRED STRUCTURES.—

“(A) IN GENERAL.—If the Administrator acquires a structure for the placement of a sensor for purposes of such protocol, the Administrator shall to the extent practical permit other public and private entities to place sensors on such structure to collect—

“(i) meteorological data;

“(ii) national security-related data;

“(iii) navigation-related data;

“(iv) hydrographic data; or

“(v) such other data as the Administrator considers appropriate.

“(B) RECEIPT OF CONSIDERATION.—The Administrator may receive consideration for the placement of a sensor on a structure under subparagraph (A).

“(C) IN-KIND CONSIDERATION.—Consideration received under subparagraph (B) may be received in-kind.

“(D) USE OF CONSIDERATION.—To the extent practicable, consideration received under subparagraph (B) shall be used for the maintenance of sensors used to collect covered data.

“(5) COORDINATED DEPLOYMENTS AND DATA COLLECTION PRACTICES.—The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, coordinate the deployment of sensors as part of the protocol established under paragraph (1) and related data collection carried out by Federal, State, academic, and private entities who choose to cooperate with the Administrator in carrying out this subsection.

“(6) PRIORITY ACQUISITION AND DEPLOYMENT.—The Administrator shall give priority in the acquisition for and deployment of sensors under the protocol required by paragraph (1) to areas of coastal States that have the highest risk of being harmed by named storms.

“(d) ASSESSMENT OF SYSTEMS AND EFFORTS TO COLLECT COVERED DATA.—

Deadline.

“(1) IDENTIFICATION OF SYSTEMS AND EFFORTS TO COLLECT COVERED DATA.—Not later than 180 days after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology—

Survey.

“(A) carry out a survey to identify all Federal and State efforts and systems that are capable of collecting covered data; and

“(B) consult with private and academic sector entities to identify domestic private and academic systems that are capable of collecting covered data. Consultation.

“(2) IDENTIFICATION OF GAPS.—The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology and individuals and entities consulted under subsection (e)(3), assess the systems identified under paragraph (1) and identify which systems meet the needs of the National Oceanic and Atmospheric Administration for the collection of covered data, including with respect to the accuracy requirement for post-storm assessment under subsection (b)(3).

“(3) PLAN.—Not later than 270 days after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, submit to Congress a plan for the collection of covered data necessary to develop the Named Storm Event Model and post-storm assessment required by subsection (b) that addresses any gaps identified in paragraph (2). Deadline.

“(e) COORDINATION OF COVERED DATA COLLECTION AND MAINTENANCE BY PARTICIPANTS.—

“(1) IN GENERAL.—The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, coordinate the collection and maintenance of covered data by participants under this section—

“(A) to streamline the process of collecting covered data in accordance with the protocol established under subsection (c)(1); and

“(B) to maintain transparency of such process and the database established under subsection (f).

“(2) SHARING INFORMATION.—The Administrator shall establish a process for sharing among participants information relevant to collecting and using covered data for—

“(A) academic research;

“(B) private sector use;

“(C) public outreach; and

“(D) such other purposes as the Administrator considers appropriate.

“(3) CONSULTATION.—In carrying out paragraphs (1) and (2), the Administrator shall consult with the following:

“(A) The Commanding General of the Corps of Engineers.

“(B) The Administrator of the Federal Emergency Management Agency.

“(C) The Commandant of the Coast Guard.

“(D) The Director of the United States Geological Survey.

“(E) The Office of the Federal Coordinator for Meteorology.

“(F) The Director of the National Science Foundation.

“(G) The Administrator of the National Aeronautics and Space Administration.

“(H) Such public, private, and academic sector entities as the Administrator considers appropriate for purposes of carrying out the provisions of this section.

“(f) ESTABLISHMENT OF COASTAL WIND AND WATER EVENT DATABASE.—

Deadline.

“(1) IN GENERAL.—Not later than 1 year after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall establish a database for the collection and compilation of covered data—

“(A) to support the protocol established under subsection (c)(1); and

“(B) for the purposes listed in subsection (e)(2).

“(2) DESIGNATION.—The database established under paragraph (1) shall be known as the ‘Coastal Wind and Water Event Database’.

Deadline.

“(g) COMPTROLLER GENERAL STUDY.—Not later than 1 year after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Comptroller General of the United States shall—

Audit.

“(1) complete an audit of Federal efforts to collect covered data for purposes of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, which audit shall—

“(A) examine duplicated Federal efforts to collect covered data; and

“(B) determine the cost effectiveness of such efforts; and

Reports.

“(2) submit to the Committee on Banking, Housing, and Urban Affairs and the Commerce, Science, and Transportation of the Senate and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives a report on the findings of the Comptroller General with respect to the audit completed under paragraph (1).”.

**SEC. 100253. ALTERNATIVE LOSS ALLOCATION SYSTEM FOR INDETERMINATE CLAIMS.**

Part A of chapter II of the National Flood Insurance Act of 1968 (42 U.S.C. 4051 et seq.) is amended by adding at the end the following:

42 USC 4057.

**“SEC. 1337. ALTERNATIVE LOSS ALLOCATION SYSTEM FOR INDETERMINATE CLAIMS.**

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.

“(2) COASTAL FORMULA.—The term ‘COASTAL Formula’ means the formula established under subsection (b).

“(3) COASTAL STATE.—The term ‘coastal State’ has the meaning given the term ‘coastal state’ in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

“(4) INDETERMINATE LOSS.—

“(A) IN GENERAL.—The term ‘indeterminate loss’ means, as determined by an insurance claims adjuster certified under the national flood insurance program and in consultation with an engineer as appropriate, a loss resulting from physical damage to, or loss of, property located in any coastal State arising from the combined perils of flood and wind associated with a named storm.

“(B) REQUIREMENTS.—An insurance claims adjuster certified under the national flood insurance program shall only determine that a loss is an indeterminate loss if the claims adjuster determines that—

“(i) no material remnant of physical buildings or man-made structures remain except building foundations for the specific property for which the claim is made; and

“(ii) there is insufficient or no tangible evidence created, yielded, or otherwise left behind of the specific property for which the claim is made as a result of the named storm.

“(5) NAMED STORM.—The term ‘named storm’ means any organized weather system with a defined surface circulation and maximum winds of not less than 39 miles per hour which the National Hurricane Center of the United States National Weather Service names as a tropical storm or a hurricane.

“(6) POST-STORM ASSESSMENT.—The term ‘post-storm assessment’ means the post-storm assessment developed under section 12312(b) of the Omnibus Public Land Management Act of 2009.

“(7) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

“(8) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(9) STANDARD INSURANCE POLICY.—The term ‘standard insurance policy’ means any insurance policy issued under the national flood insurance program that covers loss or damage to property resulting from water peril.

“(10) PROPERTY.—The term ‘property’ means real or personal property that is insured under a standard insurance policy for loss or damage to structure or contents.

“(11) UNDER SECRETARY.—The term ‘Under Secretary’ means the Under Secretary of Commerce for Oceans and Atmosphere, in the Under Secretary’s capacity as Administrator of the National Oceanic and Atmospheric Administration.

“(b) ESTABLISHMENT OF FLOOD LOSS ALLOCATION FORMULA FOR INDETERMINATE CLAIMS.—

“(1) IN GENERAL.—Not later than 180 days after the date on which the protocol is established under section 12312(c)(1) of the Omnibus Public Land Management Act of 2009, the Secretary, acting through the Administrator and in consultation with the Under Secretary, shall establish by rule a standard formula to determine and allocate wind losses and flood losses for claims involving indeterminate losses.

Deadline.  
Regulations.

“(2) CONTENTS.—The standard formula established under paragraph (1) shall—

“(A) incorporate data available from the Coastal Wind and Water Event Database established under section 12312(f) of the Omnibus Public Land Management Act of 2009;

“(B) use relevant data provided on the National Flood Insurance Program Elevation Certificate for each indeterminate loss for which the formula is used;

“(C) consider any sufficient and credible evidence, approved by the Administrator, of the pre-event condition of a specific property, including the findings of any policyholder or insurance claims adjuster in connection with the indeterminate loss to that specific property;

“(D) include other measures, as the Administrator considers appropriate, required to determine and allocate by mathematical formula the property damage caused by flood or storm surge associated with a named storm; and

“(E) subject to paragraph (3), for each indeterminate loss, use the post-storm assessment to allocate water damage (flood or storm surge) associated with a named storm.

Certification.

“(3) DEGREE OF ACCURACY REQUIRED.—The standard formula established under paragraph (1) shall specify that the Administrator may only use the post-storm assessment for purposes of the formula if the Under Secretary certifies that the post-storm assessment has a degree of accuracy of not less than 90 percent in connection with the specific indeterminate loss for which the assessment and formula are used.

“(c) AUTHORIZED USE OF POST-STORM ASSESSMENT AND COASTAL FORMULA.—

“(1) IN GENERAL.—Subject to paragraph (3), the Administrator may use the post-storm assessment and the COASTAL Formula to—

“(A) review flood loss payments for indeterminate losses, including as part of the quality assurance reinspection program of the Federal Emergency Management Agency for claims under the national flood insurance program and any other process approved by the Administrator to review and validate payments under the national flood insurance program for indeterminate losses following a named storm; and

“(B) assist the national flood insurance program to—

“(i) properly cover qualified flood loss for claims for indeterminate losses; and

“(ii) avoid paying for any loss or damage to property caused by any peril (including wind), other than flood or storm surge, that is not covered under a standard policy under the national flood insurance program.

“(2) FEDERAL DISASTER DECLARATION.—Subject to paragraph (3), in order to expedite claims and reduce costs to the national flood insurance program, following any major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) relating to a named storm in a coastal State, the Administrator may use the COASTAL Formula to determine and pay for any flood loss covered under a standard insurance policy under the national flood insurance program, if the loss is an indeterminate loss.

“(3) NATIONAL ACADEMY OF SCIENCES EVALUATION.—

“(A) EVALUATION REQUIRED.—

“(i) EVALUATION.—Upon the issuance of the rule establishing the COASTAL Formula, and each time the Administrator modifies the COASTAL Formula, the National Academy of Sciences shall—

“(I) evaluate the expected financial impact on the national flood insurance program of the use of the COASTAL Formula as so established or modified; and

“(II) evaluate the validity of the scientific assumptions upon which the formula is based and

determine whether the COASTAL formula can achieve a degree of accuracy of not less than 90 percent in allocating flood losses for indeterminate losses.

“(ii) REPORT.—The National Academy of Sciences shall submit a report containing the results of each evaluation under clause (i) to the Administrator, the Committee on Banking, Housing, and Urban Affairs and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives.

“(B) EFFECTIVE DATE AND APPLICABILITY.—

“(i) EFFECTIVE DATE.—Paragraphs (1) and (2) of this subsection shall not take effect unless the report under subparagraph (A) relating to the establishment of the COASTAL Formula concludes that the use of the COASTAL Formula for purposes of paragraph (1) and (2) would not have an adverse financial impact on the national flood insurance program and that the COASTAL Formula is based on valid scientific assumptions that would allow a degree of accuracy of not less than 90 percent to be achieved in allocating flood losses for indeterminate losses.

“(ii) EFFECT OF MODIFICATIONS.—Unless the report under subparagraph (A) relating to a modification of the COASTAL Formula concludes that the use of the COASTAL Formula, as so modified, for purposes of paragraphs (1) and (2) would not have an adverse financial impact on the national flood insurance program and that the COASTAL Formula is based on valid scientific assumptions that would allow a degree of accuracy of not less than 90 percent to be achieved in allocating flood losses for indeterminate losses the Administrator may not use the COASTAL Formula, as so modified, for purposes of paragraphs (1) and (2).

“(C) FUNDING.—Notwithstanding section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), there shall be available to the Administrator from the National Flood Insurance Fund, of amounts not otherwise obligated, not more than \$750,000 to carry out this paragraph.

“(d) DISCLOSURE OF COASTAL FORMULA.—Not later than 30 days after the date on which a post-storm assessment is submitted to the Secretary under section 12312(b)(2)(C) of the Omnibus Public Land Management Act of 2009, for each indeterminate loss for which the COASTAL Formula is used pursuant to subsection (c)(2), the Administrator shall disclose to the policyholder that makes a claim relating to the indeterminate loss—

“(1) that the Administrator used the COASTAL Formula with respect to the indeterminate loss; and

“(2) a summary of the results of the use of the COASTAL Formula.

“(e) CONSULTATION.—In carrying out subsections (b) and (c), the Secretary shall consult with—

“(1) the Under Secretary for Oceans and Atmosphere;

Deadline.

“(2) the Director of the National Institute of Standards and Technology;

“(3) the Chief of Engineers of the Corps of Engineers;

“(4) the Director of the United States Geological Survey;

“(5) the Office of the Federal Coordinator for Meteorology;

“(6) State insurance regulators of coastal States; and

“(7) such public, private, and academic sector entities as the Secretary considers appropriate for purposes of carrying out such subsections.

“(f) RECORDKEEPING.—Each consideration and measure the Administrator determines necessary to carry out subsection (b) may be required, with advanced approval of the Administrator, to be provided for on the National Flood Insurance Program Elevation Certificate, or maintained otherwise on record if approved by the Administrator, for any property that qualifies for the COASTAL Formula under subsection (c).

“(g) CIVIL PENALTY.—

“(1) IN GENERAL.—If an insurance claims adjuster knowingly and willfully makes a false or inaccurate determination relating to an indeterminate loss, the Administrator may, after notice and opportunity for hearing, impose on the insurance claims adjuster a civil penalty of not more than \$1,000.

“(2) DEPOSIT.—Notwithstanding section 3302 of title 31, United States Code, or any other law relating to the crediting of money, the Administrator shall deposit in the National Flood Insurance Fund any amounts received under this subsection, which shall remain available until expended and be available to the Administrator for purposes authorized for the National Flood Insurance Fund without further appropriation.

“(h) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the Administrator to make any payment under the national flood insurance program, or an insurance company to make any payment, for an indeterminate loss based upon post-storm assessment or the COASTAL Formula.

“(i) APPLICABILITY.—Subsection (c) shall apply with respect to an indeterminate loss associated with a named storm that occurs after the date on which the Administrator issues the rule establishing the COASTAL Formula under subsection (b).

“(j) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to negate, set aside, or void any policy limit, including any loss limitation, set forth in a standard insurance policy.”.

## Subtitle C—HEARTH Act Amendment

42 USC 11360  
note.

Definition.

### SEC. 100261. HEARTH ACT TECHNICAL CORRECTIONS.

For purposes of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.)—

(1) the term “local government” includes an instrumentality of a unit of general purpose local government other than a public housing agency that is established pursuant to legislation and designated by the chief executive to act on behalf of the local government with regard to activities funded under such title IV and includes a combination of general purpose local governments, such as an association of governments, that is recognized by the Secretary of Housing and Urban Development;



(2) the term “State” includes any instrumentality of any of the several States designated by the Governor to act on behalf of the State and does not include the District of Columbia; Definition.

(3) for purposes of environmental review, the Secretary of Housing and Urban Development shall continue to permit assistance and projects to be treated as assistance for special projects that are subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547), and subject to the regulations issued by the Secretary of Housing and Urban Development to implement such section; and

(4) a metropolitan city and an urban county that each receive an allocation under such title IV and are located within a geographic area that is covered by a single continuum of care may jointly request the Secretary of Housing and Urban Development to permit the urban county or the metropolitan city, as agreed to by such county and city, to receive and administer their combined allocations under a single grant.

### **TITLE III—STUDENT LOAN INTEREST RATE EXTENSION**

#### **SEC. 100301. FEDERAL DIRECT STAFFORD LOAN INTEREST RATE EXTENSION.**

Section 455(b)(7)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)(7)(D)) is amended—

(1) in the matter preceding clause (i), by striking “and before July 1, 2012,” and inserting “and before July 1, 2013,”; and

(2) in clause (v), by striking “and before July 1, 2012,” and inserting “and before July 1, 2013,”.

#### **SEC. 100302. ELIGIBILITY FOR, AND INTEREST CHARGES ON, FEDERAL DIRECT STAFFORD LOANS FOR NEW BORROWERS ON OR AFTER JULY 1, 2013.**

(a) IN GENERAL.—Section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e) is amended by adding at the end the following:

“(q) ELIGIBILITY FOR, AND INTEREST CHARGES ON, FEDERAL DIRECT STAFFORD LOANS FOR NEW BORROWERS ON OR AFTER JULY 1, 2013.—

“(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of this title, any borrower who was a new borrower on or after July 1, 2013, shall not be eligible for a Federal Direct Stafford Loan if the period of time for which the borrower has received Federal Direct Stafford Loans, in the aggregate, exceeds the period of enrollment described in paragraph (3). Such borrower may still receive any Federal Direct Unsubsidized Stafford Loan for which such borrower is otherwise eligible.

“(2) ACCRUAL OF INTEREST ON FEDERAL DIRECT STAFFORD LOANS.—Notwithstanding subsection (f)(1)(A) or any other provision of this title and beginning on the date upon which a borrower who is enrolled in a program of education or training (including a course of study or program described in paragraph

(3)(B) or (4)(B) of section 484(b)) for which borrowers are otherwise eligible to receive Federal Direct Stafford Loans, becomes ineligible for such loan as a result of paragraph (1), interest on all Federal Direct Stafford Loans that were disbursed to such borrower on or after July 1, 2013, shall accrue. Such interest shall be paid or capitalized in the same manner as interest on a Federal Direct Unsubsidized Stafford Loan is paid or capitalized under section 428H(e)(2).

“(3) PERIOD OF ENROLLMENT.—

“(A) IN GENERAL.—The aggregate period of enrollment referred to in paragraph (1) shall not exceed the lesser of—

“(i) a period equal to 150 percent of the published length of the educational program in which the student is enrolled; or

“(ii) in the case of a borrower who was previously enrolled in one or more other educational programs that began on or after July 1, 2013, and subject to subparagraph (B), a period of time equal to the difference between—

“(I) 150 percent of the published length of the longest educational program in which the borrower was, or is, enrolled; and

“(II) any periods of enrollment in which the borrower received a Federal Direct Stafford Loan.

“(B) REGULATIONS.—The Secretary shall specify in regulation—

“(i) how the aggregate period described in subparagraph (A) shall be calculated with respect to a borrower who was or is enrolled on less than a full-time basis; and

“(ii) how such aggregate period shall be calculated to include a course of study or program described in paragraph (3)(B) or (4)(B) of section 484(b), respectively.”.

20 USC 1089  
note.

(b) INAPPLICABILITY OF TITLE IV NEGOTIATED RULEMAKING REQUIREMENT AND MASTER CALENDAR EXCEPTION.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the amendment made by subsection (a), or to any regulations promulgated under such amendment.

Surface  
Transportation  
Extension Act  
of 2012, Part II.

## DIVISION G—SURFACE TRANSPORTATION EXTENSION

23 USC 101 note.

### SEC. 110001. SHORT TITLE.

This division may be cited as the “Surface Transportation Extension Act of 2012, Part II”.

## TITLE I—FEDERAL-AID HIGHWAYS

### SEC. 111001. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) IN GENERAL.—Section 111 of the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 343; 126 Stat. 272) is amended—

- (1) by striking “the period beginning on October 1, 2011, and ending on June 30, 2012,” each place it appears and inserting “fiscal year 2012”;
  - (2) by striking “¾ of” each place it appears; and
  - (3) in subsection (a) by striking “June 30, 2012” and inserting “September 30, 2012”.
- (b) **USE OF FUNDS.**—Section 111(c) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343; 126 Stat. 272) is amended—
- (1) in paragraph (3)—
    - (A) in subparagraph (A) by striking “, except that during such period” and all that follows before the period at the end; and
    - (B) in subparagraph (B)(ii) by striking “\$479,250,000” and inserting “\$639,000,000”; and
  - (2) by striking paragraph (4).
- (c) **EXTENSION OF AUTHORIZATIONS UNDER TITLE V OF SAFETEA-LU.**—Section 111(e)(2) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 346; 126 Stat. 272) is amended by striking “the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “fiscal year 2012.”.
- (d) **ADMINISTRATIVE EXPENSES.**—Section 112(a) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 346; 126 Stat. 272) is amended by striking “\$294,641,438 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “\$392,855,250 for fiscal year 2012.”.

## **TITLE II—EXTENSION OF HIGHWAY SAFETY PROGRAMS**

### **SEC. 112001. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.**

- (a) **CHAPTER 4 HIGHWAY SAFETY PROGRAMS.**—Section 2001(a)(1) of SAFETEA-LU (119 Stat. 1519) is amended by striking “\$235,000,000 for each of fiscal years 2009 through 2011” and all that follows through the period at the end and inserting “and \$235,000,000 for each of fiscal years 2009 through 2012.”.
- (b) **HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**—Section 2001(a)(2) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$81,183,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “and \$108,244,000 for fiscal year 2012.”.
- (c) **OCCUPANT PROTECTION INCENTIVE GRANTS.**—Section 2001(a)(3) of SAFETEA-LU (119 Stat. 1519) is amended by striking “\$25,000,000 for each of fiscal years 2006 through 2011” and all that follows through the period at the end and inserting “and \$25,000,000 for each of fiscal years 2006 through 2012.”.
- (d) **SAFETY BELT PERFORMANCE GRANTS.**—Section 2001(a)(4) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$36,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “and \$48,500,000 for fiscal year 2012.”.
- (e) **STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.**—Section 2001(a)(5) of SAFETEA-LU (119 Stat. 1519) is amended by striking “for each of fiscal years 2006 through 2011”

and all that follows through the period at the end and inserting “for each of fiscal years 2006 through 2012.”.

(f) **ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.**—Section 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amended by striking “\$139,000,000 for each of fiscal years 2009 through 2011” and all that follows through the period at the end and inserting “and \$139,000,000 for each of fiscal years 2009 through 2012.”.

(g) **NATIONAL DRIVER REGISTER.**—Section 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amended by striking “and \$3,087,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “and \$4,116,000 for fiscal year 2012.”.

(h) **HIGH VISIBILITY ENFORCEMENT PROGRAM.**—Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520) is amended by striking “for each of fiscal years 2006 through 2011” and all that follows through the period at the end and inserting “for each of fiscal years 2006 through 2012.”.

(i) **MOTORCYCLIST SAFETY.**—Section 2001(a)(9) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$7,000,000 for each of fiscal years 2009 through 2011” and all that follows through the period at the end and inserting “and \$7,000,000 for each of fiscal years 2009 through 2012.”.

(j) **CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.**—Section 2001(a)(10) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$7,000,000 for each of fiscal years 2009 through 2011” and all that follows through the period at the end and inserting “and \$7,000,000 for each of fiscal years 2009 through 2012.”.

(k) **ADMINISTRATIVE EXPENSES.**—Section 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is amended by striking “\$25,328,000 for fiscal year 2011” and all that follows through the period at the end and inserting “and \$25,328,000 for each of fiscal years 2011 and 2012.”.

**SEC. 112002. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.**

(a) **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION GRANTS.**—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) \$212,000,000 for fiscal year 2012.”.

(b) **ADMINISTRATIVE EXPENSES.**—

(1) **IN GENERAL.**—Section 31104(i)(1)(H) of title 49, United States Code, is amended to read as follows:

“(H) \$244,144,000 for fiscal year 2012.”.

(2) **TECHNICAL CORRECTION.**—Section 31104(i)(1)(F) of title 49, United States Code, is amended to read as follows:

“(F) \$239,828,000 for fiscal year 2010;”.

(c) **GRANT PROGRAMS.**—Section 4101(c) of SAFETEA–LU (119 Stat. 1715) is amended—

(1) in paragraph (1) by striking “and \$22,500,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “and \$30,000,000 for fiscal year 2012.”;

(2) in paragraph (2) by striking “2011 and \$24,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “2012.”;

(3) in paragraph (3) by striking “2011 and \$3,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “2012.”;

(4) in paragraph (4) by striking “2011 and \$18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “2012.”; and

(5) in paragraph (5) by striking “2011 and \$2,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012.” and inserting “2012.”.

(d) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking “and up to \$21,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”.

(e) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA-LU (119 Stat. 1741) is amended by striking “and 2011 (and \$750,000 to the Federal Motor Carrier Safety Administration, and \$2,250,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2011, and ending on June 30, 2012)” and inserting “2011, and 2012”.

49 USC 31100  
note.

(f) WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.—Section 4213(d) of SAFETEA-LU (49 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking “June 30, 2012” and inserting “September 30, 2012”.

#### **SEC. 112003. ADDITIONAL PROGRAMS.**

Section 7131(c) of SAFETEA-LU (119 Stat. 1910) is amended by striking “and \$870,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$1,160,000 for fiscal year 2012”.

## **TITLE III—PUBLIC TRANSPORTATION PROGRAMS**

#### **SEC. 113001. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.**

Section 5305(g) of title 49, United States Code, is amended by striking “2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012” and inserting “2012”.

#### **SEC. 113002. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.**

Section 5307(b)(2) of title 49, United States Code, is amended—

(1) by striking the paragraph heading and inserting “SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2012.—”;

(2) in subparagraph (A) by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012.”; and

(3) in subparagraph (E)—

(A) by striking the subparagraph heading and inserting “MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2012.—”; and

(B) in the matter preceding clause (i) by striking “2011 and during the period beginning on October 1, 2011, and ending on June 30, 2012” and inserting “2012”.

**SEC. 113003. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.**

Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking the paragraph heading and inserting “FISCAL YEARS 2006 THROUGH 2012.—”;

(B) in the matter preceding subparagraph (A) by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012”; and

(C) in subparagraph (A)(i) by striking “2011 and \$150,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012”;

(2) in paragraph (6)—

(A) in subparagraph (B) by striking “2011 and \$11,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012”; and

(B) in subparagraph (C) by striking “though 2011 and \$3,750,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “through 2012”; and

(3) in paragraph (7)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) in the first sentence by striking “2011 and \$7,500,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012”; and

(II) in the second sentence by inserting “each fiscal year” before the colon;

(ii) in clause (i) by striking “for each fiscal year and \$1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(iii) in clause (ii) by striking “for each fiscal year and \$1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(iv) in clause (iii) by striking “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(v) in clause (iv) by striking “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(vi) in clause (v) by striking “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(vii) in clause (vi) by striking “for each fiscal year and \$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(viii) in clause (vii) by striking “for each fiscal year and \$487,500 for the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(ix) in clause (viii) by striking “for each fiscal year and \$262,500 for the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(B) in subparagraph (B) by striking clause (vii) and inserting the following:

“(vii) \$13,500,000 for fiscal year 2012.”;

(C) in subparagraph (C) by striking “and during the period beginning on October 1, 2011, and ending on June 30, 2012,”;

(D) in subparagraph (D) by striking “and not less than \$26,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,”; and

(E) in subparagraph (E) by striking “and \$2,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,”.

**SEC. 113004. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

Section 5311(c)(1)(G) of title 49, United States Code, is amended to read as follows:

“(G) \$15,000,000 for fiscal year 2012.”.

**SEC. 113005. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.**

Section 5337 of title 49, United States Code, is amended by striking subsection (g).

**SEC. 113006. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.**

Time periods.

(a) **FORMULA AND BUS GRANTS.**—Section 5338(b) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking subparagraph (G) and inserting the following:

“(G) \$8,360,565,000 for fiscal year 2012.”; and

(2) in paragraph (2)—

(A) in subparagraph (A) by striking “\$113,500,000 for each of fiscal years 2009 through 2011, and \$85,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$113,500,000 for each of fiscal years 2009 through 2012”;

(B) in subparagraph (B) by striking “\$4,160,365,000 for each of fiscal years 2009 through 2011, and \$3,120,273,750 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$4,160,365,000 for each of fiscal years 2009 through 2012”;

(C) in subparagraph (C) by striking “\$51,500,000 for each of fiscal years 2009 through 2011, and \$38,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$51,500,000 for each of fiscal years 2009 through 2012”;

(D) in subparagraph (D) by striking “\$1,666,500,000 for each of fiscal years 2009 through 2011, and \$1,249,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$1,666,500,000 for each of fiscal years 2009 through 2012”;

(E) in subparagraph (E) by striking “\$984,000,000 for each of fiscal years 2009 through 2011, and \$738,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$984,000,000 for each of fiscal years 2009 through 2012”;

(F) in subparagraph (F) by striking “\$133,500,000 for each of fiscal years 2009 through 2011, and \$100,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$133,500,000 for each of fiscal years 2009 through 2012”;

(G) in subparagraph (G) by striking “\$465,000,000 for each of fiscal years 2009 through 2011, and \$348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$465,000,000 for each of fiscal years 2009 through 2012”;

(H) in subparagraph (H) by striking “\$164,500,000 for each of fiscal years 2009 through 2011, and \$123,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$164,500,000 for each of fiscal years 2009 through 2012”;

(I) in subparagraph (I) by striking “\$92,500,000 for each of fiscal years 2009 through 2011, and \$69,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$92,500,000 for each of fiscal years 2009 through 2012”;

(J) in subparagraph (J) by striking “\$26,900,000 for each of fiscal years 2009 through 2011, and \$20,175,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$26,900,000 for each of fiscal years 2009 through 2012”;

(K) in subparagraph (K) by striking “for each of fiscal years 2006 through 2011 and \$2,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each of fiscal years 2006 through 2012”;

(L) in subparagraph (L) by striking “for each of fiscal years 2006 through 2011 and \$18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “for each of fiscal years 2006 through 2012”;

(M) in subparagraph (M) by striking “\$465,000,000 for each of fiscal years 2009 through 2011, and \$348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$465,000,000 for each of fiscal years 2009 through 2012”; and

(N) in subparagraph (N) by striking “\$8,800,000 for each of fiscal years 2009 through 2011, and \$6,600,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “and \$8,800,000 for each of fiscal years 2009 through 2012”.

(b) CAPITAL INVESTMENT GRANTS.—Section 5338(c)(7) of title 49, United States Code, is amended to read as follows:

“(7) \$1,955,000,000 for fiscal year 2012.”.

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking “through 2011, and \$33,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “through 2011, and \$44,000,000 for fiscal year 2012,”; and

(2) by striking paragraph (3) and inserting the following:

“(3) ADDITIONAL AUTHORIZATIONS.—

“(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for fiscal year 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph



(1) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

“(B) UNIVERSITY CENTERS PROGRAM.—

“(i) FISCAL YEAR 2012.—Of the amounts allocated under paragraph (1)(C) for the university centers program under section 5506 for fiscal year 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such clause.

“(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year.”.

(d) ADMINISTRATION.—Section 5338(e)(7) of title 49, United States Code, is amended to read as follows:

“(7) \$98,713,000 for fiscal year 2012.”.

**SEC. 113007. AMENDMENTS TO SAFETEA-LU.**

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA-LU (119 Stat. 1572) is amended by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012,”.

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of SAFETEA-LU (49 U.S.C. 5309 note; 119 Stat. 1588) is amended—

(1) in subsection (c)(5) by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012” and inserting “2012”; and

(2) in the second sentence of subsection (d) by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012”.

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of SAFETEA-LU (49 U.S.C. 5310 note; 119 Stat. 1593) is amended by striking “June 30, 2012” and inserting “September 30, 2012”.

(d) OBLIGATION CEILING.—Section 3040(8) of SAFETEA-LU (119 Stat. 1639) is amended to read as follows:

“(8) \$10,458,278,000 for fiscal year 2012, of which not more than \$8,360,565,000 shall be from the Mass Transit Account.”.

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of SAFETEA-LU (119 Stat. 1640) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012”; and

(2) in subsection (c), in the matter preceding paragraph (1), by striking “2011 and the period beginning on October 1, 2011, and ending on June 30, 2012,” and inserting “2012”.

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA–LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended—

(1) in subsection (b) by striking “fiscal year or period” and inserting “fiscal year”; and

(2) by striking subsection (c)(2) and inserting the following: “(2) for fiscal year 2012, in amounts equal to 63 percent of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), and (8) through (25) of subsection (a).”.

## TITLE IV—EFFECTIVE DATE

49 USC 5305  
note.

### SEC. 114001. EFFECTIVE DATE.

This division and the amendments made by this division shall take effect on July 1, 2012.

## DIVISION H—BUDGETARY EFFECTS

### SEC. 120001. BUDGETARY EFFECTS.

(a) PAYGO SCORECARD.—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARD.—The budgetary effects of this Act shall not be recorded on any PAYGO scorecard maintained for purposes of section 201 of S. Con. Res. 21 (110th Congress).

Approved July 6, 2012.

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#### LEGISLATIVE HISTORY—H.R. 4348 (S. 1813):

HOUSE REPORTS: No. 112–557 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Apr. 18, considered and passed House.

Apr. 24, considered and passed Senate, amended, in lieu of S. 1813.

June 29, House and Senate agreed to conference report.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2012):

July 6, Presidential remarks.



Public Law 112–142  
112th Congress

An Act

To amend the Securities Act of 1933 to specify when certain securities issued in connection with church plans are treated as exempted securities for purposes of that Act.

July 9, 2012

[H.R. 33]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Church Plan Investment Clarification Act”.

Church Plan  
Investment  
Clarification Act.  
15 USC 77a note.

**SEC. 2. SECURITIES ACT OF 1933 AMENDMENT.**

Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended—

(1) by inserting “(other than a retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, to the extent that the interest or participation in such single trust fund or collective trust fund is issued to a church, a convention or association of churches, or an organization described in section 414(e)(3)(A) of such Code establishing or maintaining the retirement income account or to a trust established by any such entity in connection with the retirement income account)” after “403(b) of such Code”; and

(2) by inserting “(other than a person participating in a church plan who is described in section 414(e)(3)(B) of the Internal Revenue Code of 1986)” after “section 401(c)(1) of such Code”.

Approved July 9, 2012.

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**LEGISLATIVE HISTORY—H.R. 33:**

HOUSE REPORTS: No. 112–131 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 157 (2011):

July 18, considered and passed House.

July 21, considered and passed Senate.



Public Law 112–143  
112th Congress

An Act

July 9, 2012  
[H.R. 2297]

To promote the development of the Southwest waterfront in the District of Columbia, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROMOTING DEVELOPMENT OF SOUTHWEST WATERFRONT.**

(a) **UPDATED DESCRIPTION OF PROPERTY.**—Section 1 of the Act entitled “An Act to authorize the Commissioners of the District of Columbia on behalf of the United States to transfer from the United States to the District of Columbia Redevelopment Land Agency title to certain real property in said District”, approved September 8, 1960 (sec. 6–321.01, D.C. Official Code), is amended by striking all that follows the colon and inserting the following: “The property located within the bounds of the site the legal description of which is the Southwest Waterfront Project Site (dated October 8, 2009) under Exhibit A of the document titled ‘Intent to Clarify the Legal Description in Furtherance of Land Disposition Agreement’, as filed with the Recorder of Deeds on October 27, 2009 as Instrument Number 2009116776.”.

(b) **CLARIFICATION OF METHOD OF TRANSFER.**—Section 1 of such Act (sec. 6–321.01, D.C. Official Code) is amended by inserting “by one or more quitclaim deeds” immediately after “to transfer”.

(c) **CLARIFICATION OF RELATION TO MASTER DEVELOPMENT PLAN.**—Section 2 of such Act (sec. 6–321.02, D.C. Official Code) is amended—

(1) by striking “an urban renewal plan” and inserting “a master plan”; and

(2) by striking “such urban renewal plan” and inserting “such master plan”.

(d) **EXPANDING PERMITTED DISPOSITIONS AND USES OF CERTAIN PROPERTY.**—Section 4 of such Act (sec. 6–321.04, D.C. Official Code) is amended to read as follows:

“SEC. 4. The Agency is hereby authorized, in accordance with the District of Columbia Redevelopment Act of 1945 and section 1, to lease or sell to a redevelopment company or other lessee or purchaser such real property as may be transferred to the Agency under the authority of this Act.”.

(e) **REPEAL OF REVERSION.**—

(1) **REPEAL.**—Section 5 of such Act (sec. 6–321.05, D.C. Official Code) is repealed.

(2) **CONFORMING AMENDMENT.**—Section 3 of such Act (sec. 6–321.03, D.C. Official Code) is amended by striking “Subject

to the provisions of section 5 of this Act, the” and inserting “The”.

(f) CLARIFICATION OF ROLE OF DISTRICT OF COLUMBIA AS SUCCESSOR IN INTEREST.—Section 8 of such Act (sec. 6-321.08, D.C. Official Code) is amended by striking “the terms” and all that follows and inserting “any reference to the ‘Agency’ shall be deemed to be a reference to the District of Columbia as the successor in interest to the Agency.”.

**SEC. 2. CLARIFICATION OF PERMITTED ACTIVITIES AT MUNICIPAL FISH MARKET.**

The Act entitled “An Act Authorizing the Commissioners of the District of Columbia to make regulations respecting the rights and privileges of the fish wharf”, approved March 19, 1906 (sec. 37-205.01, D.C. Official Code), is amended—

(1) by striking “operate as a municipal fish wharf and market” and inserting “operate as a market and for such other uses as the Mayor determines to be appropriate”;

(2) by striking “, and said wharf shall constitute the sole wharf for the landing of fish and oysters for sale in the District of Columbia”; and

(3) by striking “operation of said municipal fish wharf and market” and inserting “operation of said market”.

**SEC. 3. MAINE LOBSTERMAN MEMORIAL.**

(a) IN GENERAL.—Except as provided in subsection (b), nothing in this Act or any amendment made by this Act authorizes the removal, destruction, or obstruction of the Maine Lobsterman Memorial which is located near Maine Avenue in the District of Columbia as of the date of enactment of this Act.

(b) MOVEMENT OF MEMORIAL.—The Maine Lobsterman Memorial referred to in subsection (a) may be moved from its location as of the date of the enactment of this Act to another location on the Southwest waterfront near Maine Avenue in the District of Columbia if at that location there would be a clear, unimpeded pedestrian pathway and line of sight from the Memorial to the water.

**SEC. 4. PROJECT FOR NAVIGATION, WASHINGTON CHANNEL, DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—The portion of the project for navigation of the Corps of Engineers at Potomac River, Washington Channel, District of Columbia, as authorized by the Act of August 30, 1935 (chapter 831; 49 Stat. 1028), and described in subsection (b), is deauthorized.

(b) DESCRIPTION OF PROJECT.—The deauthorized portion of the project for navigation is as follows: Beginning at Washington Harbor Channel Geometry Centerline of the 400-foot-wide main navigational ship channel, Centerline Station No. 103+73.12, coordinates North 44°48.20, East 130°39.30, as stated and depicted on the Condition Survey Anacostia, Virginia, Washington and Magazine Bar Shoal Channels, Washington, D.C., Sheet 6 of 6, prepared by the United States Army Corps of Engineers, Baltimore district, July 2007; thence departing the aforementioned centerline traveling the following courses and distances: N. 40 degrees 10 minutes 45 seconds E., 200.00 feet to a point, on the outline of said 400-foot-wide channel thence binding on said outline the following 3 courses and distances: S. 49 degrees 49 minutes 15 seconds E.,

1,507.86 feet to a point, thence; S. 29 degrees 44 minutes 42 seconds E., 2,083.17 feet to a point, thence; S. 11 degrees 27 minutes 04 seconds E., 363.00 feet to a point, thence; S. 78 degrees 32 minutes 56 seconds W., 200.00 feet to a point binding on the centerline of the 400-foot-wide main navigational channel at computed Centerline Station No. 65+54.31, coordinates North 438923.9874, East 1306159.9738, thence; continuing with the aforementioned centerline the following courses and distances: N. 11 degrees 27 minutes 04 seconds W., 330.80 feet to a point, Centerline Station No. 68+85.10, thence; N. 29 degrees 44 minutes 42 seconds W., 2,015.56 feet to a point, Centerline Station No. 89+00.67, thence; N. 49 degrees 49 minutes 15 seconds W., 1,472.26 feet to the point of beginning, the area in total containing a computed area of 777,284 square feet or 17.84399 acres of riparian water way.

Approved July 9, 2012.

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LEGISLATIVE HISTORY—H.R. 2297:

SENATE REPORTS: No. 112–154 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 6, considered and passed House.

Vol. 158 (2012): Mar. 29, considered and passed Senate, amended.  
June 26, House concurred in Senate amendment.



Public Law 112–144  
112th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and medical devices, to establish user-fee programs for generic drugs and biosimilars, and for other purposes.

July 9, 2012

[S. 3187]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Food and Drug Administration Safety and Innovation Act”.

Food and Drug  
Administration  
Safety and  
Innovation Act.  
21 USC 301 note.

**SEC. 2. TABLE OF CONTENTS; REFERENCES IN ACT.**

(a) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents; references in Act.

**TITLE I—FEES RELATING TO DRUGS**

- Sec. 101. Short title; finding.
- Sec. 102. Definitions.
- Sec. 103. Authority to assess and use drug fees.
- Sec. 104. Reauthorization; reporting requirements.
- Sec. 105. Sunset dates.
- Sec. 106. Effective date.
- Sec. 107. Savings clause.

**TITLE II—FEES RELATING TO DEVICES**

- Sec. 201. Short title; findings.
- Sec. 202. Definitions.
- Sec. 203. Authority to assess and use device fees.
- Sec. 204. Reauthorization; reporting requirements.
- Sec. 205. Savings clause.
- Sec. 206. Effective date.
- Sec. 207. Sunset clause.
- Sec. 208. Streamlined hiring authority to support activities related to the process for the review of device applications.

**TITLE III—FEES RELATING TO GENERIC DRUGS**

- Sec. 301. Short title.
- Sec. 302. Authority to assess and use human generic drug fees.
- Sec. 303. Reauthorization; reporting requirements.
- Sec. 304. Sunset dates.
- Sec. 305. Effective date.
- Sec. 306. Amendment with respect to misbranding.
- Sec. 307. Streamlined hiring authority to support activities related to human generic drugs.
- Sec. 308. Additional reporting requirements.

**TITLE IV—FEES RELATING TO BIOSIMILAR BIOLOGICAL PRODUCTS**

- Sec. 401. Short title; finding.
- Sec. 402. Fees relating to biosimilar biological products.

- Sec. 403. Reauthorization; reporting requirements.
- Sec. 404. Sunset dates.
- Sec. 405. Effective date.
- Sec. 406. Savings clause.
- Sec. 407. Conforming amendment.
- Sec. 408. Additional reporting requirements.

## TITLE V—PEDIATRIC DRUGS AND DEVICES

- Sec. 501. Permanence.
- Sec. 502. Written requests.
- Sec. 503. Communication with Pediatric Review Committee.
- Sec. 504. Access to data.
- Sec. 505. Ensuring the completion of pediatric studies.
- Sec. 506. Pediatric study plans.
- Sec. 507. Reauthorizations.
- Sec. 508. Report.
- Sec. 509. Technical amendments.
- Sec. 510. Pediatric rare diseases.
- Sec. 511. Staff of Office of Pediatric Therapeutics.

## TITLE VI—MEDICAL DEVICE REGULATORY IMPROVEMENTS

- Sec. 601. Investigational device exemptions.
- Sec. 602. Clarification of least burdensome standard.
- Sec. 603. Agency documentation and review of significant decisions.
- Sec. 604. Device modifications requiring premarket notification prior to marketing.
- Sec. 605. Program to improve the device recall system.
- Sec. 606. Clinical holds on investigational device exemptions.
- Sec. 607. Modification of de novo application process.
- Sec. 608. Reclassification procedures.
- Sec. 609. Harmonization of device premarket review, inspection, and labeling symbols.
- Sec. 610. Participation in international fora.
- Sec. 611. Reauthorization of third-party review.
- Sec. 612. Reauthorization of third-party inspection.
- Sec. 613. Humanitarian device exemptions.
- Sec. 614. Unique device identifier.
- Sec. 615. Sentinel.
- Sec. 616. Postmarket surveillance.
- Sec. 617. Custom devices.
- Sec. 618. Health information technology.
- Sec. 619. Good guidance practices relating to devices.
- Sec. 620. Pediatric device consortia.

## TITLE VII—DRUG SUPPLY CHAIN

- Sec. 701. Registration of domestic drug establishments.
- Sec. 702. Registration of foreign establishments.
- Sec. 703. Identification of drug excipient information with product listing.
- Sec. 704. Electronic system for registration and listing.
- Sec. 705. Risk-based inspection frequency.
- Sec. 706. Records for inspection.
- Sec. 707. Prohibition against delaying, denying, limiting, or refusing inspection.
- Sec. 708. Destruction of adulterated, misbranded, or counterfeit drugs offered for import.
- Sec. 709. Administrative detention.
- Sec. 710. Exchange of information.
- Sec. 711. Enhancing the safety and quality of the drug supply.
- Sec. 712. Recognition of foreign government inspections.
- Sec. 713. Standards for admission of imported drugs.
- Sec. 714. Registration of commercial importers.
- Sec. 715. Notification.
- Sec. 716. Protection against intentional adulteration.
- Sec. 717. Penalties for counterfeiting drugs.
- Sec. 718. Extraterritorial jurisdiction.

## TITLE VIII—GENERATING ANTIBIOTIC INCENTIVES NOW

- Sec. 801. Extension of exclusivity period for drugs.
- Sec. 802. Priority review.
- Sec. 803. Fast track product.
- Sec. 804. Clinical trials.
- Sec. 805. Reassessment of qualified infectious disease product incentives in 5 years.
- Sec. 806. Guidance on pathogen-focused antibacterial drug development.



## TITLE IX—DRUG APPROVAL AND PATIENT ACCESS

- Sec. 901. Enhancement of accelerated patient access to new medical treatments.
- Sec. 902. Breakthrough therapies.
- Sec. 903. Consultation with external experts on rare diseases, targeted therapies, and genetic targeting of treatments.
- Sec. 904. Accessibility of information on prescription drug container labels by visually impaired and blind consumers.
- Sec. 905. Risk-benefit framework.
- Sec. 906. Grants and Contracts for the Development of Orphan Drugs.
- Sec. 907. Reporting of inclusion of demographic subgroups in clinical trials and data analysis in applications for drugs, biologics, and devices.
- Sec. 908. Rare pediatric disease priority review voucher incentive program.

## TITLE X—DRUG SHORTAGES

- Sec. 1001. Discontinuance or interruption in the production of life-saving drugs.
- Sec. 1002. Annual reporting on drug shortages.
- Sec. 1003. Coordination; task force and strategic plan.
- Sec. 1004. Drug shortage list.
- Sec. 1005. Quotas applicable to drugs in shortage.
- Sec. 1006. Attorney General report on drug shortages.
- Sec. 1007. Hospital repackaging of drugs in shortage.
- Sec. 1008. Study on drug shortages.

## TITLE XI—OTHER PROVISIONS

## Subtitle A—Reauthorizations

- Sec. 1101. Reauthorization of provision relating to exclusivity of certain drugs containing single enantiomers.
- Sec. 1102. Reauthorization of the critical path public-private partnerships.

## Subtitle B—Medical Gas Product Regulation

- Sec. 1111. Regulation of medical gases.
- Sec. 1112. Changes to regulations.
- Sec. 1113. Rules of construction.

## Subtitle C—Miscellaneous Provisions

- Sec. 1121. Guidance document regarding product promotion using the Internet.
- Sec. 1122. Combating prescription drug abuse.
- Sec. 1123. Optimizing global clinical trials.
- Sec. 1124. Advancing regulatory science to promote public health innovation.
- Sec. 1125. Information technology.
- Sec. 1126. Nanotechnology.
- Sec. 1127. Online pharmacy report to Congress.
- Sec. 1128. Report on small businesses.
- Sec. 1129. Protections for the commissioned corps of the public health service act.
- Sec. 1130. Compliance date for rule relating to sunscreen drug products for over-the-counter human use.
- Sec. 1131. Strategic integrated management plan.
- Sec. 1132. Assessment and modification of REMS.
- Sec. 1133. Extension of period for first applicant to obtain tentative approval without forfeiting 180-day-exclusivity period.
- Sec. 1134. Deadline for determination on certain petitions.
- Sec. 1135. Final agency action relating to petitions and civil actions.
- Sec. 1136. Electronic submission of applications.
- Sec. 1137. Patient participation in medical product discussions.
- Sec. 1138. Ensuring adequate information regarding pharmaceuticals for all populations, particularly underrepresented subpopulations, including racial subgroups.
- Sec. 1139. Scheduling of hydrocodone.
- Sec. 1140. Study on Drug Labeling by Electronic Means.
- Sec. 1141. Recommendations on interoperability standards.
- Sec. 1142. Conflicts of interest.
- Sec. 1143. Notification of FDA intent to regulate laboratory-developed tests.

## Subtitle D—Synthetic Drugs

- Sec. 1151. Short title.
- Sec. 1152. Addition of synthetic drugs to schedule I of the Controlled Substances Act.
- Sec. 1153. Temporary scheduling to avoid imminent hazards to public safety expansion.

(b) REFERENCES IN ACT.—Except as otherwise specified, amendments made by this Act to a section or other provision of law are amendments to such section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Prescription  
Drug User Fee  
Amendments  
of 2012.  
21 USC 301 note.

21 USC 379g  
note.

## TITLE I—FEES RELATING TO DRUGS

### SEC. 101. SHORT TITLE; FINDING.

(a) SHORT TITLE.—This title may be cited as the “Prescription Drug User Fee Amendments of 2012”.

(b) FINDING.—The Congress finds that the fees authorized by the amendments made in this title will be dedicated toward expediting the drug development process and the process for the review of human drug applications, including postmarket drug safety activities, as set forth in the goals identified for purposes of part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

### SEC. 102. DEFINITIONS.

Section 735(7) (21 U.S.C. 379g) is amended by striking “expenses incurred in connection with” and inserting “expenses in connection with”.

### SEC. 103. AUTHORITY TO ASSESS AND USE DRUG FEES.

Section 736 (21 U.S.C. 379h) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “fiscal year 2008” and inserting “fiscal year 2013”;

(B) in paragraph (1)(A)—

(i) in clause (i), by striking “(c)(5)” and inserting “(c)(4)”; and

(ii) in clause (ii), by striking “(c)(5)” and inserting “(c)(4)”; and

(C) in the matter following clause (ii) in paragraph (2)(A)—

(i) by striking “(c)(5)” and inserting “(c)(4)”; and

(ii) by striking “payable on or before October 1 of each year” and inserting “due on the later of the first business day on or after October 1 of each fiscal year or the first business day after the enactment of an appropriations Act providing for the collection and obligation of fees for such fiscal year under this section”;

(D) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking “subsection (c)(5)” and inserting “subsection (c)(4)”; and

(II) by striking “payable on or before October 1 of each year.” and inserting “due on the later of the first business day on or after October 1 of each fiscal year or the first business day after the enactment of an appropriations Act providing

for the collection and obligation of fees for such fiscal year under this section.”; and

(ii) by amending subparagraph (B) to read as follows:

“(B) EXCEPTION.—A prescription drug product shall not be assessed a fee under subparagraph (A) if such product is—

“(i) identified on the list compiled under section 505(j)(7) with a potency described in terms of per 100 mL;

“(ii) the same product as another product that—  
“(I) was approved under an application filed under section 505(b) or 505(j); and

“(II) is not in the list of discontinued products compiled under section 505(j)(7);

“(iii) the same product as another product that was approved under an abbreviated application filed under section 507 (as in effect on the day before the date of enactment of the Food and Drug Administration Modernization Act of 1997); or

“(iv) the same product as another product that was approved under an abbreviated new drug application pursuant to regulations in effect prior to the implementation of the Drug Price Competition and Patent Term Restoration Act of 1984.”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “fiscal years 2008 through 2012” and inserting “fiscal years 2013 through 2017”;

(ii) in subparagraph (A), by striking “\$392,783,000; and” and inserting “\$693,099,000;”; and

(iii) by striking subparagraph (B) and inserting the following:

“(B) the dollar amount equal to the inflation adjustment for fiscal year 2013 (as determined under paragraph (3)(A)); and

“(C) the dollar amount equal to the workload adjustment for fiscal year 2013 (as determined under paragraph (3)(B)).”; and

(B) by striking paragraphs (3) and (4) and inserting the following:

“(3) FISCAL YEAR 2013 INFLATION AND WORKLOAD ADJUSTMENTS.—For purposes of paragraph (1), the dollar amount of the inflation and workload adjustments for fiscal year 2013 shall be determined as follows:

“(A) INFLATION ADJUSTMENT.—The inflation adjustment for fiscal year 2013 shall be the sum of—

“(i) \$652,709,000 multiplied by the result of an inflation adjustment calculation determined using the methodology described in subsection (c)(1)(B); and

“(ii) \$652,709,000 multiplied by the result of an inflation adjustment calculation determined using the methodology described in subsection (c)(1)(C).

“(B) WORKLOAD ADJUSTMENT.—Subject to subparagraph (C), the workload adjustment for fiscal 2013 shall be—

“(i) \$652,709,000 plus the amount of the inflation adjustment calculated under subparagraph (A); multiplied by

“(ii) the amount (if any) by which a percentage workload adjustment for fiscal year 2013, as determined using the methodology described in subsection (c)(2)(A), would exceed the percentage workload adjustment (as so determined) for fiscal year 2012, if both such adjustment percentages were calculated using the 5-year base period consisting of fiscal years 2003 through 2007.

“(C) LIMITATION.—Under no circumstances shall the adjustment under subparagraph (B) result in fee revenues for fiscal year 2013 that are less than the sum of the amount under paragraph (1)(A) and the amount under paragraph (1)(B).”;

(3) by striking subsection (c) and inserting the following:

“(c) ADJUSTMENTS.—

“(1) INFLATION ADJUSTMENT.—For fiscal year 2014 and subsequent fiscal years, the revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year by the amount equal to the sum of—

“(A) one;

“(B) the average annual percent change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 3 years of the preceding 4 fiscal years, multiplied by the proportion of personnel compensation and benefits costs to total costs of the process for the review of human drug applications (as defined in section 735(6)) for the first 3 years of the preceding 4 fiscal years, and

“(C) the average annual percent change that occurred in the Consumer Price Index for urban consumers (Washington-Baltimore, DC-MD-VA-WV; Not Seasonally Adjusted; All items; Annual Index) for the first 3 years of the preceding 4 years of available data multiplied by the proportion of all costs other than personnel compensation and benefits costs to total costs of the process for the review of human drug applications (as defined in section 735(6)) for the first 3 years of the preceding 4 fiscal years.

The adjustment made each fiscal year under this paragraph shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2013 under this paragraph.

“(2) WORKLOAD ADJUSTMENT.—For fiscal year 2014 and subsequent fiscal years, after the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall be adjusted further for such fiscal year to reflect changes in the workload of the Secretary for the process for the review of human drug applications. With respect to such adjustment:

“(A) The adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of human drug applications (adjusted for

Notice.  
Federal Register,  
publication.

Determination.  
Time period.

changes in review activities, as described in the notice that the Secretary is required to publish in the Federal Register under this subparagraph), efficacy supplements, and manufacturing supplements submitted to the Secretary, and the change in the total number of active commercial investigational new drug applications (adjusted for changes in review activities, as so described) during the most recent 12-month period for which data on such submissions is available. The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

Federal Register,  
publication.

“(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the sum of the amount under subsection (b)(1)(A) and the amount under subsection (b)(1)(B), as adjusted for inflation under paragraph (1).

“(C) The Secretary shall contract with an independent accounting or consulting firm to periodically review the adequacy of the adjustment and publish the results of those reviews. The first review shall be conducted and published by the end of fiscal year 2013 (to examine the performance of the adjustment since fiscal year 2009), and the second review shall be conducted and published by the end of fiscal year 2015 (to examine the continued performance of the adjustment). The reports shall evaluate whether the adjustment reasonably represents actual changes in workload volume and complexity and present options to discontinue, retain, or modify any elements of the adjustment. The reports shall be published for public comment. After review of the reports and receipt of public comments, the Secretary shall, if warranted, adopt appropriate changes to the methodology. If the Secretary adopts changes to the methodology based on the first report, the changes shall be effective for the first fiscal year for which fees are set after the Secretary adopts such changes and each subsequent fiscal year.

Contracts.  
Reviews.  
Deadlines.

Reports.

Publication.  
Public comments.

Effective date.

“(3) FINAL YEAR ADJUSTMENT.—For fiscal year 2017, the Secretary may, in addition to adjustments under this paragraph and paragraphs (1) and (2), further increase the fee revenues and fees established in subsection (b) if such an adjustment is necessary to provide for not more than 3 months of operating reserves of carryover user fees for the process for the review of human drug applications for the first 3 months of fiscal year 2018. If such an adjustment is necessary, the rationale for the amount of the increase shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2017. If the Secretary has carryover balances for such process in excess of 3 months of such operating reserves, the adjustment under this paragraph shall not be made.

“(4) ANNUAL FEE SETTING.—The Secretary shall, not later than 60 days before the start of each fiscal year that begins after September 30, 2012, establish, for the next fiscal year, application, product, and establishment fees under subsection (a), based on the revenue amounts established under subsection (b) and the adjustments provided under this subsection.

Deadline.

“(5) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the

total costs for such fiscal year for the resources allocated for the process for the review of human drug applications.”; and (4) in subsection (g)—

(A) in paragraph (1), by striking “Fees authorized” and inserting “Subject to paragraph (2)(C), fees authorized”;

(B) in paragraph (2)—

(i) in subparagraph (A)(i), by striking “shall be retained” and inserting “subject to subparagraph (C), shall be collected and available”;

(ii) in subparagraph (A)(ii), by striking “shall only be collected and available” and inserting “shall be available”; and

(iii) by adding at the end the following new subparagraph:

“(C) PROVISION FOR EARLY PAYMENTS.—Payment of fees authorized under this section for a fiscal year, prior to the due date for such fees, may be accepted by the Secretary in accordance with authority provided in advance in a prior year appropriations Act.”;

(C) in paragraph (3), by striking “fiscal years 2008 through 2012” and inserting “fiscal years 2013 through 2017”; and

(D) in paragraph (4)—

(i) by striking “fiscal years 2008 through 2010” and inserting “fiscal years 2013 through 2015”;

(ii) by striking “fiscal year 2011” and inserting “fiscal year 2016”;

(iii) by striking “fiscal years 2008 through 2011” and inserting “fiscal years 2013 through 2016”; and

(iv) by striking “fiscal year 2012” and inserting “fiscal year 2017”.

#### **SEC. 104. REAUTHORIZATION; REPORTING REQUIREMENTS.**

Section 736B (21 U.S.C. 379h-2) is amended—

(1) by amending subsection (a) to read as follows:

“(a) PERFORMANCE REPORT.—

Effective date.

“(1) IN GENERAL.—Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning—

“(A) the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(b) of the Prescription Drug User Fee Amendments of 2012 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals, including the status of the independent assessment described in such letters; and

“(B) the progress of the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research in achieving the goals, and future plans for meeting the goals, including, for each review division—

“(i) the number of original standard new drug applications and biologics license applications filed per fiscal year for each review division;

“(ii) the number of original priority new drug applications and biologics license applications filed per fiscal year for each review division;

“(iii) the number of standard efficacy supplements filed per fiscal year for each review division;

“(iv) the number of priority efficacy supplements filed per fiscal year for each review division;

“(v) the number of applications filed for review under accelerated approval per fiscal year for each review division;

“(vi) the number of applications filed for review as fast track products per fiscal year for each review division;

“(vii) the number of applications filed for orphan-designated products per fiscal year for each review division; and

“(viii) the number of breakthrough designations for a fiscal year for each review division.

“(2) INCLUSION.—The report under this subsection for a fiscal year shall include information on all previous cohorts for which the Secretary has not given a complete response on all human drug applications and supplements in the cohort.”.

(2) in subsection (b), by striking “2008” and inserting “2013”; and

(3) in subsection (d), by striking “2012” each place it appears and inserting “2017”.

#### SEC. 105. SUNSET DATES.

(a) AUTHORIZATION.—Sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g; 379h) shall cease to be effective October 1, 2017. 21 USC 379g note.

(b) REPORTING REQUIREMENTS.—Section 736B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h–2) shall cease to be effective January 31, 2018. 21 USC 379g–2 note.

(c) PREVIOUS SUNSET PROVISION.—

(1) IN GENERAL.—Section 106 of the Food and Drug Administration Amendments Act of 2007 (Public Law 110–85) is repealed.

(2) CONFORMING AMENDMENT.—The Food and Drug Administration Amendments Act of 2007 (Public Law 110–85) is amended in the table of contents in section 2, by striking the item relating to section 106. 21 USC 379g note, 379h–2 note.

(d) TECHNICAL CLARIFICATIONS.—

(1) Effective September 30, 2007—

(A) section 509 of the Prescription Drug User Fee Amendments Act of 2002 (Title V of Public Law 107–188) is repealed; and

(B) the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188) is amended in the table of contents in section 1(b), by striking the item relating to section 509.

(2) Effective September 30, 2002—

(A) section 107 of the Food and Drug Administration Modernization Act of 1997 (Public Law 105–115) is repealed; and

(B) the table of contents in section 1(c) of such Act is amended by striking the item related to section 107. 21 USC 379g notes.

Repeals.

(3) Effective September 30, 1997, section 105 of the Prescription Drug User Fee Act of 1992 (Public Law 102–571) is repealed.

21 USC 379g  
notes.  
21 USC 379g  
note.

**SEC. 106. EFFECTIVE DATE.**

The amendments made by this title shall take effect on October 1, 2012, or the date of the enactment of this Act, whichever is later, except that fees under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act shall be assessed for all human drug applications received on or after October 1, 2012, regardless of the date of the enactment of this Act.

21 USC 379g  
note.  
Continuation.  
Time period.

**SEC. 107. SAVINGS CLAUSE.**

Notwithstanding the amendments made by this title, part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this title, shall continue to be in effect with respect to human drug applications and supplements (as defined in such part as of such day) that on or after October 1, 2007, but before October 1, 2012, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2012.

Medical Device  
User Fee  
Amendments of  
2012.

## TITLE II—FEES RELATING TO DEVICES

**SEC. 201. SHORT TITLE; FINDINGS.**

(a) **SHORT TITLE.**—This title may be cited as the “Medical Device User Fee Amendments of 2012”.

(b) **FINDINGS.**—The Congress finds that the fees authorized under the amendments made by this title will be dedicated toward expediting the process for the review of device applications and for assuring the safety and effectiveness of devices, as set forth in the goals identified for purposes of part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

**SEC. 202. DEFINITIONS.**

Section 737 (21 U.S.C. 379i) is amended—

(1) in paragraph (9), by striking “incurred” after “expenses”;

(2) in paragraph (10), by striking “October 2001” and inserting “October 2011”; and

(3) in paragraph (13), by striking “is required to register” and all that follows through the end of paragraph (13) and inserting the following: “is registered (or is required to register) with the Secretary under section 510 because such establishment is engaged in the manufacture, preparation, propagation, compounding, or processing of a device.”.

**SEC. 203. AUTHORITY TO ASSESS AND USE DEVICE FEES.**

(a) **TYPES OF FEES.**—Section 738(a) (21 U.S.C. 379j(a)) is amended—

(1) in paragraph (1), by striking “fiscal year 2008” and inserting “fiscal year 2013”;

21 USC 301 note.

21 USC 379i  
note.



(2) in paragraph (2)(A)—

(A) in the matter preceding clause (i)—

(i) by striking “subsections (d) and (e)” and inserting “subsections (d), (e), and (f)”;

(ii) by striking “October 1, 2002” and inserting “October 1, 2012”; and

(iii) by striking “subsection (c)(1)” and inserting “subsection (c)”; and

(B) in clause (viii), by striking “1.84” and inserting “2”; and

(3) in paragraph (3)—

(A) in subparagraph (A), by inserting “and subsection (f)” after “subparagraph (B)”; and

(B) in subparagraph (C), by striking “initial registration” and all that follows through “section 510.” and inserting “later of—

“(i) the initial or annual registration (as applicable) of the establishment under section 510; or

“(ii) the first business day after the date of enactment of an appropriations Act providing for the collection and obligation of fees for such year under this section.”.

(b) FEE AMOUNTS.—Section 738(b) (21 U.S.C. 379j(b)) is amended to read as follows:

“(b) FEE AMOUNTS.—

“(1) IN GENERAL.—Subject to subsections (c), (d), (e), (f), and (i), for each of fiscal years 2013 through 2017, fees under subsection (a) shall be derived from the base fee amounts specified in paragraph (2), to generate the total revenue amounts specified in paragraph (3).

“(2) BASE FEE AMOUNTS SPECIFIED.—For purposes of paragraph (1), the base fee amounts specified in this paragraph are as follows:

“Fee Type	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016	Fiscal Year 2017
Premarket Application ....	\$248,000	\$252,960	\$258,019	\$263,180	\$268,443
Establishment Registra- tion .....	\$2,575	\$3,200	\$3,750	\$3,872	\$3,872

“(3) TOTAL REVENUE AMOUNTS SPECIFIED.—For purposes of paragraph (1), the total revenue amounts specified in this paragraph are as follows:

“(A) \$97,722,301 for fiscal year 2013.

“(B) \$112,580,497 for fiscal year 2014.

“(C) \$125,767,107 for fiscal year 2015.

“(D) \$129,339,949 for fiscal year 2016.

“(E) \$130,184,348 for fiscal year 2017.”.

(c) ANNUAL FEE SETTING; ADJUSTMENTS.—Section 738(c) (21 U.S.C. 379j(c)) is amended—

(1) in the subsection heading, by inserting “; ADJUSTMENTS” after “SETTING”;

(2) by striking paragraphs (1) and (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

Time period.  
Federal Register,  
publication.

(4) by inserting before paragraph (4), as so redesignated, the following:

“(1) IN GENERAL.—The Secretary shall, 60 days before the start of each fiscal year after September 30, 2012, establish fees under subsection (a), based on amounts specified under subsection (b) and the adjustments provided under this subsection, and publish such fees, and the rationale for any adjustments to such fees, in the Federal Register.

“(2) INFLATION ADJUSTMENTS.—

“(A) ADJUSTMENT TO TOTAL REVENUE AMOUNTS.—For fiscal year 2014 and each subsequent fiscal year, the Secretary shall adjust the total revenue amount specified in subsection (b)(3) for such fiscal year by multiplying such amount by the applicable inflation adjustment under subparagraph (B) for such year.

“(B) APPLICABLE INFLATION ADJUSTMENT TO TOTAL REVENUE AMOUNTS.—The applicable inflation adjustment for a fiscal year is—

“(i) for fiscal year 2014, the base inflation adjustment under subparagraph (C) for such fiscal year; and

“(ii) for fiscal year 2015 and each subsequent fiscal year, the product of—

“(I) the base inflation adjustment under subparagraph (C) for such fiscal year; and

“(II) the product of the base inflation adjustment under subparagraph (C) for each of the fiscal years preceding such fiscal year, beginning with fiscal year 2014.

“(C) BASE INFLATION ADJUSTMENT TO TOTAL REVENUE AMOUNTS.—

“(i) IN GENERAL.—Subject to further adjustment under clause (ii), the base inflation adjustment for a fiscal year is the sum of one plus—

“(I) the average annual percent change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 3 years of the preceding 4 fiscal years, multiplied by 0.60; and

“(II) the average annual percent change that occurred in the Consumer Price Index for urban consumers (Washington-Baltimore, DC–MD–VA–WV; Not Seasonally Adjusted; All items; Annual Index) for the first 3 years of the preceding 4 years of available data multiplied by 0.40.

“(ii) LIMITATIONS.—For purposes of subparagraph (B), if the base inflation adjustment for a fiscal year under clause (i)—

“(I) is less than 1, such adjustment shall be considered to be equal to 1; or

“(II) is greater than 1.04, such adjustment shall be considered to be equal to 1.04.

“(D) ADJUSTMENT TO BASE FEE AMOUNTS.—For each of fiscal years 2014 through 2017, the base fee amounts specified in subsection (b)(2) shall be adjusted as needed, on a uniform proportionate basis, to generate the total

revenue amounts under subsection (b)(3), as adjusted for inflation under subparagraph (A).

“(3) VOLUME-BASED ADJUSTMENTS TO ESTABLISHMENT REGISTRATION BASE FEES.—For each of fiscal years 2014 through 2017, after the base fee amounts specified in subsection (b)(2) are adjusted under paragraph (2)(D), the base establishment registration fee amounts specified in such subsection shall be further adjusted, as the Secretary estimates is necessary in order for total fee collections for such fiscal year to generate the total revenue amounts, as adjusted under paragraph (2).”.

(d) FEE WAIVER OR REDUCTION.—Section 738 (21 U.S.C. 379j) is amended by—

(1) redesignating subsections (f) through (k) as subsections (g) through (l), respectively; and

(2) by inserting after subsection (e) the following new subsection:

“(f) FEE WAIVER OR REDUCTION.—

“(1) IN GENERAL.—The Secretary may, at the Secretary’s sole discretion, grant a waiver or reduction of fees under subsection (a)(2) or (a)(3) if the Secretary finds that such waiver or reduction is in the interest of public health.

“(2) LIMITATION.—The sum of all fee waivers or reductions granted by the Secretary in any fiscal year under paragraph (1) shall not exceed 2 percent of the total fee revenue amounts established for such year under subsection (c).

“(3) DURATION.—The authority provided by this subsection terminates October 1, 2017.”.

(e) CONDITIONS.—Section 738(h)(1)(A) (21 U.S.C. 379j(h)(1)(A)), as redesignated by subsection (d)(1), is amended by striking “\$205,720,000” and inserting “\$280,587,000”.

(f) CREDITING AND AVAILABILITY OF FEES.—Section 738(i) (21 U.S.C. 379j(i)), as redesignated by subsection (d)(1), is amended—

(1) in paragraph (1), by striking “Fees authorized” and inserting “Subject to paragraph (2)(C), fees authorized”;

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (i), by striking “shall be retained” and inserting “subject to subparagraph (C), shall be collected and available”; and

(ii) in clause (ii)—

(I) by striking “collected and” after “shall only be”; and

(II) by striking “fiscal year 2002” and inserting “fiscal year 2009”; and

(B) by adding at the end, the following:

“(C) PROVISION FOR EARLY PAYMENTS.—Payment of fees authorized under this section for a fiscal year, prior to the due date for such fees, may be accepted by the Secretary in accordance with authority provided in advance in a prior year appropriations Act.”;

(3) by amending paragraph (3) to read as follows:

“(3) AUTHORIZATIONS OF APPROPRIATIONS.—For each of the fiscal years 2013 through 2017, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount specified under subsection (b)(3) for the fiscal year, as adjusted under subsection (c) and, for fiscal

year 2017 only, as further adjusted under paragraph (4).”; and

(4) in paragraph (4)—

(A) by striking “fiscal years 2008, 2009, and 2010” and inserting “fiscal years 2013, 2014, and 2015”;

(B) by striking “fiscal year 2011” and inserting “fiscal year 2016”;

(C) by striking “June 30, 2011” and inserting “June 30, 2016”;

(D) by striking “the amount of fees specified in aggregate in” and inserting “the cumulative amount appropriated pursuant to”;

(E) by striking “aggregate amount in” before “excess shall be credited”; and

(F) by striking “fiscal year 2012” and inserting “fiscal year 2017”.

(g) CONFORMING AMENDMENT.—Section 515(c)(4)(A) (21 U.S.C. 360e(c)(4)(A)) is amended by striking “738(g)” and inserting “738(h)”.

#### **SEC. 204. REAUTHORIZATION; REPORTING REQUIREMENTS.**

(a) REAUTHORIZATION.—Section 738A(b) (21 U.S.C. 379j–1(b)) is amended—

(1) in paragraph (1), by striking “2012” and inserting “2017”; and

(2) in paragraph (5), by striking “2012” and inserting “2017”.

(b) PERFORMANCE REPORTS.—Section 738A(a) (21 U.S.C. 379j–1(a)) is amended—

(1) by striking paragraph (1) and inserting the following:  
“(1) PERFORMANCE REPORT.—

“(A) IN GENERAL.—Beginning with fiscal year 2013, for each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives annual reports concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 201(b) of the Medical Device User Fee Amendments of 2012 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

“(B) PUBLICATION.—With regard to information to be reported by the Food and Drug Administration to industry on a quarterly and annual basis pursuant to the letters described in section 201(b) of the Medical Device User Fee Amendments Act of 2012, the Secretary shall make such information publicly available on the Internet Web site of the Food and Drug Administration not later than 60 days after the end of each quarter or 120 days after the end of each fiscal year, respectively, to which such information applies. This information shall include the status of the independent assessment identified in the letters described in such section 201(b).

“(C) UPDATES.—The Secretary shall include in each report under subparagraph (A) information on all previous cohorts for which the Secretary has not given a complete response on all device premarket applications and reports,

Effective date.

Public  
information.  
Web site.  
Deadlines.

supplements, and premarket notifications in the cohort.”;  
and  
(2) in paragraph (2), by striking “2008 through 2012” and  
inserting “2013 through 2017”.

**SEC. 205. SAVINGS CLAUSE.**

Notwithstanding the amendments made by this title, part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i et seq.), as in effect on the day before the date of the enactment of this title, shall continue to be in effect with respect to the submissions listed in section 738(a)(2)(A) of such Act (in effect as of such day) that on or after October 1, 2007, but before October 1, 2012, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2013.

21 USC 379i  
note.  
Continuation.  
Time period.

**SEC. 206. EFFECTIVE DATE.**

The amendments made by this title shall take effect on October 1, 2012, or the date of the enactment of this Act, whichever is later, except that fees under part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act shall be assessed for all submissions listed in section 738(a)(2)(A) of such Act received on or after October 1, 2012, regardless of the date of the enactment of this Act.

21 USC 379i  
note.

**SEC. 207. SUNSET CLAUSE.**

(a) **IN GENERAL.**—Sections 737 and 738 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 739i; 739j) shall cease to be effective October 1, 2017. Section 738A (21 U.S.C. 739j–1) of the Federal Food, Drug, and Cosmetic Act (regarding reauthorization and reporting requirements) shall cease to be effective January 31, 2018.

21 USC 379i  
note.

(b) **PREVIOUS SUNSET PROVISION.**—

(1) **IN GENERAL.**—Section 217 of the Food and Drug Administration Amendments Act of 2007 (Title II of Public Law 110–85) is repealed.

Repeal.

(2) **CONFORMING AMENDMENT.**—The Food and Drug Administration Amendments Act of 2007 (Public Law 110–85) is amended in the table of contents in section 2, by striking the item relating to section 217.

21 USC 379i  
note.

121 Stat. 823.

(c) **TECHNICAL CLARIFICATION.**—Effective September 30, 2007—

Repeal.

(1) section 107 of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250) is repealed; and

(2) the table of contents in section 1(b) of such Act is amended by striking the item related to section 107.

21 USC 379i  
notes.

**SEC. 208. STREAMLINED HIRING AUTHORITY TO SUPPORT ACTIVITIES  
RELATED TO THE PROCESS FOR THE REVIEW OF DEVICE  
APPLICATIONS.**

Subchapter A of chapter VII (21 U.S.C. 371 et seq.) is amended by inserting after section 713 the following new section:

**“SEC. 714. STREAMLINED HIRING AUTHORITY.**

21 USC 379d–3.

“(a) **IN GENERAL.**—In addition to any other personnel authorities under other provisions of law, the Secretary may, without regard to the provisions of title 5, United States Code, governing

appointments in the competitive service, appoint employees to positions in the Food and Drug Administration to perform, administer, or support activities described in subsection (b), if the Secretary determines that such appointments are needed to achieve the objectives specified in subsection (c).

“(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are activities under this Act related to the process for the review of device applications (as defined in section 737(8)).

“(c) OBJECTIVES SPECIFIED.—The objectives specified in this subsection are with respect to the activities under subsection (b), the goals referred to in section 738A(a)(1).

“(d) INTERNAL CONTROLS.—The Secretary shall institute appropriate internal controls for appointments under this section.

“(e) SUNSET.—The authority to appoint employees under this section shall terminate on the date that is 3 years after the date of enactment of this section.”.

Generic Drug  
User Fee  
Amendments of  
2012.

## TITLE III—FEES RELATING TO GENERIC DRUGS

### SEC. 301. SHORT TITLE.

21 USC 301 note.

(a) SHORT TITLE.—This title may be cited as the “Generic Drug User Fee Amendments of 2012”.

21 USC 379j–41  
note.

(b) FINDING.—The Congress finds that the fees authorized by the amendments made in this title will be dedicated to human generic drug activities, as set forth in the goals identified for purposes of part 7 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

### SEC. 302. AUTHORITY TO ASSESS AND USE HUMAN GENERIC DRUG FEES.

Subchapter C of chapter VII (21 U.S.C. 379f et seq.) is amended by adding at the end the following:

## “PART 7—FEES RELATING TO GENERIC DRUGS

21 USC 379j–41.

### “SEC. 744A. DEFINITIONS.

“For purposes of this part:

“(1) The term ‘abbreviated new drug application’—

“(A) means an application submitted under section 505(j), an abbreviated application submitted under section 507 (as in effect on the day before the date of enactment of the Food and Drug Administration Modernization Act of 1997), or an abbreviated new drug application submitted pursuant to regulations in effect prior to the implementation of the Drug Price Competition and Patent Term Restoration Act of 1984; and

“(B) does not include an application for a positron emission tomography drug.

“(2) The term ‘active pharmaceutical ingredient’ means—

“(A) a substance, or a mixture when the substance is unstable or cannot be transported on its own, intended—

“(i) to be used as a component of a drug; and

“(ii) to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the human body; or

“(B) a substance intended for final crystallization, purification, or salt formation, or any combination of those activities, to become a substance or mixture described in subparagraph (A).

“(3) The term ‘adjustment factor’ means a factor applicable to a fiscal year that is the Consumer Price Index for all urban consumers (all items; United States city average) for October of the preceding fiscal year divided by such Index for October 2011.

“(4) The term ‘affiliate’ means a business entity that has a relationship with a second business entity if, directly or indirectly—

“(A) one business entity controls, or has the power to control, the other business entity; or

“(B) a third party controls, or has power to control, both of the business entities.

“(5)(A) The term ‘facility’—

“(i) means a business or other entity—

“(I) under one management, either direct or indirect; and

“(II) at one geographic location or address engaged in manufacturing or processing an active pharmaceutical ingredient or a finished dosage form; and

“(ii) does not include a business or other entity whose only manufacturing or processing activities are one or more of the following: repackaging, relabeling, or testing.

“(B) For purposes of subparagraph (A), separate buildings within close proximity are considered to be at one geographic location or address if the activities in them are—

“(i) closely related to the same business enterprise;

“(ii) under the supervision of the same local management; and

“(iii) capable of being inspected by the Food and Drug Administration during a single inspection.

“(C) If a business or other entity would meet the definition of a facility under this paragraph but for being under multiple management, the business or other entity is deemed to constitute multiple facilities, one per management entity, for purposes of this paragraph.

“(6) The term ‘finished dosage form’ means—

“(A) a drug product in the form in which it will be administered to a patient, such as a tablet, capsule, solution, or topical application;

“(B) a drug product in a form in which reconstitution is necessary prior to administration to a patient, such as oral suspensions or lyophilized powders; or

“(C) any combination of an active pharmaceutical ingredient with another component of a drug product for purposes of production of a drug product described in subparagraph (A) or (B).

“(7) The term ‘generic drug submission’ means an abbreviated new drug application, an amendment to an abbreviated

new drug application, or a prior approval supplement to an abbreviated new drug application.

“(8) The term ‘human generic drug activities’ means the following activities of the Secretary associated with generic drugs and inspection of facilities associated with generic drugs:

“(A) The activities necessary for the review of generic drug submissions, including review of drug master files referenced in such submissions.

“(B) The issuance of—

“(i) approval letters which approve abbreviated new drug applications or supplements to such applications; or

“(ii) complete response letters which set forth in detail the specific deficiencies in such applications and, where appropriate, the actions necessary to place such applications in condition for approval.

“(C) The issuance of letters related to Type II active pharmaceutical drug master files which—

“(i) set forth in detail the specific deficiencies in such submissions, and where appropriate, the actions necessary to resolve those deficiencies; or

“(ii) document that no deficiencies need to be addressed.

“(D) Inspections related to generic drugs.

“(E) Monitoring of research conducted in connection with the review of generic drug submissions and drug master files.

“(F) Postmarket safety activities with respect to drugs approved under abbreviated new drug applications or supplements, including the following activities:

“(i) Collecting, developing, and reviewing safety information on approved drugs, including adverse event reports.

“(ii) Developing and using improved adverse-event data-collection systems, including information technology systems.

“(iii) Developing and using improved analytical tools to assess potential safety problems, including access to external data bases.

“(iv) Implementing and enforcing section 505(o) (relating to postapproval studies and clinical trials and labeling changes) and section 505(p) (relating to risk evaluation and mitigation strategies) insofar as those activities relate to abbreviated new drug applications.

“(v) Carrying out section 505(k)(5) (relating to adverse-event reports and postmarket safety activities).

“(G) Regulatory science activities related to generic drugs.

“(9) The term ‘positron emission tomography drug’ has the meaning given to the term ‘compounded positron emission tomography drug’ in section 201(ii), except that paragraph (1)(B) of such section shall not apply.

“(10) The term ‘prior approval supplement’ means a request to the Secretary to approve a change in the drug substance, drug product, production process, quality controls, equipment, or facilities covered by an approved abbreviated new drug application when that change has a substantial potential to



have an adverse effect on the identity, strength, quality, purity, or potency of the drug product as these factors may relate to the safety or effectiveness of the drug product.

“(11) The term ‘resources allocated for human generic drug activities’ means the expenses for—

“(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers and employees and to contracts with such contractors;

“(B) management of information, and the acquisition, maintenance, and repair of computer resources;

“(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies; and

“(D) collecting fees under subsection (a) and accounting for resources allocated for the review of abbreviated new drug applications and supplements and inspection related to generic drugs.

“(12) The term ‘Type II active pharmaceutical ingredient drug master file’ means a submission of information to the Secretary by a person that intends to authorize the Food and Drug Administration to reference the information to support approval of a generic drug submission without the submitter having to disclose the information to the generic drug submission applicant.

**“SEC. 744B. AUTHORITY TO ASSESS AND USE HUMAN GENERIC DRUG FEES.**

21 USC 379j–42.

“(a) TYPES OF FEES.—Beginning in fiscal year 2013, the Secretary shall assess and collect fees in accordance with this section as follows:

Effective date.

“(1) ONE-TIME BACKLOG FEE FOR ABBREVIATED NEW DRUG APPLICATIONS PENDING ON OCTOBER 1, 2012.—

“(A) IN GENERAL.—Each person that owns an abbreviated new drug application that is pending on October 1, 2012, and that has not received a tentative approval prior to that date, shall be subject to a fee for each such application, as calculated under subparagraph (B).

“(B) METHOD OF FEE AMOUNT CALCULATION.—The amount of each one-time backlog fee shall be calculated by dividing \$50,000,000 by the total number of abbreviated new drug applications pending on October 1, 2012, that have not received a tentative approval as of that date.

“(C) NOTICE.—Not later than October 31, 2012, the Secretary shall publish in the Federal Register a notice announcing the amount of the fee required by subparagraph (A).

Deadline.  
Federal Register,  
publication.

“(D) FEE DUE DATE.—The fee required by subparagraph (A) shall be due no later than 30 calendar days after the date of the publication of the notice specified in subparagraph (C).

“(2) DRUG MASTER FILE FEE.—

“(A) IN GENERAL.—Each person that owns a Type II active pharmaceutical ingredient drug master file that is referenced on or after October 1, 2012, in a generic drug

submission by any initial letter of authorization shall be subject to a drug master file fee.

“(B) ONE-TIME PAYMENT.—If a person has paid a drug master file fee for a Type II active pharmaceutical ingredient drug master file, the person shall not be required to pay a subsequent drug master file fee when that Type II active pharmaceutical ingredient drug master file is subsequently referenced in generic drug submissions.

“(C) NOTICE.—

“(i) FISCAL YEAR 2013.—Not later than October 31, 2012, the Secretary shall publish in the Federal Register a notice announcing the amount of the drug master file fee for fiscal year 2013.

“(ii) FISCAL YEAR 2014 THROUGH 2017.—Not later than 60 days before the start of each of fiscal years 2014 through 2017, the Secretary shall publish in the Federal Register the amount of the drug master file fee established by this paragraph for such fiscal year.

“(D) AVAILABILITY FOR REFERENCE.—

“(i) IN GENERAL.—Subject to subsection (g)(2)(C), for a generic drug submission to reference a Type II active pharmaceutical ingredient drug master file, the drug master file must be deemed available for reference by the Secretary.

“(ii) CONDITIONS.—A drug master file shall be deemed available for reference by the Secretary if—

“(I) the person that owns a Type II active pharmaceutical ingredient drug master file has paid the fee required under subparagraph (A) within 20 calendar days after the applicable due date under subparagraph (E); and

“(II) the drug master file has not failed an initial completeness assessment by the Secretary, in accordance with criteria to be published by the Secretary.

“(iii) LIST.—The Secretary shall make publicly available on the Internet Web site of the Food and Drug Administration a list of the drug master file numbers that correspond to drug master files that have successfully undergone an initial completeness assessment, in accordance with criteria to be published by the Secretary, and are available for reference.

“(E) FEE DUE DATE.—

“(i) IN GENERAL.—Subject to clause (ii), a drug master file fee shall be due no later than the date on which the first generic drug submission is submitted that references the associated Type II active pharmaceutical ingredient drug master file.

“(ii) LIMITATION.—No fee shall be due under subparagraph (A) for a fiscal year until the later of—

“(I) 30 calendar days after publication of the notice provided for in clause (i) or (ii) of subparagraph (C), as applicable; or

“(II) 30 calendar days after the date of enactment of an appropriations Act providing for the collection and obligation of fees under this section.

Deadlines.  
Federal Register,  
publication.

Deadline.  
Criteria.  
Publication.

Public  
information.  
Web site.  
Criteria.  
Publication.

“(3) ABBREVIATED NEW DRUG APPLICATION AND PRIOR APPROVAL SUPPLEMENT FILING FEE.—

“(A) IN GENERAL.—Each applicant that submits, on or after October 1, 2012, an abbreviated new drug application or a prior approval supplement to an abbreviated new drug application shall be subject to a fee for each such submission in the amount established under subsection (d).

“(B) NOTICE.—

“(i) FISCAL YEAR 2013.—Not later than October 31, 2012, the Secretary shall publish in the Federal Register a notice announcing the amount of the fees under subparagraph (A) for fiscal year 2013.

“(ii) FISCAL YEARS 2014 THROUGH 2017.—Not later than 60 days before the start of each of fiscal years 2014 through 2017, the Secretary shall publish in the Federal Register the amount of the fees under subparagraph (A) for such fiscal year.

“(C) FEE DUE DATE.—

“(i) IN GENERAL.—Except as provided in clause (ii), the fees required by subparagraphs (A) and (F) shall be due no later than the date of submission of the abbreviated new drug application or prior approval supplement for which such fee applies.

“(ii) SPECIAL RULE FOR 2013.—For fiscal year 2013, such fees shall be due on the later of—

“(I) the date on which the fee is due under clause (i);

“(II) 30 calendar days after publication of the notice referred to in subparagraph (B)(i); or

“(III) if an appropriations Act is not enacted providing for the collection and obligation of fees under this section by the date of submission of the application or prior approval supplement for which the fees under subparagraphs (A) and (F) apply, 30 calendar days after the date that such an appropriations Act is enacted.

“(D) REFUND OF FEE IF ABBREVIATED NEW DRUG APPLICATION IS NOT CONSIDERED TO HAVE BEEN RECEIVED.—The Secretary shall refund 75 percent of the fee paid under subparagraph (A) for any abbreviated new drug application or prior approval supplement to an abbreviated new drug application that the Secretary considers not to have been received within the meaning of section 505(j)(5)(A) for a cause other than failure to pay fees.

“(E) FEE FOR AN APPLICATION THE SECRETARY CONSIDERS NOT TO HAVE BEEN RECEIVED, OR THAT HAS BEEN WITHDRAWN.—An abbreviated new drug application or prior approval supplement that was submitted on or after October 1, 2012, and that the Secretary considers not to have been received, or that has been withdrawn, shall, upon resubmission of the application or a subsequent new submission following the applicant’s withdrawal of the application, be subject to a full fee under subparagraph (A).

“(F) ADDITIONAL FEE FOR ACTIVE PHARMACEUTICAL INGREDIENT INFORMATION NOT INCLUDED BY REFERENCE TO

Deadlines.  
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publications.

TYPE II ACTIVE PHARMACEUTICAL INGREDIENT DRUG MASTER FILE.—An applicant that submits a generic drug submission on or after October 1, 2012, shall pay a fee, in the amount determined under subsection (d)(3), in addition to the fee required under subparagraph (A), if—

“(i) such submission contains information concerning the manufacture of an active pharmaceutical ingredient at a facility by means other than reference by a letter of authorization to a Type II active pharmaceutical drug master file; and

“(ii) a fee in the amount equal to the drug master file fee established in paragraph (2) has not been previously paid with respect to such information.

“(4) GENERIC DRUG FACILITY FEE AND ACTIVE PHARMACEUTICAL INGREDIENT FACILITY FEE.—

“(A) IN GENERAL.—Facilities identified, or intended to be identified, in at least one generic drug submission that is pending or approved to produce a finished dosage form of a human generic drug or an active pharmaceutical ingredient contained in a human generic drug shall be subject to fees as follows:

“(i) GENERIC DRUG FACILITY.—Each person that owns a facility which is identified or intended to be identified in at least one generic drug submission that is pending or approved to produce one or more finished dosage forms of a human generic drug shall be assessed an annual fee for each such facility.

“(ii) ACTIVE PHARMACEUTICAL INGREDIENT FACILITY.—Each person that owns a facility which produces, or which is pending review to produce, one or more active pharmaceutical ingredients identified, or intended to be identified, in at least one generic drug submission that is pending or approved or in a Type II active pharmaceutical ingredient drug master file referenced in such a generic drug submission, shall be assessed an annual fee for each such facility.

“(iii) FACILITIES PRODUCING BOTH ACTIVE PHARMACEUTICAL INGREDIENTS AND FINISHED DOSAGE FORMS.—Each person that owns a facility identified, or intended to be identified, in at least one generic drug submission that is pending or approved to produce both one or more finished dosage forms subject to clause (i) and one or more active pharmaceutical ingredients subject to clause (ii) shall be subject to fees under both such clauses for that facility.

“(B) AMOUNT.—The amount of fees established under subparagraph (A) shall be established under subsection (d).

“(C) NOTICE.—

“(i) FISCAL YEAR 2013.—For fiscal year 2013, the Secretary shall publish in the Federal Register a notice announcing the amount of the fees provided for in subparagraph (A) within the timeframe specified in subsection (d)(1)(B).

“(ii) FISCAL YEARS 2014 THROUGH 2017.—Within the timeframe specified in subsection (d)(2), the Secretary

shall publish in the Federal Register the amount of the fees under subparagraph (A) for such fiscal year.

“(D) FEE DUE DATE.—

“(i) FISCAL YEAR 2013.—For fiscal year 2013, the fees under subparagraph (A) shall be due on the later of—

“(I) not later than 45 days after the publication of the notice under subparagraph (B); or

“(II) if an appropriations Act is not enacted providing for the collection and obligation of fees under this section by the date of the publication of such notice, 30 days after the date that such an appropriations Act is enacted.

“(ii) FISCAL YEARS 2014 THROUGH 2017.—For each of fiscal years 2014 through 2017, the fees under subparagraph (A) for such fiscal year shall be due on the later of—

“(I) the first business day on or after October 1 of each such year; or

“(II) the first business day after the enactment of an appropriations Act providing for the collection and obligation of fees under this section for such year.

“(5) DATE OF SUBMISSION.—For purposes of this Act, a generic drug submission or Type II pharmaceutical master file is deemed to be ‘submitted’ to the Food and Drug Administration—

“(A) if it is submitted via a Food and Drug Administration electronic gateway, on the day when transmission to that electronic gateway is completed, except that a submission or master file that arrives on a weekend, Federal holiday, or day when the Food and Drug Administration office that will review that submission is not otherwise open for business shall be deemed to be submitted on the next day when that office is open for business; or

“(B) if it is submitted in physical media form, on the day it arrives at the appropriate designated document room of the Food and Drug Administration.

“(b) FEE REVENUE AMOUNTS.—

“(1) IN GENERAL.—

“(A) FISCAL YEAR 2013.—For fiscal year 2013, fees under subsection (a) shall be established to generate a total estimated revenue amount under such subsection of \$299,000,000. Of that amount—

“(i) \$50,000,000 shall be generated by the one-time backlog fee for generic drug applications pending on October 1, 2012, established in subsection (a)(1); and

“(ii) \$249,000,000 shall be generated by the fees under paragraphs (2) through (4) of subsection (a).

“(B) FISCAL YEARS 2014 THROUGH 2017.—For each of the fiscal years 2014 through 2017, fees under paragraphs (2) through (4) of subsection (a) shall be established to generate a total estimated revenue amount under such subsection that is equal to \$299,000,000, as adjusted pursuant to subsection (c).

“(2) TYPES OF FEES.—In establishing fees under paragraph (1) to generate the revenue amounts specified in paragraph (1)(A)(ii) for fiscal year 2013 and paragraph (1)(B) for each of fiscal years 2014 through 2017, such fees shall be derived from the fees under paragraphs (2) through (4) of subsection (a) as follows:

“(A) Six percent shall be derived from fees under subsection (a)(2) (relating to drug master files).

“(B) Twenty-four percent shall be derived from fees under subsection (a)(3) (relating to abbreviated new drug applications and supplements). The amount of a fee for a prior approval supplement shall be half the amount of the fee for an abbreviated new drug application.

“(C) Fifty-six percent shall be derived from fees under subsection (a)(4)(A)(i) (relating to generic drug facilities). The amount of the fee for a facility located outside the United States and its territories and possessions shall be not less than \$15,000 and not more than \$30,000 higher than the amount of the fee for a facility located in the United States and its territories and possessions, as determined by the Secretary on the basis of data concerning the difference in cost between inspections of facilities located in the United States, including its territories and possessions, and those located outside of the United States and its territories and possessions.

“(D) Fourteen percent shall be derived from fees under subsection (a)(4)(A)(ii) (relating to active pharmaceutical ingredient facilities). The amount of the fee for a facility located outside the United States and its territories and possessions shall be not less than \$15,000 and not more than \$30,000 higher than the amount of the fee for a facility located in the United States, including its territories and possessions, as determined by the Secretary on the basis of data concerning the difference in cost between inspections of facilities located in the United States and its territories and possessions and those located outside of the United States and its territories and possessions.

“(c) ADJUSTMENTS.—

“(1) INFLATION ADJUSTMENT.—For fiscal year 2014 and subsequent fiscal years, the revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year, by an amount equal to the sum of—

“(A) one;

“(B) the average annual percent change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 3 years of the preceding 4 fiscal years multiplied by the proportion of personnel compensation and benefits costs to total costs of human generic drug activities for the first 3 years of the preceding 4 fiscal years; and

“(C) the average annual percent change that occurred in the Consumer Price Index for urban consumers (Washington-Baltimore, DC-MD-VA-WV; Not Seasonally Adjusted; All items; Annual Index) for the first 3 years of the preceding 4 years of available data multiplied by

Notice.  
Federal Register,  
publication.

the proportion of all costs other than personnel compensation and benefits costs to total costs of human generic drug activities for the first 3 years of the preceding 4 fiscal years.

The adjustment made each fiscal year under this subsection shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2013 under this subsection.

“(2) FINAL YEAR ADJUSTMENT.—For fiscal year 2017, the Secretary may, in addition to adjustments under paragraph (1), further increase the fee revenues and fees established in subsection (b) if such an adjustment is necessary to provide for not more than 3 months of operating reserves of carryover user fees for human generic drug activities for the first 3 months of fiscal year 2018. Such fees may only be used in fiscal year 2018. If such an adjustment is necessary, the rationale for the amount of the increase shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2017. If the Secretary has carryover balances for such activities in excess of 3 months of such operating reserves, the adjustment under this subparagraph shall not be made.

“(d) ANNUAL FEE SETTING.—

“(1) FISCAL YEAR 2013.—For fiscal year 2013—

Deadlines.

“(A) the Secretary shall establish, by October 31, 2012, the one-time generic drug backlog fee for generic drug applications pending on October 1, 2012, the drug master file fee, the abbreviated new drug application fee, and the prior approval supplement fee under subsection (a), based on the revenue amounts established under subsection (b); and

“(B) the Secretary shall establish, not later than 45 days after the date to comply with the requirement for identification of facilities in subsection (f)(2), the generic drug facility fee and active pharmaceutical ingredient facility fee under subsection (a) based on the revenue amounts established under subsection (b).

“(2) FISCAL YEARS 2014 THROUGH 2017.—Not more than 60 days before the first day of each of fiscal years 2014 through 2017, the Secretary shall establish the drug master file fee, the abbreviated new drug application fee, the prior approval supplement fee, the generic drug facility fee, and the active pharmaceutical ingredient facility fee under subsection (a) for such fiscal year, based on the revenue amounts established under subsection (b) and the adjustments provided under subsection (c).

Time period.

“(3) FEE FOR ACTIVE PHARMACEUTICAL INGREDIENT INFORMATION NOT INCLUDED BY REFERENCE TO TYPE II ACTIVE PHARMACEUTICAL INGREDIENT DRUG MASTER FILE.—In establishing the fees under paragraphs (1) and (2), the amount of the fee under subsection (a)(3)(F) shall be determined by multiplying—

“(A) the sum of—

“(i) the total number of such active pharmaceutical ingredients in such submission; and

“(ii) for each such ingredient that is manufactured at more than one such facility, the total number of such additional facilities; and

“(B) the amount equal to the drug master file fee established in subsection (a)(2) for such submission.

“(e) LIMIT.—The total amount of fees charged, as adjusted under subsection (c), for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for human generic drug activities.

“(f) IDENTIFICATION OF FACILITIES.—

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publication.

“(1) PUBLICATION OF NOTICE; DEADLINE FOR COMPLIANCE.—Not later than October 1, 2012, the Secretary shall publish in the Federal Register a notice requiring each person that owns a facility described in subsection (a)(4)(A), or a site or organization required to be identified by paragraph (4), to submit to the Secretary information on the identity of each such facility, site, or organization. The notice required by this paragraph shall specify the type of information to be submitted and the means and format for submission of such information.

Deadlines.

“(2) REQUIRED SUBMISSION OF FACILITY IDENTIFICATION.—Each person that owns a facility described in subsection (a)(4)(A) or a site or organization required to be identified by paragraph (4) shall submit to the Secretary the information required under this subsection each year. Such information shall—

“(A) for fiscal year 2013, be submitted not later than 60 days after the publication of the notice under paragraph (1); and

“(B) for each subsequent fiscal year, be submitted, updated, or reconfirmed on or before June 1 of the previous year.

“(3) CONTENTS OF NOTICE.—At a minimum, the submission required by paragraph (2) shall include for each such facility—

“(A) identification of a facility identified or intended to be identified in an approved or pending generic drug submission;

“(B) whether the facility manufactures active pharmaceutical ingredients or finished dosage forms, or both;

“(C) whether or not the facility is located within the United States and its territories and possessions;

“(D) whether the facility manufactures positron emission tomography drugs solely, or in addition to other drugs; and

“(E) whether the facility manufactures drugs that are not generic drugs.

“(4) CERTAIN SITES AND ORGANIZATIONS.—

“(A) IN GENERAL.—Any person that owns or operates a site or organization described in subparagraph (B) shall submit to the Secretary information concerning the ownership, name, and address of the site or organization.

“(B) SITES AND ORGANIZATIONS.—A site or organization is described in this subparagraph if it is identified in a generic drug submission and is—

“(i) a site in which a bioanalytical study is conducted;

“(ii) a clinical research organization;

“(iii) a contract analytical testing site; or

“(iv) a contract repackager site.

Federal Register,  
publication.

“(C) NOTICE.—The Secretary may, by notice published in the Federal Register, specify the means and format



for submission of the information under subparagraph (A) and may specify, as necessary for purposes of this section, any additional information to be submitted.

“(D) INSPECTION AUTHORITY.—The Secretary’s inspection authority under section 704(a)(1) shall extend to all such sites and organizations.

“(g) EFFECT OF FAILURE TO PAY FEES.—

“(1) GENERIC DRUG BACKLOG FEE.—Failure to pay the fee under subsection (a)(1) shall result in the Secretary placing the person that owns the abbreviated new drug application subject to that fee on a publicly available arrears list, such that no new abbreviated new drug applications or supplement submitted on or after October 1, 2012, from that person, or any affiliate of that person, will be received within the meaning of section 505(j)(5)(A) until such outstanding fee is paid.

“(2) DRUG MASTER FILE FEE.—

“(A) Failure to pay the fee under subsection (a)(2) within 20 calendar days after the applicable due date under subparagraph (E) of such subsection (as described in subsection (a)(2)(D)(ii)(I)) shall result in the Type II active pharmaceutical ingredient drug master file not being deemed available for reference.

“(B)(i) Any generic drug submission submitted on or after October 1, 2012, that references, by a letter of authorization, a Type II active pharmaceutical ingredient drug master file that has not been deemed available for reference shall not be received within the meaning of section 505(j)(5)(A) unless the condition specified in clause (ii) is met.

“(ii) The condition specified in this clause is that the fee established under subsection (a)(2) has been paid within 20 calendar days of the Secretary providing the notification to the sponsor of the abbreviated new drug application or supplement of the failure of the owner of the Type II active pharmaceutical ingredient drug master file to pay the drug master file fee as specified in subparagraph (C).

“(C)(i) If an abbreviated new drug application or supplement to an abbreviated new drug application references a Type II active pharmaceutical ingredient drug master file for which a fee under subsection (a)(2)(A) has not been paid by the applicable date under subsection (a)(2)(E), the Secretary shall notify the sponsor of the abbreviated new drug application or supplement of the failure of the owner of the Type II active pharmaceutical ingredient drug master file to pay the applicable fee.

“(ii) If such fee is not paid within 20 calendar days of the Secretary providing the notification, the abbreviated new drug application or supplement to an abbreviated new drug application shall not be received within the meaning of 505(j)(5)(A).

“(3) ABBREVIATED NEW DRUG APPLICATION FEE AND PRIOR APPROVAL SUPPLEMENT FEE.—Failure to pay a fee under subparagraph (A) or (F) of subsection (a)(3) within 20 calendar days of the applicable due date under subparagraph (C) of such subsection shall result in the abbreviated new drug application or the prior approval supplement to an abbreviated

Deadlines.

Public  
information.

Notification.

new drug application not being received within the meaning of section 505(j)(5)(A) until such outstanding fee is paid.

“(4) GENERIC DRUG FACILITY FEE AND ACTIVE PHARMACEUTICAL INGREDIENT FACILITY FEE.—

“(A) IN GENERAL.—Failure to pay the fee under subsection (a)(4) within 20 calendar days of the due date as specified in subparagraph (D) of such subsection shall result in the following:

Public  
information.

“(i) The Secretary shall place the facility on a publicly available arrears list, such that no new abbreviated new drug application or supplement submitted on or after October 1, 2012, from the person that is responsible for paying such fee, or any affiliate of that person, will be received within the meaning of section 505(j)(5)(A).

“(ii) Any new generic drug submission submitted on or after October 1, 2012, that references such a facility shall not be received, within the meaning of section 505(j)(5)(A) if the outstanding facility fee is not paid within 20 calendar days of the Secretary providing the notification to the sponsor of the failure of the owner of the facility to pay the facility fee under subsection (a)(4)(C).

“(iii) All drugs or active pharmaceutical ingredients manufactured in such a facility or containing an ingredient manufactured in such a facility shall be deemed misbranded under section 502(aa).

“(B) APPLICATION OF PENALTIES.—The penalties under this paragraph shall apply until the fee established by subsection (a)(4) is paid or the facility is removed from all generic drug submissions that refer to the facility.

“(C) NONRECEIVAL FOR NONPAYMENT.—

“(i) NOTICE.—If an abbreviated new drug application or supplement to an abbreviated new drug application submitted on or after October 1, 2012, references a facility for which a facility fee has not been paid by the applicable date under subsection (a)(4)(C), the Secretary shall notify the sponsor of the generic drug submission of the failure of the owner of the facility to pay the facility fee.

“(ii) NONRECEIVAL.—If the facility fee is not paid within 20 calendar days of the Secretary providing the notification under clause (i), the abbreviated new drug application or supplement to an abbreviated new drug application shall not be received within the meaning of section 505(j)(5)(A).

“(h) LIMITATIONS.—

Effective date.

“(1) IN GENERAL.—Fees under subsection (a) shall be refunded for a fiscal year beginning after fiscal year 2012, unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for fiscal year 2009 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor (as defined in section 744A) applicable to the fiscal year involved.

“(2) **AUTHORITY.**—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for Type II active pharmaceutical ingredient drug master files, abbreviated new drug applications and prior approval supplements, and generic drug facilities and active pharmaceutical ingredient facilities at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

“(i) **CREDITING AND AVAILABILITY OF FEES.**—

“(1) **IN GENERAL.**—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts, subject to paragraph (2). Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for human generic drug activities.

“(2) **COLLECTIONS AND APPROPRIATION ACTS.**—

“(A) **IN GENERAL.**—The fees authorized by this section—

“(i) subject to subparagraphs (C) and (D), shall be collected and available in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year; and

“(ii) shall be available for a fiscal year beginning after fiscal year 2012 to defray the costs of human generic drug activities (including such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such activities), only if the Secretary allocates for such purpose an amount for such fiscal year (excluding amounts from fees collected under this section) no less than \$97,000,000 multiplied by the adjustment factor defined in section 744A(3) applicable to the fiscal year involved.

Effective date.

“(B) **COMPLIANCE.**—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for human generic activities are not more than 10 percent below the level specified in such subparagraph.

“(C) **FEE COLLECTION DURING FIRST PROGRAM YEAR.**—Until the date of enactment of an Act making appropriations through September 30, 2013 for the salaries and expenses account of the Food and Drug Administration, fees authorized by this section for fiscal year 2013, may be collected and shall be credited to such account and remain available until expended.

“(D) **PROVISION FOR EARLY PAYMENTS IN SUBSEQUENT YEARS.**—Payment of fees authorized under this section for a fiscal year (after fiscal year 2013), prior to the due date for such fees, may be accepted by the Secretary in

accordance with authority provided in advance in a prior year appropriations Act.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2013 through 2017, there is authorized to be appropriated for fees under this section an amount equivalent to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted under subsection (c), if applicable, or as otherwise affected under paragraph (2) of this subsection.

Deadline.

“(j) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 calendar days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(k) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in human generic drug activities, be reduced to offset the number of officers, employees, and advisory committees so engaged.

“(l) POSITRON EMISSION TOMOGRAPHY DRUGS.—

“(1) EXEMPTION FROM FEES.—Submission of an application for a positron emission tomography drug or active pharmaceutical ingredient for a positron emission tomography drug shall not require the payment of any fee under this section. Facilities that solely produce positron emission tomography drugs shall not be required to pay a facility fee as established in subsection (a)(4).

“(2) IDENTIFICATION REQUIREMENT.—Facilities that produce positron emission tomography drugs or active pharmaceutical ingredients of such drugs are required to be identified pursuant to subsection (f).

Deadline.

“(m) DISPUTES CONCERNING FEES.—To qualify for the return of a fee claimed to have been paid in error under this section, a person shall submit to the Secretary a written request justifying such return within 180 calendar days after such fee was paid.

“(n) SUBSTANTIALLY COMPLETE APPLICATIONS.—An abbreviated new drug application that is not considered to be received within the meaning of section 505(j)(5)(A) because of failure to pay an applicable fee under this provision within the time period specified in subsection (g) shall be deemed not to have been ‘substantially complete’ on the date of its submission within the meaning of section 505(j)(5)(B)(iv)(II)(cc). An abbreviated new drug application that is not substantially complete on the date of its submission solely because of failure to pay an applicable fee under the preceding sentence shall be deemed substantially complete and received within the meaning of section 505(j)(5)(A) as of the date such applicable fee is received.”.

#### **SEC. 303. REAUTHORIZATION; REPORTING REQUIREMENTS.**

Part 7 of subchapter C of chapter VII, as added by section 302 of this Act, is amended by inserting after section 744B the following:

21 USC 379j-43.

#### **“SEC. 744C. REAUTHORIZATION; REPORTING REQUIREMENTS.**

Effective date.

“(a) PERFORMANCE REPORT.—Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House

of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 301(b) of the Generic Drug User Fee Amendments of 2012 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

“(b) FISCAL REPORT.—Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.

Effective date.

“(c) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under subsections (a) and (b) available to the public on the Internet Web site of the Food and Drug Administration.

Web posting.

“(d) REAUTHORIZATION.—

“(1) CONSULTATION.—In developing recommendations to present to the Congress with respect to the goals, and plans for meeting the goals, for human generic drug activities for the first 5 fiscal years after fiscal year 2017, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

“(A) the Committee on Energy and Commerce of the House of Representatives;

“(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(C) scientific and academic experts;

“(D) health care professionals;

“(E) representatives of patient and consumer advocacy groups; and

“(F) the generic drug industry.

“(2) PRIOR PUBLIC INPUT.—Prior to beginning negotiations with the generic drug industry on the reauthorization of this part, the Secretary shall—

“(A) publish a notice in the Federal Register requesting public input on the reauthorization;

Notice.  
Federal Register,  
publication.

“(B) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in subsection (a);

“(C) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes to this part; and

Time period.

“(D) publish the comments on the Food and Drug Administration’s Internet Web site.

Web posting.

“(3) PERIODIC CONSULTATION.—Not less frequently than once every month during negotiations with the generic drug industry, the Secretary shall hold discussions with representatives of patient and consumer advocacy groups to continue discussions of their views on the reauthorization and their suggestions for changes to this part as expressed under paragraph (2).

“(4) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the generic drug industry, the Secretary shall—

“(A) present the recommendations developed under paragraph (1) to the congressional committees specified in such paragraph;

Federal Register,  
publication.

“(B) publish such recommendations in the Federal Register;

Time period.

“(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

“(D) hold a meeting at which the public may present its views on such recommendations; and

“(E) after consideration of such public views and comments, revise such recommendations as necessary.

“(5) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2017, the Secretary shall transmit to the Congress the revised recommendations under paragraph (4), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.

“(6) MINUTES OF NEGOTIATION MEETINGS.—

Web posting.

“(A) PUBLIC AVAILABILITY.—Before presenting the recommendations developed under paragraphs (1) through (5) to the Congress, the Secretary shall make publicly available, on the Internet Web site of the Food and Drug Administration, minutes of all negotiation meetings conducted under this subsection between the Food and Drug Administration and the generic drug industry.

“(B) CONTENT.—The minutes described under subparagraph (A) shall summarize any substantive proposal made by any party to the negotiations as well as significant controversies or differences of opinion during the negotiations and their resolution.”.

#### SEC. 304. SUNSET DATES.

21 USC 379j–41  
note.

(a) AUTHORIZATION.—Sections 744A and 744B of the Federal Food, Drug, and Cosmetic Act, as added by section 302 of this Act, shall cease to be effective October 1, 2017.

21 USC 379j–43  
note.

(b) REPORTING REQUIREMENTS.—Section 744C of the Federal Food, Drug, and Cosmetic Act, as added by section 303 of this Act, shall cease to be effective January 31, 2018.

21 USC 379j–41  
note.

#### SEC. 305. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 2012, or the date of the enactment of this title, whichever is later, except that fees under section 302 shall be assessed for all human generic drug submissions and Type II active pharmaceutical drug master files received on or after October 1, 2012, regardless of the date of enactment of this title.

#### SEC. 306. AMENDMENT WITH RESPECT TO MISBRANDING.

Section 502 (21 U.S.C. 352) is amended by adding at the end the following:

“(aa) If it is a drug, or an active pharmaceutical ingredient, and it was manufactured, prepared, propagated, compounded, or processed in a facility for which fees have not been paid as required by section 744A(a)(4) or for which identifying information required by section 744B(f) has not been submitted, or it contains an active

pharmaceutical ingredient that was manufactured, prepared, propagated, compounded, or processed in such a facility.”.

**SEC. 307. STREAMLINED HIRING AUTHORITY TO SUPPORT ACTIVITIES RELATED TO HUMAN GENERIC DRUGS.** 21 USC 379d–3.

Section 714, as added by section 208 of this Act, is amended—

(1) by amending subsection (b) to read as follows:

“(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are—

“(1) activities under this Act related to the process for the review of device applications (as defined in section 737(8)); and

“(2) activities under this Act related to human generic drug activities (as defined in section 744A).”; and

(2) by amending subsection (c) to read as follows:

“(c) OBJECTIVES SPECIFIED.—The objectives specified in this subsection are—

“(1) with respect to the activities under subsection (b)(1), the goals referred to in section 738A(a)(1); and

“(2) with respect to the activities under subsection (b)(2), the goals referred to in section 744C(a).”.

**SEC. 308. ADDITIONAL REPORTING REQUIREMENTS.**

Subchapter A of chapter VII (21 U.S.C. 371 et seq.), as amended by section 208, is further amended by adding at the end the following:

**“SEC. 715. REPORTING REQUIREMENTS.**

21 USC 379d–4.

“(a) GENERIC DRUGS.—Beginning with fiscal year 2013 and ending after fiscal year 2017, not later than 120 days after the end of each fiscal year for which fees are collected under part 7 of subchapter C, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning, for all applications for approval of a generic drug under section 505(j), amendments to such applications, and prior approval supplements with respect to such applications filed in the previous fiscal year—

Effective date.

“(1) the number of such applications that met the goals identified for purposes of part 7 of subchapter C, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record;

“(2) the average total time to decision by the Secretary for applications for approval of a generic drug under section 505(j), amendments to such applications, and prior approval supplements with respect to such applications filed in the previous fiscal year, including the number of calendar days spent during the review by the Food and Drug Administration and the number of calendar days spent by the sponsor responding to a complete response letter;

“(3) the total number of applications under section 505(j), amendments to such applications, and prior approval supplements with respect to such applications that were pending with the Secretary for more than 10 months on the date of

enactment of the Food and Drug Administration Safety and Innovation Act; and

“(4) the number of applications described in paragraph (3) on which the Food and Drug Administration took final regulatory action in the previous fiscal year.”.

Biosimilar User  
Fee Act of 2012.

## **TITLE IV—FEES RELATING TO BIOSIMILAR BIOLOGICAL PRODUCTS**

### **SEC. 401. SHORT TITLE; FINDING.**

21 USC 301 note.

(a) **SHORT TITLE.**—This title may be cited as the “Biosimilar User Fee Act of 2012”.

21 USC 379j–51  
note.

(b) **FINDING.**—The Congress finds that the fees authorized by the amendments made in this title will be dedicated to expediting the process for the review of biosimilar biological product applications, including postmarket safety activities, as set forth in the goals identified for purposes of part 8 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

### **SEC. 402. FEES RELATING TO BIOSIMILAR BIOLOGICAL PRODUCTS.**

Subchapter C of chapter VII (21 U.S.C. 379f et seq.) is amended by inserting after part 7, as added by title III of this Act, the following:

## **“PART 8—FEES RELATING TO BIOSIMILAR BIOLOGICAL PRODUCTS**

21 USC 379j–51.

### **“SEC. 744G. DEFINITIONS.**

“For purposes of this part:

“(1) The term ‘adjustment factor’ applicable to a fiscal year that is the Consumer Price Index for all urban consumers (Washington-Baltimore, DC–MD–VA–WV; Not Seasonally Adjusted; All items) of the preceding fiscal year divided by such Index for September 2011.

“(2) The term ‘affiliate’ means a business entity that has a relationship with a second business entity if, directly or indirectly—

“(A) one business entity controls, or has the power to control, the other business entity; or

“(B) a third party controls, or has power to control, both of the business entities.

“(3) The term ‘biosimilar biological product’ means a product for which a biosimilar biological product application has been approved.

“(4)(A) Subject to subparagraph (B), the term ‘biosimilar biological product application’ means an application for licensure of a biological product under section 351(k) of the Public Health Service Act.

“(B) Such term does not include—

“(i) a supplement to such an application;



“(ii) an application filed under section 351(k) of the Public Health Service Act that cites as the reference product a bovine blood product for topical application licensed before September 1, 1992, or a large volume parenteral drug product approved before such date;

“(iii) an application filed under section 351(k) of the Public Health Service Act with respect to—

“(I) whole blood or a blood component for transfusion;

“(II) an allergenic extract product;

“(III) an in vitro diagnostic biological product; or

“(IV) a biological product for further manufacturing use only; or

“(iv) an application for licensure under section 351(k) of the Public Health Service Act that is submitted by a State or Federal Government entity for a product that is not distributed commercially.

“(5) The term ‘biosimilar biological product development meeting’ means any meeting, other than a biosimilar initial advisory meeting, regarding the content of a development program, including a proposed design for, or data from, a study intended to support a biosimilar biological product application.

“(6) The term ‘biosimilar biological product development program’ means the program under this part for expediting the process for the review of submissions in connection with biosimilar biological product development.

“(7)(A) The term ‘biosimilar biological product establishment’ means a foreign or domestic place of business—

“(i) that is at one general physical location consisting of one or more buildings, all of which are within 5 miles of each other; and

“(ii) at which one or more biosimilar biological products are manufactured in final dosage form.

“(B) For purposes of subparagraph (A)(ii), the term ‘manufactured’ does not include packaging.

“(8) The term ‘biosimilar initial advisory meeting’—

“(A) means a meeting, if requested, that is limited to—

“(i) a general discussion regarding whether licensure under section 351(k) of the Public Health Service Act may be feasible for a particular product; and

“(ii) if so, general advice on the expected content of the development program; and

“(B) does not include any meeting that involves substantive review of summary data or full study reports.

“(9) The term ‘costs of resources allocated for the process for the review of biosimilar biological product applications’ means the expenses in connection with the process for the review of biosimilar biological product applications for—

“(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers employees and committees and to contracts with such contractors;

“(B) management of information, and the acquisition, maintenance, and repair of computer resources;

“(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies; and

“(D) collecting fees under section 744H and accounting for resources allocated for the review of submissions in connection with biosimilar biological product development, biosimilar biological product applications, and supplements.

“(10) The term ‘final dosage form’ means, with respect to a biosimilar biological product, a finished dosage form which is approved for administration to a patient without substantial further manufacturing (such as lyophilized products before reconstitution).

“(11) The term ‘financial hold’—

“(A) means an order issued by the Secretary to prohibit the sponsor of a clinical investigation from continuing the investigation if the Secretary determines that the investigation is intended to support a biosimilar biological product application and the sponsor has failed to pay any fee for the product required under subparagraph (A), (B), or (D) of section 744H(a)(1); and

“(B) does not mean that any of the bases for a ‘clinical hold’ under section 505(i)(3) have been determined by the Secretary to exist concerning the investigation.

“(12) The term ‘person’ includes an affiliate of such person.

“(13) The term ‘process for the review of biosimilar biological product applications’ means the following activities of the Secretary with respect to the review of submissions in connection with biosimilar biological product development, biosimilar biological product applications, and supplements:

“(A) The activities necessary for the review of submissions in connection with biosimilar biological product development, biosimilar biological product applications, and supplements.

“(B) Actions related to submissions in connection with biosimilar biological product development, the issuance of action letters which approve biosimilar biological product applications or which set forth in detail the specific deficiencies in such applications, and where appropriate, the actions necessary to place such applications in condition for approval.

“(C) The inspection of biosimilar biological product establishments and other facilities undertaken as part of the Secretary’s review of pending biosimilar biological product applications and supplements.

“(D) Activities necessary for the release of lots of biosimilar biological products under section 351(k) of the Public Health Service Act.

“(E) Monitoring of research conducted in connection with the review of biosimilar biological product applications.

“(F) Postmarket safety activities with respect to biologics approved under biosimilar biological product applications or supplements, including the following activities:

“(i) Collecting, developing, and reviewing safety information on biosimilar biological products, including adverse-event reports.

“(ii) Developing and using improved adverse-event data-collection systems, including information technology systems.

“(iii) Developing and using improved analytical tools to assess potential safety problems, including access to external data bases.

“(iv) Implementing and enforcing section 505(o) (relating to postapproval studies and clinical trials and labeling changes) and section 505(p) (relating to risk evaluation and mitigation strategies).

“(v) Carrying out section 505(k)(5) (relating to adverse-event reports and postmarket safety activities).

“(14) The term ‘supplement’ means a request to the Secretary to approve a change in a biosimilar biological product application which has been approved, including a supplement requesting that the Secretary determine that the biosimilar biological product meets the standards for interchangeability described in section 351(k)(4) of the Public Health Service Act.

**“SEC. 744H. AUTHORITY TO ASSESS AND USE BIOSIMILAR BIOLOGICAL PRODUCT FEES.**

21 USC 379j–52.

“(a) TYPES OF FEES.—Beginning in fiscal year 2013, the Secretary shall assess and collect fees in accordance with this section as follows:

Effective date.

“(1) BIOSIMILAR DEVELOPMENT PROGRAM FEES.—

“(A) INITIAL BIOSIMILAR BIOLOGICAL PRODUCT DEVELOPMENT FEE.—

“(i) IN GENERAL.—Each person that submits to the Secretary a meeting request described under clause (ii) or a clinical protocol for an investigational new drug protocol described under clause (iii) shall pay for the product named in the meeting request or the investigational new drug application the initial biosimilar biological product development fee established under subsection (b)(1)(A).

“(ii) MEETING REQUEST.—The meeting request described in this clause is a request for a biosimilar biological product development meeting for a product.

“(iii) CLINICAL PROTOCOL FOR IND.—A clinical protocol for an investigational new drug protocol described in this clause is a clinical protocol consistent with the provisions of section 505(i), including any regulations promulgated under section 505(i), (referred to in this section as ‘investigational new drug application’) describing an investigation that the Secretary determines is intended to support a biosimilar biological product application for a product.

“(iv) DUE DATE.—The initial biosimilar biological product development fee shall be due by the earlier of the following:

“(I) Not later than 5 days after the Secretary grants a request for a biosimilar biological product development meeting.

“(II) The date of submission of an investigational new drug application describing an investigation that the Secretary determines is intended

Deadlines.

to support a biosimilar biological product application.

“(v) TRANSITION RULE.—Each person that has submitted an investigational new drug application prior to the date of enactment of the Biosimilars User Fee Act of 2012 shall pay the initial biosimilar biological product development fee by the earlier of the following:

“(I) Not later than 60 days after the date of the enactment of the Biosimilars User Fee Act of 2012, if the Secretary determines that the investigational new drug application describes an investigation that is intended to support a biosimilar biological product application.

“(II) Not later than 5 days after the Secretary grants a request for a biosimilar biological product development meeting.

“(B) ANNUAL BIOSIMILAR BIOLOGICAL PRODUCT DEVELOPMENT FEE.—

“(i) IN GENERAL.—A person that pays an initial biosimilar biological product development fee for a product shall pay for such product, beginning in the fiscal year following the fiscal year in which the initial biosimilar biological product development fee was paid, an annual fee established under subsection (b)(1)(B) for biosimilar biological product development (referred to in this section as ‘annual biosimilar biological product development fee’).

“(ii) DUE DATE.—The annual biosimilar biological product development program fee for each fiscal year will be due on the later of—

“(I) the first business day on or after October 1 of each such year; or

“(II) the first business day after the enactment of an appropriations Act providing for the collection and obligation of fees for such year under this section.

“(iii) EXCEPTION.—The annual biosimilar development program fee for each fiscal year will be due on the date specified in clause (ii), unless the person has—

“(I) submitted a marketing application for the biological product that was accepted for filing; or

“(II) discontinued participation in the biosimilar biological product development program for the product under subparagraph (C).

Deadline.

“(C) DISCONTINUATION OF FEE OBLIGATION.—A person may discontinue participation in the biosimilar biological product development program for a product effective October 1 of a fiscal year by, not later than August 1 of the preceding fiscal year—

“(i) if no investigational new drug application concerning the product has been submitted, submitting to the Secretary a written declaration that the person has no present intention of further developing the product as a biosimilar biological product; or

“(ii) if an investigational new drug application concerning the product has been submitted, withdrawing

the investigational new drug application in accordance with part 312 of title 21, Code of Federal Regulations (or any successor regulations).

“(D) REACTIVATION FEE.—

“(i) IN GENERAL.—A person that has discontinued participation in the biosimilar biological product development program for a product under subparagraph (C) shall pay a fee (referred to in this section as ‘reactivation fee’) by the earlier of the following:

“(I) Not later than 5 days after the Secretary grants a request for a biosimilar biological product development meeting for the product (after the date on which such participation was discontinued). Deadline.

“(II) Upon the date of submission (after the date on which such participation was discontinued) of an investigational new drug application describing an investigation that the Secretary determines is intended to support a biosimilar biological product application for that product.

“(ii) APPLICATION OF ANNUAL FEE.—A person that pays a reactivation fee for a product shall pay for such product, beginning in the next fiscal year, the annual biosimilar biological product development fee under subparagraph (B).

“(E) EFFECT OF FAILURE TO PAY BIOSIMILAR DEVELOPMENT PROGRAM FEES.—

“(i) NO BIOSIMILAR BIOLOGICAL PRODUCT DEVELOPMENT MEETINGS.—If a person has failed to pay an initial or annual biosimilar biological product development fee as required under subparagraph (A) or (B), or a reactivation fee as required under subparagraph (D), the Secretary shall not provide a biosimilar biological product development meeting relating to the product for which fees are owed.

“(ii) NO RECEIPT OF INVESTIGATIONAL NEW DRUG APPLICATIONS.—Except in extraordinary circumstances, the Secretary shall not consider an investigational new drug application to have been received under section 505(i)(2) if—

“(I) the Secretary determines that the investigation is intended to support a biosimilar biological product application; and

“(II) the sponsor has failed to pay an initial or annual biosimilar biological product development fee for the product as required under subparagraph (A) or (B), or a reactivation fee as required under subparagraph (D).

“(iii) FINANCIAL HOLD.—Notwithstanding section 505(i)(2), except in extraordinary circumstances, the Secretary shall prohibit the sponsor of a clinical investigation from continuing the investigation if—

“(I) the Secretary determines that the investigation is intended to support a biosimilar biological product application; and

“(II) the sponsor has failed to pay an initial or annual biosimilar biological product development fee for the product as required under subparagraph (A) or (B), or a reactivation fee for the product as required under subparagraph (D).

“(iv) NO ACCEPTANCE OF BIOSIMILAR BIOLOGICAL PRODUCT APPLICATIONS OR SUPPLEMENTS.—If a person has failed to pay an initial or annual biosimilar biological product development fee as required under subparagraph (A) or (B), or a reactivation fee as required under subparagraph (D), any biosimilar biological product application or supplement submitted by that person shall be considered incomplete and shall not be accepted for filing by the Secretary until all such fees owed by such person have been paid.

“(F) LIMITS REGARDING BIOSIMILAR DEVELOPMENT PROGRAM FEES.—

“(i) NO REFUNDS.—The Secretary shall not refund any initial or annual biosimilar biological product development fee paid under subparagraph (A) or (B), or any reactivation fee paid under subparagraph (D).

“(ii) NO WAIVERS, EXEMPTIONS, OR REDUCTIONS.—The Secretary shall not grant a waiver, exemption, or reduction of any initial or annual biosimilar biological product development fee due or payable under subparagraph (A) or (B), or any reactivation fee due or payable under subparagraph (D).

“(2) BIOSIMILAR BIOLOGICAL PRODUCT APPLICATION AND SUPPLEMENT FEE.—

“(A) IN GENERAL.—Each person that submits, on or after October 1, 2012, a biosimilar biological product application or a supplement shall be subject to the following fees:

“(i) A fee for a biosimilar biological product application that is equal to—

“(I) the amount of the fee established under subsection (b)(1)(D) for a biosimilar biological product application for which clinical data (other than comparative bioavailability studies) with respect to safety or effectiveness are required for approval; minus

“(II) the cumulative amount of fees paid, if any, under subparagraphs (A), (B), and (D) of paragraph (1) for the product that is the subject of the application.

“(ii) A fee for a biosimilar biological product application for which clinical data (other than comparative bioavailability studies) with respect to safety or effectiveness are not required, that is equal to—

“(I) half of the amount of the fee established under subsection (b)(1)(D) for a biosimilar biological product application; minus

“(II) the cumulative amount of fees paid, if any, under subparagraphs (A), (B), and (D) of paragraph (1) for that product.

“(iii) A fee for a supplement for which clinical data (other than comparative bioavailability studies)

with respect to safety or effectiveness are required, that is equal to half of the amount of the fee established under subsection (b)(1)(D) for a biosimilar biological product application.

“(B) REDUCTION IN FEES.—Notwithstanding section 404 of the Biosimilars User Fee Act of 2012, any person who pays a fee under subparagraph (A), (B), or (D) of paragraph (1) for a product before October 1, 2017, but submits a biosimilar biological product application for that product after such date, shall be entitled to the reduction of any biosimilar biological product application fees that may be assessed at the time when such biosimilar biological product application is submitted, by the cumulative amount of fees paid under subparagraphs (A), (B), and (D) of paragraph (1) for that product.

“(C) PAYMENT DUE DATE.—Any fee required by subparagraph (A) shall be due upon submission of the application or supplement for which such fee applies.

“(D) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If a biosimilar biological product application or supplement was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver), the submission of a biosimilar biological product application or a supplement for the same product by the same person (or the person’s licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

“(E) REFUND OF APPLICATION FEE IF APPLICATION REFUSED FOR FILING OR WITHDRAWN BEFORE FILING.—The Secretary shall refund 75 percent of the fee paid under this paragraph for any application or supplement which is refused for filing or withdrawn without a waiver before filing.

“(F) FEES FOR APPLICATIONS PREVIOUSLY REFUSED FOR FILING OR WITHDRAWN BEFORE FILING.—A biosimilar biological product application or supplement that was submitted but was refused for filing, or was withdrawn before being accepted or refused for filing, shall be subject to the full fee under subparagraph (A) upon being resubmitted or filed over protest, unless the fee is waived under subsection (c).

“(3) BIOSIMILAR BIOLOGICAL PRODUCT ESTABLISHMENT FEE.—

“(A) IN GENERAL.—Except as provided in subparagraph (E), each person that is named as the applicant in a biosimilar biological product application shall be assessed an annual fee established under subsection (b)(1)(E) for each biosimilar biological product establishment that is listed in the approved biosimilar biological product application as an establishment that manufactures the biosimilar biological product named in such application.

“(B) ASSESSMENT IN FISCAL YEARS.—The establishment fee shall be assessed in each fiscal year for which the biosimilar biological product named in the application is assessed a fee under paragraph (4) unless the biosimilar biological product establishment listed in the application

does not engage in the manufacture of the biosimilar biological product during such fiscal year.

“(C) DUE DATE.—The establishment fee for a fiscal year shall be due on the later of—

“(i) the first business day on or after October 1 of such fiscal year; or

“(ii) the first business day after the enactment of an appropriations Act providing for the collection and obligation of fees for such fiscal year under this section.

“(D) APPLICATION TO ESTABLISHMENT.—

“(i) Each biosimilar biological product establishment shall be assessed only one fee per biosimilar biological product establishment, notwithstanding the number of biosimilar biological products manufactured at the establishment, subject to clause (ii).

“(ii) In the event an establishment is listed in a biosimilar biological product application by more than one applicant, the establishment fee for the fiscal year shall be divided equally and assessed among the applicants whose biosimilar biological products are manufactured by the establishment during the fiscal year and assessed biosimilar biological product fees under paragraph (4).

“(E) EXCEPTION FOR NEW PRODUCTS.—If, during the fiscal year, an applicant initiates or causes to be initiated the manufacture of a biosimilar biological product at an establishment listed in its biosimilar biological product application—

“(i) that did not manufacture the biosimilar biological product in the previous fiscal year; and

“(ii) for which the full biosimilar biological product establishment fee has been assessed in the fiscal year at a time before manufacture of the biosimilar biological product was begun,

the applicant shall not be assessed a share of the biosimilar biological product establishment fee for the fiscal year in which the manufacture of the product began.

“(4) BIOSIMILAR BIOLOGICAL PRODUCT FEE.—

“(A) IN GENERAL.—Each person who is named as the applicant in a biosimilar biological product application shall pay for each such biosimilar biological product the annual fee established under subsection (b)(1)(F).

“(B) DUE DATE.—The biosimilar biological product fee for a fiscal year shall be due on the later of—

“(i) the first business day on or after October 1 of each such year; or

“(ii) the first business day after the enactment of an appropriations Act providing for the collection and obligation of fees for such year under this section.

“(C) ONE FEE PER PRODUCT PER YEAR.—The biosimilar biological product fee shall be paid only once for each product for each fiscal year.

“(b) FEE SETTING AND AMOUNTS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall, 60 days before the start of each fiscal year that begins after September 30, 2012, establish, for the next fiscal year,

Time period.



the fees under subsection (a). Except as provided in subsection (c), such fees shall be in the following amounts:

“(A) INITIAL BIOSIMILAR BIOLOGICAL PRODUCT DEVELOPMENT FEE.—The initial biosimilar biological product development fee under subsection (a)(1)(A) for a fiscal year shall be equal to 10 percent of the amount established under section 736(c)(4) for a human drug application described in section 736(a)(1)(A)(i) for that fiscal year.

“(B) ANNUAL BIOSIMILAR BIOLOGICAL PRODUCT DEVELOPMENT FEE.—The annual biosimilar biological product development fee under subsection (a)(1)(B) for a fiscal year shall be equal to 10 percent of the amount established under section 736(c)(4) for a human drug application described in section 736(a)(1)(A)(i) for that fiscal year.

“(C) REACTIVATION FEE.—The reactivation fee under subsection (a)(1)(D) for a fiscal year shall be equal to 20 percent of the amount of the fee established under section 736(c)(4) for a human drug application described in section 736(a)(1)(A)(i) for that fiscal year.

“(D) BIOSIMILAR BIOLOGICAL PRODUCT APPLICATION FEE.—The biosimilar biological product application fee under subsection (a)(2) for a fiscal year shall be equal to the amount established under section 736(c)(4) for a human drug application described in section 736(a)(1)(A)(i) for that fiscal year.

“(E) BIOSIMILAR BIOLOGICAL PRODUCT ESTABLISHMENT FEE.—The biosimilar biological product establishment fee under subsection (a)(3) for a fiscal year shall be equal to the amount established under section 736(c)(4) for a prescription drug establishment for that fiscal year.

“(F) BIOSIMILAR BIOLOGICAL PRODUCT FEE.—The biosimilar biological product fee under subsection (a)(4) for a fiscal year shall be equal to the amount established under section 736(c)(4) for a prescription drug product for that fiscal year.

“(2) LIMIT.—The total amount of fees charged for a fiscal year under this section may not exceed the total amount for such fiscal year of the costs of resources allocated for the process for the review of biosimilar biological product applications.

“(c) APPLICATION FEE WAIVER FOR SMALL BUSINESS.—

“(1) WAIVER OF APPLICATION FEE.—The Secretary shall grant to a person who is named in a biosimilar biological product application a waiver from the application fee assessed to that person under subsection (a)(2)(A) for the first biosimilar biological product application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay—

“(A) application fees for all subsequent biosimilar biological product applications submitted to the Secretary for review in the same manner as an entity that is not a small business; and

“(B) all supplement fees for all supplements to biosimilar biological product applications submitted to the

Secretary for review in the same manner as an entity that is not a small business.

“(2) CONSIDERATIONS.—In determining whether to grant a waiver of a fee under paragraph (1), the Secretary shall consider only the circumstances and assets of the applicant involved and any affiliate of the applicant.

“(3) SMALL BUSINESS DEFINED.—In this subsection, the term ‘small business’ means an entity that has fewer than 500 employees, including employees of affiliates, and does not have a drug product that has been approved under a human drug application (as defined in section 735) or a biosimilar biological product application (as defined in section 744G(4)) and introduced or delivered for introduction into interstate commerce.

“(d) EFFECT OF FAILURE TO PAY FEES.—A biosimilar biological product application or supplement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid.

“(e) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Subject to paragraph (2), fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of biosimilar biological product applications.

“(2) COLLECTIONS AND APPROPRIATION ACTS.—

“(A) IN GENERAL.—Subject to subparagraphs (C) and (D), the fees authorized by this section shall be collected and available in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year.

“(B) USE OF FEES AND LIMITATION.—The fees authorized by this section shall be available for a fiscal year beginning after fiscal year 2012 to defray the costs of the process for the review of biosimilar biological product applications (including such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process), only if the Secretary allocates for such purpose an amount for such fiscal year (excluding amounts from fees collected under this section) no less than \$20,000,000, multiplied by the adjustment factor applicable to the fiscal year involved.

“(C) FEE COLLECTION DURING FIRST PROGRAM YEAR.—Until the date of enactment of an Act making appropriations through September 30, 2013, for the salaries and expenses account of the Food and Drug Administration, fees authorized by this section for fiscal year 2013 may be collected and shall be credited to such account and remain available until expended.

“(D) PROVISION FOR EARLY PAYMENTS IN SUBSEQUENT YEARS.—Payment of fees authorized under this section for

a fiscal year (after fiscal year 2013), prior to the due date for such fees, may be accepted by the Secretary in accordance with authority provided in advance in a prior year appropriations Act.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2013 through 2017, there is authorized to be appropriated for fees under this section an amount equivalent to the total amount of fees assessed for such fiscal year under this section.

“(f) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(g) WRITTEN REQUESTS FOR WAIVERS AND REFUNDS.—To qualify for consideration for a waiver under subsection (c), or for a refund of any fee collected in accordance with subsection (a)(2)(A), a person shall submit to the Secretary a written request for such waiver or refund not later than 180 days after such fee is due. Deadline.

“(h) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employers, and advisory committees not engaged in the process of the review of biosimilar biological product applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.”.

#### SEC. 403. REAUTHORIZATION; REPORTING REQUIREMENTS.

Part 8 of subchapter C of chapter VII, as added by section 402, is further amended by inserting after section 744H the following:

#### “SEC. 744I. REAUTHORIZATION; REPORTING REQUIREMENTS.

21 USC 379j–53.

“(a) PERFORMANCE REPORT.—Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 401(b) of the Biosimilar User Fee Act of 2012 during such fiscal year and the future plans of the Food and Drug Administration for meeting such goals. The report for a fiscal year shall include information on all previous cohorts for which the Secretary has not given a complete response on all biosimilar biological product applications and supplements in the cohort.

Effective date.

“(b) FISCAL REPORT.—Not later than 120 days after the end of fiscal year 2013 and each subsequent fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.

“(c) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under subsections (a) and (b) available to the

Web posting.

public on the Internet Web site of the Food and Drug Administration.

Publications.  
Contracts.

“(d) STUDY.—

“(1) IN GENERAL.—The Secretary shall contract with an independent accounting or consulting firm to study the workload volume and full costs associated with the process for the review of biosimilar biological product applications.

“(2) INTERIM RESULTS.—Not later than June 1, 2015, the Secretary shall publish, for public comment, interim results of the study described under paragraph (1).

“(3) FINAL RESULTS.—Not later than September 30, 2016, the Secretary shall publish, for public comment, the final results of the study described under paragraph (1).

“(e) REAUTHORIZATION.—

“(1) CONSULTATION.—In developing recommendations to present to the Congress with respect to the goals described in subsection (a), and plans for meeting the goals, for the process for the review of biosimilar biological product applications for the first 5 fiscal years after fiscal year 2017, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

“(A) the Committee on Energy and Commerce of the House of Representatives;

“(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(C) scientific and academic experts;

“(D) health care professionals;

“(E) representatives of patient and consumer advocacy groups; and

“(F) the regulated industry.

“(2) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

“(A) present the recommendations developed under paragraph (1) to the congressional committees specified in such paragraph;

“(B) publish such recommendations in the Federal Register;

“(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

“(D) hold a meeting at which the public may present its views on such recommendations; and

“(E) after consideration of such public views and comments, revise such recommendations as necessary.

“(3) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2017, the Secretary shall transmit to the Congress the revised recommendations under paragraph (2), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.”.

Federal Register,  
publication.  
Time period.

#### SEC. 404. SUNSET DATES.

21 USC 379j-51  
note.

(a) AUTHORIZATION.—Sections 744G and 744H of the Federal Food, Drug, and Cosmetic Act, as added by section 402 of this Act, shall cease to be effective October 1, 2017.

21 USC 379j-53  
note.

(b) REPORTING REQUIREMENTS.—Section 744I of the Federal Food, Drug, and Cosmetic Act, as added by section 403 of this Act, shall cease to be effective January 31, 2018.

**SEC. 405. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided under subsection (b), the amendments made by this title shall take effect on the later of—

- (1) October 1, 2012; or
- (2) the date of the enactment of this title.

(b) EXCEPTION.—Fees under part 8 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as added by this title, shall be assessed for all biosimilar biological product applications received on or after October 1, 2012, regardless of the date of the enactment of this title.

21 USC 379j–51  
note.

**SEC. 406. SAVINGS CLAUSE.**

Notwithstanding the amendments made by this title, part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this title, shall continue to be in effect with respect to human drug applications and supplements (as defined in such part as of such day) that were accepted by the Food and Drug Administration for filing on or after October 1, 2007, but before October 1, 2012, with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2013.

21 USC 379g  
note.  
Continuation.  
Time period.

**SEC. 407. CONFORMING AMENDMENT.**

Section 735(1)(B) (21 U.S.C. 379g(1)(B)) is amended by striking “or (k)”.

**SEC. 408. ADDITIONAL REPORTING REQUIREMENTS.**

Section 715, as added by section 308 of this Act, is amended by adding at the end the following:

21 USC 379d–4.

“(b) BIOSIMILAR BIOLOGICAL PRODUCTS.—

“(1) IN GENERAL.—Beginning with fiscal year 2014, not later than 120 days after the end of each fiscal year for which fees are collected under part 8 of subchapter C, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning—

Effective date.

“(A) the number of applications for approval filed under section 351(k) of the Public Health Service Act; and

“(B) the percentage of applications described in subparagraph (A) that were approved by the Secretary.

“(2) ADDITIONAL INFORMATION.—As part of the performance report described in paragraph (1), the Secretary shall include an explanation of how the Food and Drug Administration is managing the biological product review program to ensure that the user fees collected under part 2 are not used to review an application under section 351(k) of the Public Health Service Act.”.

## TITLE V—PEDIATRIC DRUGS AND DEVICES

**SEC. 501. PERMANENCE.**

(a) PEDIATRIC STUDIES OF DRUGS.—Section 505A (21 U.S.C. 355a) is amended by striking subsection (q) (relating to a sunset).

(b) RESEARCH INTO PEDIATRIC USES FOR DRUGS AND BIOLOGICAL PRODUCTS.—Section 505B (21 U.S.C. 355c) is amended—

- (1) by striking subsection (m); and
- (2) by redesignating subsection (n) as subsection (m).

**SEC. 502. WRITTEN REQUESTS.**

(a) IN GENERAL.—

(1) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Subsection (h) of section 505A (21 U.S.C. 355a) is amended to read as follows:

“(h) RELATIONSHIP TO PEDIATRIC RESEARCH REQUIREMENTS.—Exclusivity under this section shall only be granted for the completion of a study or studies that are the subject of a written request and for which reports are submitted and accepted in accordance with subsection (d)(3). Written requests under this section may consist of a study or studies required under section 505B.”

(2) PUBLIC HEALTH SERVICE ACT.—Section 351(m)(1) of the Public Health Service Act (42 U.S.C. 262(m)(1)) is amended by striking “(f), (i), (j), (k), (l), (p), and (q)” and inserting “(f), (h), (i), (j), (k), (l), (n), and (p)”.

(b) NEONATES.—Subparagraph (A) of section 505A(d)(1) is amended by adding at the end the following: “If a request under this subparagraph does not request studies in neonates, such request shall include a statement describing the rationale for not requesting studies in neonates.”

21 USC 355a  
note.  
Deadline.  
Procedures.

**SEC. 503. COMMUNICATION WITH PEDIATRIC REVIEW COMMITTEE.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this title as the “Secretary”) shall issue internal standard operating procedures that provide for the review by the internal review committee established under section 505C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355d) of any significant modifications to initial pediatric study plans, agreed initial pediatric study plans, and written requests under sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a, 355c). Such internal standard operating procedures shall be made publicly available on the Internet Web site of the Food and Drug Administration.

Public  
information.  
Web posting.

21 USC 355a  
note.  
Deadline.  
Public  
information.  
Web posting.  
Time period.

**SEC. 504. ACCESS TO DATA.**

Not later than 3 years after the date of enactment of this Act, the Secretary shall make available to the public, including through posting on the Internet Web site of the Food and Drug Administration, the medical, statistical, and clinical pharmacology reviews of, and corresponding written requests issued to an applicant, sponsor, or holder for, pediatric studies submitted between January 4, 2002, and September 27, 2007, under subsection (b) or (c) of section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) for which 6 months of market exclusivity was granted and that resulted in a labeling change. The Secretary shall make public the information described in the preceding sentence in a manner consistent with how the Secretary releases information under section 505A(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(k)).

**SEC. 505. ENSURING THE COMPLETION OF PEDIATRIC STUDIES.**

(a) EXTENSION OF DEADLINE FOR DEFERRED STUDIES.—Section 505B (21 U.S.C. 355c) is amended—

(1) in subsection (a)(3)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by inserting after subparagraph (A) the following:

“(B) DEFERRAL EXTENSION.—

“(i) IN GENERAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may grant an extension of a deferral approved under subparagraph (A) for submission of some or all assessments required under paragraph (1) if—

“(I) the Secretary determines that the conditions described in subclause (II) or (III) of subparagraph (A)(i) continue to be met; and

“(II) the applicant submits a new timeline under subparagraph (A)(ii)(IV) and any significant updates to the information required under subparagraph (A)(ii).

“(ii) TIMING AND INFORMATION.—If the deferral extension under this subparagraph is requested by the applicant, the applicant shall submit the deferral extension request containing the information described in this subparagraph not less than 90 days prior to the date that the deferral would expire. The Secretary shall respond to such request not later than 45 days after the receipt of such letter. If the Secretary grants such an extension, the specified date shall be the extended date. The sponsor of the required assessment under paragraph (1) shall not be issued a letter described in subsection (d) unless the specified or extended date of submission for such required studies has passed or if the request for an extension is pending. For a deferral that has expired prior to the date of enactment of the Food and Drug Administration Safety and Innovation Act or that will expire prior to 270 days after the date of enactment of such Act, a deferral extension shall be requested by an applicant not later than 180 days after the date of enactment of such Act. The Secretary shall respond to any such request as soon as practicable, but not later than 1 year after the date of enactment of such Act. Nothing in this clause shall prevent the Secretary from updating the status of a study or studies publicly if components of such study or studies are late or delayed.”; and

(C) in subparagraph (C), as so redesignated—

(i) in clause (i), by adding at the end the following:

“(III) Projected completion date for pediatric studies.

“(IV) The reason or reasons why a deferral or deferral extension continues to be necessary.”; and

(ii) by amending clause (ii) to read as follows:

“(ii) PUBLIC AVAILABILITY.—Not later than 90 days after the submission to the Secretary of the information submitted through the annual review under clause (i), the Secretary shall make available to the public in an easily accessible manner, including through the

Web posting.

Internet Web site of the Food and Drug Administration—

“(I) such information;

“(II) the name of the applicant for the product subject to the assessment;

“(III) the date on which the product was approved; and

“(IV) the date of each deferral or deferral extension under this paragraph for the product.”; and

(2) in subsection (f)—

(A) in the subsection heading, by inserting “DEFERRAL EXTENSIONS,” after “DEFERRALS,”;

(B) in paragraph (1), by inserting “, deferral extension,” after “deferral”; and

(C) in paragraph (4)—

(i) in the paragraph heading, by inserting “DEFERRAL EXTENSIONS,” after “DEFERRALS,”; and

(ii) by inserting “, deferral extensions,” after “deferrals”.

(b) TRACKING OF EXTENSIONS; ANNUAL INFORMATION.—Section 505B(f)(6)(D) (21 U.S.C. 355c(f)(6)(D)) is amended to read as follows:

“(D) aggregated on an annual basis—

“(i) the total number of deferrals and deferral extensions requested and granted under this section and, if granted, the reasons for each such deferral or deferral extension;

“(ii) the timeline for completion of the assessments; and

“(iii) the number of assessments completed and pending.”.

(c) ACTION ON FAILURE TO COMPLETE STUDIES.—

(1) ISSUANCE OF LETTER.—Subsection (d) of section 505B (21 U.S.C. 355c) is amended to read as follows:

Applicability.

“(d) SUBMISSION OF ASSESSMENTS.—If a person fails to submit a required assessment described in subsection (a)(2), fails to meet the applicable requirements in subsection (a)(3), or fails to submit a request for approval of a pediatric formulation described in subsection (a) or (b), in accordance with applicable provisions of subsections (a) and (b), the following shall apply:

Effective date.  
Deadlines.

“(1) Beginning 270 days after the date of enactment of the Food and Drug Administration Safety and Innovation Act, the Secretary shall issue a non-compliance letter to such person informing them of such failure to submit or meet the requirements of the applicable subsection. Such letter shall require the person to respond in writing within 45 calendar days of issuance of such letter. Such response may include the person’s request for a deferral extension if applicable. Such letter and the person’s written response to such letter shall be made publicly available on the Internet Web site of the Food and Drug Administration 60 calendar days after issuance, with redactions for any trade secrets and confidential commercial information. If the Secretary determines that the letter was issued in error, the requirements of this paragraph shall not apply.

Notification.

Public  
information.  
Web posting.

“(2) The drug or biological product that is the subject of an assessment described in subsection (a)(2), applicable



requirements in subsection (a)(3), or request for approval of a pediatric formulation, may be considered misbranded solely because of that failure and subject to relevant enforcement action (except that the drug or biological product shall not be subject to action under section 303), but such failure shall not be the basis for a proceeding—

“(A) to withdraw approval for a drug under section 505(e); or

“(B) to revoke the license for a biological product under section 351 of the Public Health Service Act.”.

(2) TRACKING OF LETTERS ISSUED.—Subparagraph (D) of section 505B(f)(6) (21 U.S.C. 355c(f)(6)), as amended by subsection (b), is further amended—

(A) in clause (ii), by striking “; and” and inserting a semicolon;

(B) in clause (iii), by adding “and” at the end; and

(C) by adding at the end the following:

“(iv) the number of postmarket non-compliance letters issued pursuant to subsection (d), and the recipients of such letters;”.

#### SEC. 506. PEDIATRIC STUDY PLANS.

Deadlines.

(a) IN GENERAL.—Subsection (e) of section 505B (21 U.S.C. 355c) is amended to read as follows:

“(e) PEDIATRIC STUDY PLANS.—

“(1) IN GENERAL.—An applicant subject to subsection (a) shall submit to the Secretary an initial pediatric study plan prior to the submission of the assessments described under subsection (a)(2).

“(2) TIMING; CONTENT; MEETING.—

“(A) TIMING.—An applicant shall submit the initial pediatric plan under paragraph (1)—

“(i) before the date on which the applicant submits the assessments under subsection (a)(2); and

“(ii) not later than—

“(I) 60 calendar days after the date of the end-of-Phase 2 meeting (as such term is used in section 312.47 of title 21, Code of Federal Regulations, or successor regulations); or

“(II) such other time as may be agreed upon between the Secretary and the applicant.

Nothing in this section shall preclude the Secretary from accepting the submission of an initial pediatric plan earlier than the date otherwise applicable under this subparagraph.

“(B) CONTENT OF INITIAL PLAN.—The initial pediatric study plan shall include—

“(i) an outline of the pediatric study or studies that the applicant plans to conduct (including, to the extent practicable study objectives and design, age groups, relevant endpoints, and statistical approach);

“(ii) any request for a deferral, partial waiver, or waiver under this section, if applicable, along with any supporting information; and

“(iii) other information specified in the regulations promulgated under paragraph (7).

“(C) MEETING.—The Secretary—

“(i) shall meet with the applicant to discuss the initial pediatric study plan as soon as practicable, but not later than 90 calendar days after the receipt of such plan under subparagraph (A);

“(ii) may determine that a written response to the initial pediatric study plan is sufficient to communicate comments on the initial pediatric study plan, and that no meeting is necessary; and

“(iii) if the Secretary determines that no meeting is necessary, shall so notify the applicant and provide written comments of the Secretary as soon as practicable, but not later than 90 calendar days after the receipt of the initial pediatric study plan.

Notification.

“(3) AGREED INITIAL PEDIATRIC STUDY PLAN.—Not later than 90 calendar days following the meeting under paragraph (2)(C)(i) or the receipt of a written response from the Secretary under paragraph (2)(C)(iii), the applicant shall document agreement on the initial pediatric study plan in a submission to the Secretary marked ‘Agreed Initial Pediatric Study Plan’, and the Secretary shall confirm such agreement to the applicant in writing not later than 30 calendar days of receipt of such agreed initial pediatric study plan.

“(4) DEFERRAL AND WAIVER.—If the agreed initial pediatric study plan contains a request from the applicant for a deferral, partial waiver, or waiver under this section, the written confirmation under paragraph (3) shall include a recommendation from the Secretary as to whether such request meets the standards under paragraphs (3) or (4) of subsection (a).

Applicability.

“(5) AMENDMENTS TO THE PLAN.—At the initiative of the Secretary or the applicant, the agreed initial pediatric study plan may be amended at any time. The requirements of paragraph (2)(C) shall apply to any such proposed amendment in the same manner and to the same extent as such requirements apply to an initial pediatric study plan under paragraph (1). The requirements of paragraphs (3) and (4) shall apply to any agreement resulting from such proposed amendment in the same manner and to the same extent as such requirements apply to an agreed initial pediatric study plan.

Consultation.

“(6) INTERNAL COMMITTEE.—The Secretary shall consult the internal committee under section 505C on the review of the initial pediatric study plan, agreed initial pediatric plan, and any significant amendments to such plans.

“(7) REQUIRED RULEMAKING.—Not later than 1 year after the date of enactment of the Food and Drug Administration Safety and Innovation Act, the Secretary shall promulgate proposed regulations and issue guidance to implement the provisions of this subsection.”

(b) CONFORMING AMENDMENTS.—Section 505B (21 U.S.C. 355c) is amended—

(1) by amending subclause (II) of subsection (a)(3)(A)(ii) to read as follows:

“(II) a pediatric study plan as described in subsection (e);”;

(2) in subsection (f)—

(A) in the subsection heading, by striking “PEDIATRIC PLANS,” and inserting “PEDIATRIC STUDY PLANS,”;

(B) in paragraph (1), by striking “all pediatric plans” and inserting “initial pediatric study plans, agreed initial pediatric study plans,”; and

(C) in paragraph (4)—

(i) in the paragraph heading, by striking “PEDI-  
ATRIC PLANS,” and inserting “PEDIATRIC STUDY PLANS,”; and

(ii) by striking “pediatric plans” and inserting “initial pediatric study plans, agreed initial pediatric study plans,”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect 180 calendar days after the date of enactment of this Act, irrespective of whether the Secretary has promulgated final regulations to carry out such amendments.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to affect the deadline for promulgation of proposed regulations under section 505B(e)(7) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

21 USC 355c  
note.

#### SEC. 507. REAUTHORIZATIONS.

(a) PEDIATRIC ADVISORY COMMITTEE.—Section 14(d) of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended by striking “during the five-year period beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007” and inserting “to carry out the advisory committee’s responsibilities under sections 505A, 505B, and 520(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a, 355c, and 360j(m))”.

(b) PEDIATRIC SUBCOMMITTEE OF THE ONCOLOGIC DRUGS ADVISORY COMMITTEE.—Section 15(a)(3) of the Best Pharmaceuticals for Children Act (Public Law 107–109), as amended by section 502(e) of the Food and Drug Administration Amendments Act of 2007 (Public Law 110–85), is amended by striking “during the five-year period beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007” and inserting “for the duration of the operation of the Oncologic Drugs Advisory Committee”.

(c) HUMANITARIAN DEVICE EXEMPTION EXTENSION.—Section 520(m)(6)(A)(iv) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(6)(A)(iv)) is amended by striking “2012” and inserting “2017”.

(d) PROGRAM FOR PEDIATRIC STUDY OF DRUGS IN PHSA.—Section 409I(e)(1) of the Public Health Service Act (42 U.S.C. 284m(e)(1)) is amended by striking “to carry out this section” and all that follows through the end of paragraph (1) and inserting “to carry out this section, \$25,000,000 for each of fiscal years 2013 through 2017.”.

#### SEC. 508. REPORT.

(a) IN GENERAL.—Not later than four years after the date of enactment of this Act and every five years thereafter, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, and make publicly available, including through posting on the Internet Web site of the Food and Drug Administration, a report on the

21 USC 355c–1.

Public  
information.  
Web posting.

implementation of sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a, 355c).

(b) CONTENTS.—Each report under subsection (a) shall include—

(1) an assessment of the effectiveness of sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act in improving information about pediatric uses for approved drugs and biological products, including the number and type of labeling changes made since the date of enactment of this Act and the importance of such uses in the improvement of the health of children;

(2) the number of required studies under such section 505B that have not met the initial deadline provided under such section 505B, including—

(A) the number of deferrals and deferral extensions granted and the reasons such extensions were granted;

(B) the number of waivers and partial waivers granted; and

(C) the number of letters issued under subsection (d) of such section 505B;

(3) an assessment of the timeliness and effectiveness of pediatric study planning since the date of enactment of this Act, including the number of initial pediatric study plans not submitted in accordance with the requirements of subsection (e) of such section 505B and any resulting rulemaking;

(4) the number of written requests issued, accepted, and declined under such section 505A since the date of enactment of this Act, and a listing of any important gaps in pediatric information as a result of such declined requests;

(5) a description and current status of referrals made under subsection (n) of such section 505A;

(6) an assessment of the effectiveness of studying biological products in pediatric populations under such sections 505A and 505B and section 409I of the Public Health Service Act (42 U.S.C. 284m);

(7)(A) the efforts made by the Secretary to increase the number of studies conducted in the neonatal population (including efforts made to encourage the conduct of appropriate studies in neonates by companies with products that have sufficient safety and other information to make the conduct of the studies ethical and safe); and

(B) the results of such efforts;

(8)(A) the number and importance of drugs and biological products for children with cancer that are being tested as a result of the programs under such sections 505A and 505B and under section 409I of the Public Health Service Act; and

(B) any recommendations for modifications to such programs that would lead to new and better therapies for children with cancer, including a detailed rationale for each recommendation;

(9) any recommendations for modification to such programs that would improve pediatric drug research and increase pediatric labeling of drugs and biological products;

(10) an assessment of the successes of and limitations to studying drugs for rare diseases under such sections 505A and 505B; and

(11) an assessment of the Secretary’s efforts to address the suggestions and options described in any prior report issued by the Comptroller General, Institute of Medicine, or the Secretary, and any subsequent reports, including recommendations therein, regarding the topics addressed in the reports under this section, including with respect to—

(A) improving public access to information from pediatric studies conducted under such sections 505A and 505B; and

(B) improving the timeliness of pediatric studies and pediatric study planning under such sections 505A and 505B.

(c) **STAKEHOLDER COMMENT.**—At least 180 days prior to the submission of each report under subsection (a), the Secretary shall consult with representatives of patient groups (including pediatric patient groups), consumer groups, regulated industry, academia, and other interested parties to obtain any recommendations or information relevant to the report including suggestions for modifications that would improve pediatric drug research and pediatric labeling of drugs and biological products.

Time period.  
Consultation.

#### SEC. 509. TECHNICAL AMENDMENTS.

(a) **PEDIATRIC STUDIES OF DRUGS IN FFDCA.**—Section 505A (21 U.S.C. 355a) is amended—

(1) in subsection (k)(2), by striking “subsection (f)(3)(F)” and inserting “subsection (f)(6)(F)”;

(2) in subsection (l)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking “YEAR ONE” and inserting “FIRST 18-MONTH PERIOD”; and

(ii) by striking “one-year” and inserting “18-month”;

(B) in paragraph (2)—

(i) in the paragraph heading, by striking “YEARS” and inserting “PERIODS”; and

(ii) by striking “one-year period” and inserting “18-month period”;

(C) by redesignating paragraph (3) as paragraph (4);

and

(D) by inserting after paragraph (2) the following:

“(3) **PRESERVATION OF AUTHORITY.**—Nothing in this subsection shall prohibit the Office of Pediatric Therapeutics from providing for the review of adverse event reports by the Pediatric Advisory Committee prior to the 18-month period referred to in paragraph (1), if such review is necessary to ensure safe use of a drug in a pediatric population.”;

(3) in subsection (n)—

(A) in the subsection heading, by striking “COMPLETED” and inserting “SUBMITTED”; and

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “have not been completed” and inserting “have not been submitted by the date specified in the written request issued or if the applicant or holder does not agree to the request”;

(ii) in subparagraph (A)—

(I) in the first sentence, by inserting “, or for which a period of exclusivity eligible for extension under subsection (b)(1) or (c)(1) of this section or under subsection (m)(2) or (m)(3) of section 351 of the Public Health Service Act has not ended” after “expired”; and

(II) by striking “Prior to” and all that follows through the period at the end; and

(iii) in subparagraph (B), by striking “no listed patents or has 1 or more listed patents that have expired,” and inserting “no unexpired listed patents and for which no unexpired periods of exclusivity eligible for extension under subsection (b)(1) or (c)(1) of this section or under subsection (m)(2) or (m)(3) of section 351 of the Public Health Service Act apply,”; and

(4) in subsection (o)(2), by amending subparagraph (B) to read as follows:

“(B) a statement of any appropriate pediatric contraindications, warnings, precautions, or other information that the Secretary considers necessary to assure safe use.”.

(b) RESEARCH INTO PEDIATRIC USES FOR DRUGS AND BIOLOGICAL PROJECTS IN FFDCA.—Section 505B (21 U.S.C. 355c) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter before subparagraph (A), by inserting “for a drug” after “(or supplement to an application)”; and

(B) in paragraph (4)(C)—

(i) in the first sentence, by inserting “partial” before “waiver is granted”; and

(ii) in the second sentence, by striking “either a full or” and inserting “such a”;

(2) in subsection (b)(1), in the matter preceding subparagraph (A), by striking “After providing notice” and all that follows through “studies), the” and inserting “The”;

(3) in subsection (g)—

(A) in paragraph (1)(A), by inserting “that receives a priority review or 330 days after the date of the submission of an application or supplement that receives a standard review” after “after the date of the submission of the application or supplement”; and

(B) in paragraph (2), by striking “the label of such product” and inserting “the labeling of such product”;

(4) in subsection (h)(1)—

(A) by inserting “an application (or supplement to an application) that contains” after “date of submission of”; and

(B) by inserting “if the application (or supplement) receives a priority review, or not later than 330 days after the date of submission of an application (or supplement to an application) that contains a pediatric assessment under this section, if the application (or supplement) receives a standard review,” after “under this section,”; and

(5) in subsection (i)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking “YEAR ONE” and inserting “FIRST 18-MONTH PERIOD”; and

(ii) by striking “one-year” and inserting “18-month”;

(B) in paragraph (2)—

(i) in the paragraph heading, by striking “YEARS” and inserting “PERIODS”; and

(ii) by striking “one-year period” and inserting “18-month period”;

(C) by redesignating paragraph (3) as paragraph (4);

and

(D) by inserting after paragraph (2) the following:

“(3) PRESERVATION OF AUTHORITY.—Nothing in this subsection shall prohibit the Office of Pediatric Therapeutics from providing for the review of adverse event reports by the Pediatric Advisory Committee prior to the 18-month period referred to in paragraph (1), if such review is necessary to ensure safe use of a drug in a pediatric population.”.

(c) INTERNAL COMMITTEE FOR REVIEW OF PEDIATRIC PLANS, ASSESSMENTS, DEFERRALS, DEFERRAL EXTENSIONS, AND WAIVERS.—Section 505C (21 U.S.C. 355d) is amended—

(1) in the section heading, by inserting “DEFERRAL EXTENSIONS,” after “DEFERRALS,”; and

(2) by inserting “neonatology,” after “pediatric ethics,”.

(d) PROGRAM FOR PEDIATRIC STUDIES OF DRUGS.—Section 409I(c) of the Public Health Service Act (42 U.S.C. 284m(c)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting “or section 351(m) of this Act,” after “Cosmetic Act,”;

(B) in subparagraph (A)(i), by inserting “or section 351(k) of this Act” after “Cosmetic Act”; and

(C) by amending subparagraph (B) to read as follows:

“(B) there remains no patent listed pursuant to section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act, and every three-year and five-year period referred to in subsection (c)(3)(E)(ii), (c)(3)(E)(iii), (c)(3)(E)(iv), (j)(5)(F)(ii), (j)(5)(F)(iii), or (j)(5)(F)(iv) of section 505 of the Federal Food, Drug, and Cosmetic Act, or applicable twelve-year period referred to in section 351(k)(7) of this Act, and any seven-year period referred to in section 527 of the Federal Food, Drug, and Cosmetic Act has ended for at least one form of the drug; and”;

(2) in paragraph (2)—

(A) in the paragraph heading, by striking “FOR DRUGS LACKING EXCLUSIVITY”;

(B) by striking “under section 505 of the Federal Food, Drug, and Cosmetic Act”; and

(C) by striking “505A of such Act” and inserting “505A of the Federal Food, Drug, and Cosmetic Act or section 351(m) of this Act”.

(e) PEDIATRIC SUBCOMMITTEE OF THE ONCOLOGIC ADVISORY COMMITTEE.—Section 15(a) of the Best Pharmaceuticals for Children Act (Public Law 107–109), as amended by section 502(e) of the Food and Drug Administration Amendments Act of 2007 (Public

Law 110–85), is amended in paragraph (1)(D), by striking “section 505B(f)” and inserting “section 505C”.

(f) FOUNDATION OF NATIONAL INSTITUTES OF HEALTH.—Section 499(c)(1)(C) of the Public Health Service Act (42 U.S.C. 290b(c)(1)(C)) is amended by striking “for which the Secretary issues a certification in the affirmative under section 505A(n)(1)(A) of the Federal Food, Drug, and Cosmetic Act”.

21 USC 355a  
note.  
Effective date.

(g) APPLICATION; TRANSITION RULE.—

(1) APPLICATION.—Notwithstanding any provision of section 505A and 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a, 355c) stating that a provision applies beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007 or the date of the enactment of the Pediatric Research Equity Act of 2007, any amendment made by this Act to such a provision applies beginning on the date of the enactment of this Act.

Time period.

(2) TRANSITIONAL RULE FOR ADVERSE EVENT REPORTING.—With respect to a drug for which a labeling change described under section 505A(l)(1) or 505B(i)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(l)(1); 355c(i)(1)) is approved or made, respectively, during the one-year period that ends on the day before the date of enactment of this Act, the Secretary shall apply section 505A(l) and section 505B(i), as applicable, to such drug, as such sections were in effect on such day.

#### SEC. 510. PEDIATRIC RARE DISEASES.

Deadline.

(a) PUBLIC MEETING.—Not later than 18 months after the date of enactment of this Act, the Secretary shall hold at least one public meeting to discuss ways to encourage and accelerate the development of new therapies for pediatric rare diseases.

Strategic plan.

(b) REPORT.—Not later than 180 days after the date of the public meeting under subsection (a), the Secretary shall issue a report that includes a strategic plan for encouraging and accelerating the development of new therapies for treating pediatric rare diseases.

#### SEC. 511. STAFF OF OFFICE OF PEDIATRIC THERAPEUTICS.

Section 6 of the Best Pharmaceuticals for Children Act (21 U.S.C. 393a) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking “and” at the end;

(B) by redesignating paragraph (2) as paragraph (4);

and

(C) by inserting after paragraph (1) the following:

“(2) subject to subsection (d), one or more additional individuals with necessary expertise in a pediatric subpopulation that is, as determined through consideration of the reports and recommendations issued by the Institute of Medicine and the Comptroller General of the United States, less likely to be studied as a part of a written request issued under section 505A of the Federal Food, Drug, and Cosmetic Act or an assessment under section 505B of such Act;

“(3) one or more additional individuals with expertise in pediatric epidemiology; and”;

(2) by adding at the end the following:

Time period.  
Effective date.

“(d) NEONATOLOGY EXPERTISE.—For the 5-year period beginning on the date of enactment of this subsection, at least one of the



individuals described in subsection (c)(2) shall have expertise in neonatology.”.

## TITLE VI—MEDICAL DEVICE REGULATORY IMPROVEMENTS

### SEC. 601. INVESTIGATIONAL DEVICE EXEMPTIONS.

Section 520(g) (21 U.S.C. 360j(g)) is amended—

(1) in paragraph (2)(B)(ii), by inserting “safety or effectiveness” before “data obtained”; and

(2) in paragraph (4), by adding at the end the following: “(C) Consistent with paragraph (1), the Secretary shall not disapprove an application under this subsection because the Secretary determines that—

“(i) the investigation may not support a substantial equivalence or de novo classification determination or approval of the device;

“(ii) the investigation may not meet a requirement, including a data requirement, relating to the approval or clearance of a device; or

“(iii) an additional or different investigation may be necessary to support clearance or approval of the device.”.

### SEC. 602. CLARIFICATION OF LEAST BURDENSOME STANDARD.

(a) **PREMARKET APPROVAL.**—Section 513(a)(3)(D) (21 U.S.C. 360c(a)(3)(D)) is amended—

(1) by redesignating clause (iii) as clause (v); and

(2) by inserting after clause (ii) the following:

“(iii) For purposes of clause (ii), the term ‘necessary’ means the minimum required information that would support a determination by the Secretary that an application provides reasonable assurance of the effectiveness of the device. Definition.

“(iv) Nothing in this subparagraph shall alter the criteria for evaluating an application for premarket approval of a device.”.

(b) **PREMARKET NOTIFICATION UNDER SECTION 510(k).**—Section 513(i)(1)(D) (21 U.S.C. 360c(i)(1)(D)) is amended—

(1) by striking “(D) Whenever” and inserting “(D)(i) Whenever”; and

(2) by adding at the end the following:

“(ii) For purposes of clause (i), the term ‘necessary’ means the minimum required information that would support a determination of substantial equivalence between a new device and a predicate device. Definition.

“(iii) Nothing in this subparagraph shall alter the standard for determining substantial equivalence between a new device and a predicate device.”.

### SEC. 603. AGENCY DOCUMENTATION AND REVIEW OF SIGNIFICANT DECISIONS.

Chapter V is amended by inserting after section 517 (21 U.S.C. 360g) the following:

#### “SEC. 517A. AGENCY DOCUMENTATION AND REVIEW OF SIGNIFICANT DECISIONS REGARDING DEVICES.

“(a) **DOCUMENTATION OF RATIONALE FOR SIGNIFICANT DECISIONS.**—

“(1) IN GENERAL.—The Secretary shall provide a substantive summary of the scientific and regulatory rationale for any significant decision of the Center for Devices and Radiological Health regarding submission or review of a report under section 510(k), an application under section 515, or an application for an exemption under section 520(g), including documentation of significant controversies or differences of opinion and the resolution of such controversies or differences of opinion.

“(2) PROVISION OF DOCUMENTATION.—Upon request, the Secretary shall furnish such substantive summary to the person who is seeking to submit, or who has submitted, such report or application.

“(b) REVIEW OF SIGNIFICANT DECISIONS.—

“(1) REQUEST FOR SUPERVISORY REVIEW OF SIGNIFICANT DECISION.—Any person may request a supervisory review of the significant decision described in subsection (a)(1). Such review may be conducted at the next supervisory level or higher above the individual who made the significant decision.

Deadline.

“(2) SUBMISSION OF REQUEST.—A person requesting a supervisory review under paragraph (1) shall submit such request to the Secretary not later than 30 days after such decision and shall indicate in the request whether such person seeks an in-person meeting or a teleconference review.

“(3) TIMEFRAME.—

Decision.

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall schedule an in-person or teleconference review, if so requested, not later than 30 days after such request is made. The Secretary shall issue a decision to the person requesting a review under this subsection not later than 45 days after the request is made under paragraph (1), or, in the case of a person who requests an in-person meeting or teleconference, 30 days after such meeting or teleconference.

“(B) EXCEPTION.—Subparagraph (A) shall not apply in cases that are referred to experts outside of the Food and Drug Administration.”.

#### SEC. 604. DEVICE MODIFICATIONS REQUIRING PREMARKET NOTIFICATION PRIOR TO MARKETING.

Section 510(n) (21 U.S.C. 360(n)) is amended by—

(1) striking “(n) The Secretary” and inserting “(n)(1) The Secretary”; and

(2) by adding at the end the following:

Deadline.  
Reports.

“(2)(A) Not later than 18 months after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report regarding when a premarket notification under subsection (k) should be submitted for a modification or change to a legally marketed device. The report shall include the Secretary’s interpretation of the following terms: ‘could significantly affect the safety or effectiveness of the device’, ‘a significant change or modification in design, material, chemical composition, energy source, or manufacturing process’, and ‘major change or modification in the

intended use of the device’. The report also shall discuss possible processes for industry to use to determine whether a new submission under subsection (k) is required and shall analyze how to leverage existing quality system requirements to reduce premarket burden, facilitate continual device improvement, and provide reasonable assurance of safety and effectiveness of modified devices. In developing such report, the Secretary shall consider the input of interested stakeholders.

“(B) The Secretary shall withdraw the Food and Drug Administration draft guidance entitled ‘Guidance for Industry and FDA Staff—510(k) Device Modifications: Deciding When to Submit a 510(k) for a Change to an Existing Device’, dated July 27, 2011, and shall not use this draft guidance as part of, or for the basis of, any premarket review or any compliance or enforcement decisions or actions. The Secretary shall not issue—

“(i) any draft guidance or proposed regulation that addresses when to submit a premarket notification submission for changes and modifications made to a manufacturer’s previously cleared device before the receipt by the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate of the report required in subparagraph (A); and

“(ii) any final guidance or regulation on that topic for one year after date of receipt of such report by the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

“(C) The Food and Drug Administration guidance entitled ‘Deciding When to Submit a 510(k) for a Change to an Existing Device’, dated January 10, 1997, shall be in effect until the subsequent issuance of guidance or promulgation, if appropriate, of a regulation described in subparagraph (B), and the Secretary shall interpret such guidance in a manner that is consistent with the manner in which the Secretary has interpreted such guidance since 1997.”.

Continuation.

#### **SEC. 605. PROGRAM TO IMPROVE THE DEVICE RECALL SYSTEM.**

Chapter V is amended by inserting after section 518 (21 U.S.C. 360h) the following:

#### **“SEC. 518A. PROGRAM TO IMPROVE THE DEVICE RECALL SYSTEM.**

21 USC 360h–1.

“(a) IN GENERAL.—The Secretary shall—

“(1) establish a program to routinely and systematically assess information relating to device recalls and use such information to proactively identify strategies for mitigating health risks presented by defective or unsafe devices;

“(2) clarify procedures for conducting device recall audit checks to improve the ability of investigators to perform those checks in a consistent manner;

Procedures.

“(3) develop detailed criteria for assessing whether a person performing a device recall has performed an effective correction or action plan for the recall; and

Criteria.

“(4) document the basis for each termination by the Food and Drug Administration of a device recall.

“(b) ASSESSMENT CONTENT.—The program established under subsection (a)(1) shall, at a minimum, identify—

“(1) trends in the number and types of device recalls;

“(2) devices that are most frequently the subject of a recall; and

“(3) underlying causes of device recalls.

“(c) **TERMINATION OF RECALLS.**—The Secretary shall document the basis for the termination by the Food and Drug Administration of a device recall.

“(d) **DEFINITION.**—In this section, the term ‘recall’ means—

“(1) the removal from the market of a device pursuant to an order of the Secretary under subsection (b) or (e) of section 518; or

“(2) the correction or removal from the market of a device at the initiative of the manufacturer or importer of the device that is required to be reported to the Secretary under section 519(g).”.

**SEC. 606. CLINICAL HOLDS ON INVESTIGATIONAL DEVICE EXEMPTIONS.**

Section 520(g) (21 U.S.C. 360j(g)) is amended by adding at the end the following:

“(8)(A) At any time, the Secretary may prohibit the sponsor of an investigation from conducting the investigation (referred to in this paragraph as a ‘clinical hold’) if the Secretary makes a determination described in subparagraph (B). The Secretary shall specify the basis for the clinical hold, including the specific information available to the Secretary which served as the basis for such clinical hold, and confirm such determination in writing.

Determination.

“(B) For purposes of subparagraph (A), a determination described in this subparagraph with respect to a clinical hold is a determination that—

“(i) the device involved represents an unreasonable risk to the safety of the persons who are the subjects of the clinical investigation, taking into account the qualifications of the clinical investigators, information about the device, the design of the clinical investigation, the condition for which the device is to be investigated, and the health status of the subjects involved; or

“(ii) the clinical hold should be issued for such other reasons as the Secretary may by regulation establish.

Decision.  
Deadline.

“(C) Any written request to the Secretary from the sponsor of an investigation that a clinical hold be removed shall receive a decision, in writing and specifying the reasons therefor, within 30 days after receipt of such request. Any such request shall include sufficient information to support the removal of such clinical hold.”.

**SEC. 607. MODIFICATION OF DE NOVO APPLICATION PROCESS.**

(a) **IN GENERAL.**—Section 513(f)(2) (21 U.S.C. 360c(f)(2)) is amended—

(1) by inserting “(i)” after “(2)(A)”;

(2) in subparagraph (A)(i), as so designated by paragraph (1), by striking “under the criteria set forth” and all that follows through the end of subparagraph (A) and inserting a period;

(3) by adding at the end of subparagraph (A) the following:

“(ii) In lieu of submitting a report under section 510(k) and submitting a request for classification under clause (i) for a device, if a person determines there is no legally marketed device upon which to base a determination of substantial equivalence (as defined

in subsection (i)), a person may submit a request under this clause for the Secretary to classify the device.

“(iii) Upon receipt of a request under clause (i) or (ii), the Secretary shall classify the device subject to the request under the criteria set forth in subparagraphs (A) through (C) of subsection (a)(1) within 120 days.

Classification.  
Deadline.

“(iv) Notwithstanding clause (iii), the Secretary may decline to undertake a classification request submitted under clause (ii) if the Secretary identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence under paragraph (1), or when the Secretary determines that the device submitted is not of low-moderate risk or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

“(v) The person submitting the request for classification under this subparagraph may recommend to the Secretary a classification for the device and shall, if recommending classification in class II, include in the request an initial draft proposal for applicable special controls, as described in subsection (a)(1)(B), that are necessary, in conjunction with general controls, to provide reasonable assurance of safety and effectiveness and a description of how the special controls provide such assurance. Any such request shall describe the device and provide detailed information and reasons for the recommended classification.”; and

(4) in subparagraph (B), by striking “Not later than 60 days after the date of the submission of the request under subparagraph (A), the Secretary” and inserting “The Secretary”.

(b) CONFORMING AMENDMENTS.—Section 513(f) (21 U.S.C. 360c(f)) is amended in paragraph (1)—

(1) in subparagraph (A), by striking “, or” at the end and inserting a semicolon;

(2) in subparagraph (B), by striking the period and inserting “; or”; and

(3) by inserting after subparagraph (B) the following:

“(C) the device is classified pursuant to a request submitted under paragraph (2).”.

#### SEC. 608. RECLASSIFICATION PROCEDURES.

(a) CLASSIFICATION CHANGES.—

(1) IN GENERAL.—Section 513(e)(1) (21 U.S.C. 360c(e)(1)) is amended to read as follows:

“(e)(1)(A)(i) Based on new information respecting a device, the Secretary may, upon the initiative of the Secretary or upon petition of an interested person, change the classification of such device, and revoke, on account of the change in classification, any regulation or requirement in effect under section 514 or 515 with respect to such device, by administrative order published in the Federal Register following publication of a proposed reclassification order in the Federal Register, a meeting of a device classification panel described in subsection (b), and consideration of comments to a public docket, notwithstanding subchapter II of chapter 5 of title 5, United States Code. The proposed reclassification order published in the Federal Register shall set forth the proposed reclassification, and a substantive summary of the valid scientific evidence concerning the proposed reclassification, including—

Federal Register,  
publication.

“(I) the public health benefit of the use of the device, and the nature and, if known, incidence of the risk of the device;

“(II) in the case of a reclassification from class II to class III, why general controls pursuant to subsection (a)(1)(A) and special controls pursuant to subsection (a)(1)(B) together are not sufficient to provide a reasonable assurance of safety and effectiveness for such device; and

“(III) in the case of reclassification from class III to class II, why general controls pursuant to subsection (a)(1)(A) and special controls pursuant to subsection (a)(1)(B) together are sufficient to provide a reasonable assurance of safety and effectiveness for such device.

“(ii) An order under this subsection changing the classification of a device from class III to class II may provide that such classification shall not take effect until the effective date of a performance standard established under section 514 for such device.

“(B) Authority to issue such administrative order shall not be delegated below the Director of the Center for Devices and Radiological Health, acting in consultation with the Commissioner.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 513(e)(2) (21 U.S.C. 360c(e)(2)) is amended by striking “regulation promulgated” and inserting “an order issued”.

(B) Section 514(a)(1) (21 U.S.C. 360d(a)(1)) is amended by striking “under a regulation under section 513(e) but such regulation” and inserting “under an administrative order under section 513(e) (or a regulation promulgated under such section prior to the date of enactment of the Food and Drug Administration Safety and Innovation Act) but such order (or regulation)”.

(C) Section 517(a)(1) (21 U.S.C. 360g(a)(1)) is amended by striking “or changing the classification of a device to class I” and inserting “, an administrative order changing the classification of a device to class I,”.

(3) DEVICES RECLASSIFIED PRIOR TO THE DATE OF ENACTMENT OF THIS ACT.—

(A) IN GENERAL.—The amendments made by this subsection shall have no effect on a regulation promulgated with respect to the classification of a device under section 513(e) of the Federal Food, Drug, and Cosmetic Act prior to the date of enactment of this Act.

(B) APPLICABILITY OF OTHER PROVISIONS.—In the case of a device reclassified under section 513(e) of the Federal Food, Drug, and Cosmetic Act by regulation prior to the date of enactment of this Act, section 517(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360g(a)(1)) shall apply to such regulation promulgated under section 513(e) of such Act with respect to such device in the same manner such section 517(a)(1) applies to an administrative order issued with respect to a device reclassified after the date of enactment of this Act.

(b) DEVICES MARKETED BEFORE MAY 28, 1976.—

(1) PREMARKET APPROVAL.—Section 515 (21 U.S.C. 360e) is amended—

(A) in subsection (a), by striking “regulation promulgated under subsection (b)” and inserting “an order issued

under subsection (b) (or a regulation promulgated under such subsection prior to the date of enactment of the Food and Drug Administration Safety and Innovation Act)”;

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the heading, by striking “Regulation” and inserting “Order”; and

(II) in the matter following subparagraph (B)—

(aa) by striking “by regulation, promulgated in accordance with this subsection” and inserting “by administrative order following publication of a proposed order in the Federal Register, a meeting of a device classification panel described in section 513(b), and consideration of comments from all affected stakeholders, including patients, payors, and providers, notwithstanding subchapter II of chapter 5 of title 5, United States Code”; and

(bb) by adding at the end the following: “Authority to issue such administrative order shall not be delegated below the Director of the Center for Devices and Radiological Health, acting in consultation with the Commissioner.”;

(ii) in paragraph (2)—

(I) by striking subparagraph (B); and

(II) in subparagraph (A)—

(aa) by striking “(2)(A) A proceeding for the promulgation of a regulation under paragraph (1) respecting a device shall be initiated by the publication in the Federal Register of a notice of proposed rulemaking. Such notice shall contain—” and inserting “(2) A proposed order required under paragraph (1) shall contain—”;

(bb) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively;

(cc) in subparagraph (A), as so redesignated, by striking “regulation” and inserting “order”; and

(dd) in subparagraph (C), as so redesignated, by striking “regulation” and inserting “order”;

(iii) in paragraph (3)—

(I) by striking “proposed regulation” each place such term appears and inserting “proposed order”;

(II) by striking “paragraph (2) and after” and inserting “paragraph (2).”;

(III) by inserting “and a meeting of a device classification panel described in section 513(b),” after “such proposed regulation and findings.”;

(IV) by striking “(A) promulgate such regulation” and inserting “(A) issue an administrative order under paragraph (1)”;

(V) by striking “paragraph (2)(A)(ii)” and inserting “paragraph (2)(B)”;

- (VI) by striking “promulgation of the regulation” and inserting “issuance of the administrative order”; and
  - (iv) by striking paragraph (4); and
  - (C) in subsection (i)—
    - (i) in paragraph (2)—
      - (I) in the matter preceding subparagraph (A)—
        - (aa) by striking “December 1, 1995” and inserting “the date that is 2 years after the date of enactment of the Food and Drug Administration Safety and Innovation Act”; and
        - (bb) by striking “publish a regulation in the Federal Register” and inserting “issue an administrative order following publication of a proposed order in the Federal Register, a meeting of a device classification panel described in section 513(b), and consideration of comments from all affected stakeholders, including patients, payors, and providers, notwithstanding subchapter II of chapter 5 of title 5, United States Code,”;
      - (II) in subparagraph (B), by striking “final regulation has been promulgated under section 515(b)” and inserting “administrative order has been issued under subsection (b) (or no regulation has been promulgated under such subsection prior to the date of enactment of the Food and Drug Administration Safety and Innovation Act)”;
      - (III) in the matter following subparagraph (B), by striking “regulation requires” and inserting “administrative order issued under this paragraph requires”; and
      - (IV) by striking the third and fourth sentences; and
    - (ii) in paragraph (3)—
      - (I) by striking “regulation requiring” each place such term appears and inserting “order requiring”; and
      - (II) by striking “promulgation of a section 515(b) regulation” and inserting “issuance of an administrative order under subsection (b)”.
- (2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 501(f) (21 U.S.C. 351(f)) is amended—
- (A) in subparagraph (1)(A)—
    - (i) in subclause (i), by striking “a regulation promulgated” and inserting “an order issued”; and
    - (ii) in subclause (ii), by striking “promulgation of such regulation” and inserting “issuance of such order”;
  - (B) in subparagraph (2)(B)—
    - (i) by striking “a regulation promulgated” and inserting “an order issued”; and
    - (ii) by striking “promulgation of such regulation” and inserting “issuance of such order”; and
  - (C) by adding at the end the following:
 

“(3) In the case of a device with respect to which a regulation was promulgated under section 515(b) prior to the date of enactment



of the Food and Drug Administration Safety and Innovation Act, a reference in this subsection to an order issued under section 515(b) shall be deemed to include such regulation.”.

(3) **APPROVAL BY REGULATION PRIOR TO THE DATE OF ENACTMENT OF THIS ACT.**—The amendments made by this subsection shall have no effect on a regulation that was promulgated prior to the date of enactment of this Act requiring that a device have an approval under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e) of an application for premarket approval.

21 USC 351 note.

(c) **REPORTING.**—The Secretary of Health and Human Services shall annually post on the Internet Web site of the Food and Drug Administration—

Web posting.  
21 USC 360c–1.

(1) the number and type of class I and class II devices reclassified as class II or class III in the previous calendar year under section 513(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(e)(1));

(2) the number and type of class II and class III devices reclassified as class I or class II in the previous calendar year under such section 513(e)(1); and

(3) the number and type of devices reclassified in the previous calendar year under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e).

**SEC. 609. HARMONIZATION OF DEVICE PREMARKET REVIEW, INSPECTION, AND LABELING SYMBOLS.**

Paragraph (4) of section 803(c) (21 U.S.C. 383(c)) is amended to read as follows:

“(4) With respect to devices, the Secretary may, when appropriate, enter into arrangements with nations regarding methods and approaches to harmonizing regulatory requirements for activities, including inspections and common international labeling symbols.”.

**SEC. 610. PARTICIPATION IN INTERNATIONAL FORA.**

Paragraph (3) of section 803(c) (21 U.S.C. 383(c)) is amended—

(1) by striking “(3)” and inserting “(3)(A)”; and

(2) by adding at the end the following:

“(B) In carrying out subparagraph (A), the Secretary may participate in appropriate fora, including the International Medical Device Regulators Forum, and may—

“(i) provide guidance to such fora on strategies, policies, directions, membership, and other activities of a forum as appropriate;

“(ii) to the extent appropriate, solicit, review, and consider comments from industry, academia, health care professionals, and patient groups regarding the activities of such fora; and

“(iii) to the extent appropriate, inform the public of the Secretary’s activities within such fora, and share with the public any documentation relating to a forum’s strategies, policies, and other activities of such fora.”.

**SEC. 611. REAUTHORIZATION OF THIRD-PARTY REVIEW.**

(a) **PERIODIC REACCREDITATION.**—Section 523(b)(2) (21 U.S.C. 360m(b)(2)) is amended by adding at the end of the following:

“(E) **PERIODIC REACCREDITATION.**—

“(i) **PERIOD.**—Subject to suspension or withdrawal under subparagraph (B), any accreditation under this

Deadlines.

section shall be valid for a period of 3 years after its issuance.

“(ii) RESPONSE TO REACCREDITATION REQUEST.—Upon the submission of a request by an accredited person for reaccreditation under this section, the Secretary shall approve or deny such request not later than 60 days after receipt of the request.

“(iii) CRITERIA.—Not later than 120 days after the date of the enactment of this subparagraph, the Secretary shall establish and publish in the Federal Register criteria to reaccredit or deny reaccreditation to persons under this section. The reaccreditation of persons under this section shall specify the particular activities under subsection (a), and the devices, for which such persons are reaccredited.”.

(b) DURATION OF AUTHORITY.—Section 523(c) (21 U.S.C. 360m(c)) is amended by striking “October 1, 2012” and inserting “October 1, 2017”.

#### SEC. 612. REAUTHORIZATION OF THIRD-PARTY INSPECTION.

Section 704(g)(11) (21 U.S.C. 374(g)(11)) is amended by striking “October 1, 2012” and inserting “October 1, 2017”.

#### SEC. 613. HUMANITARIAN DEVICE EXEMPTIONS.

(a) IN GENERAL.—Section 520(m) (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (6)—

(A) in subparagraph (A)—

(i) by striking clause (i) and inserting the following:

“(i) The device with respect to which the exemption is granted—

“(I) is intended for the treatment or diagnosis of a disease or condition that occurs in pediatric patients or in a pediatric subpopulation, and such device is labeled for use in pediatric patients or in a pediatric subpopulation in which the disease or condition occurs; or

“(II) is intended for the treatment or diagnosis of a disease or condition that does not occur in pediatric patients or that occurs in pediatric patients in such numbers that the development of the device for such patients is impossible, highly impracticable, or unsafe.”; and

(ii) by striking clause (ii) and inserting the following:

“(ii) During any calendar year, the number of such devices distributed during that year under each exemption granted under this subsection does not exceed the annual distribution number for such device. In this paragraph, the term ‘annual distribution number’ means the number of such devices reasonably needed to treat, diagnose, or cure a population of 4,000 individuals in the United States. The Secretary shall determine the annual distribution number when the Secretary grants such exemption.”; and

(B) by amending subparagraph (C) to read as follows:

“(C) A person may petition the Secretary to modify the annual distribution number determined by the Secretary under subparagraph (A)(ii) with respect to a device if additional information arises, and the Secretary may modify such annual distribution number.”;

Definition.

Determination.

(2) in paragraph (7), by striking “regarding a device” and inserting “regarding a device described in paragraph (6)(A)(i)(I)”; and

(3) in paragraph (8), by striking “of all devices described in paragraph (6)” and inserting “of all devices described in paragraph (6)(A)(i)(I)”.

(b) **APPLICABILITY TO EXISTING DEVICES.**—A sponsor of a device for which an exemption was approved under paragraph (2) of section 520(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)) before the date of enactment of this Act may seek a determination under subclause (I) or (II) of section 520(m)(6)(A)(i) (as amended by subsection (a)). If the Secretary of Health and Human Services determines that such subclause (I) or (II) applies with respect to a device, clauses (ii), (iii), and (iv) of subparagraph (A) and subparagraphs (B), (C), (D), and (E) of paragraph (6) of such section 520(m) shall apply to such device, and the Secretary shall determine the annual distribution number for purposes of clause (ii) of such subparagraph (A) when making the determination under this subsection.

Determination.  
21 USC 360j  
note.

#### **SEC. 614. UNIQUE DEVICE IDENTIFIER.**

Deadlines.

Section 519(f) (21 U.S.C. 360i(f)) is amended—

(1) by striking “The Secretary shall promulgate” and inserting “Not later than December 31, 2012, the Secretary shall issue proposed”; and

(2) by adding at the end the following: “The Secretary shall finalize the proposed regulations not later than 6 months after the close of the comment period and shall implement the final regulations with respect to devices that are implantable, life-saving, and life sustaining not later than 2 years after the regulations are finalized, taking into account patient access to medical devices and therapies.”.

#### **SEC. 615. SENTINEL.**

Section 519 (21 U.S.C. 360i) is amended by adding at the end the following:

“(h) **INCLUSION OF DEVICES IN THE POSTMARKET RISK IDENTIFICATION AND ANALYSIS SYSTEM.**—

“(1) **IN GENERAL.**—

“(A) **APPLICATION TO DEVICES.**—The Secretary shall amend the procedures established and maintained under clauses (i), (ii), (iii), and (v) of section 505(k)(3)(C) in order to expand the postmarket risk identification and analysis system established under such section to include and apply to devices.

Procedures.

“(B) **EXCEPTION.**—Subclause (II) of clause (i) of section 505(k)(3)(C) shall not apply to devices.

“(C) **CLARIFICATION.**—With respect to devices, the private sector health-related electronic data provided under section 505(k)(3)(C)(i)(III)(bb) may include medical device utilization data, health insurance claims data, and procedure and device registries.

“(2) **DATA.**—In expanding the system as described in paragraph (1)(A), the Secretary shall use relevant data with respect to devices cleared under section 510(k) or approved under section 515, including claims data, patient survey data, and any other data deemed appropriate by the Secretary.

“(3) **STAKEHOLDER INPUT.**—To help ensure effective implementation of the system as described in paragraph (1) with respect to devices, the Secretary shall engage outside stakeholders in development of the system, and gather information from outside stakeholders regarding the content of an effective sentinel program, through a public hearing, advisory committee meeting, maintenance of a public docket, or other similar public measures.

“(4) **VOLUNTARY SURVEYS.**—Chapter 35 of title 44, United States Code, shall not apply to the collection of voluntary information from health care providers, such as voluntary surveys or questionnaires, initiated by the Secretary for purposes of postmarket risk identification, mitigation, and analysis for devices.”.

#### **SEC. 616. POSTMARKET SURVEILLANCE.**

Section 522 (21 U.S.C. 360l) is amended—

(1) in subsection (a)(1)(A), in the matter preceding clause (i), by inserting “, at the time of approval or clearance of a device or at any time thereafter,” after “by order”; and

(2) in subsection (b)(1), by inserting “The manufacturer shall commence surveillance under this section not later than 15 months after the day on which the Secretary issues an order under this section.” after the second sentence.

Deadline.

#### **SEC. 617. CUSTOM DEVICES.**

Section 520(b) (21 U.S.C. 360j(b)) is amended to read as follows:

“(b) **CUSTOM DEVICES.**—

“(1) **IN GENERAL.**—The requirements of sections 514 and 515 shall not apply to a device that—

“(A) is created or modified in order to comply with the order of an individual physician or dentist (or any other specially qualified person designated under regulations promulgated by the Secretary after an opportunity for an oral hearing);

“(B) in order to comply with an order described in subparagraph (A), necessarily deviates from an otherwise applicable performance standard under section 514 or requirement under section 515;

“(C) is not generally available in the United States in finished form through labeling or advertising by the manufacturer, importer, or distributor for commercial distribution;

“(D) is designed to treat a unique pathology or physiological condition that no other device is domestically available to treat;

“(E)(i) is intended to meet the special needs of such physician or dentist (or other specially qualified person so designated) in the course of the professional practice of such physician or dentist (or other specially qualified person so designated); or

“(ii) is intended for use by an individual patient named in such order of such physician or dentist (or other specially qualified person so designated);

“(F) is assembled from components or manufactured and finished on a case-by-case basis to accommodate the unique needs of individuals described in clause (i) or (ii) of subparagraph (E); and

“(G) may have common, standardized design characteristics, chemical and material compositions, and manufacturing processes as commercially distributed devices.

“(2) LIMITATIONS.—Paragraph (1) shall apply to a device only if—

“(A) such device is for the purpose of treating a sufficiently rare condition, such that conducting clinical investigations on such device would be impractical;

“(B) production of such device under paragraph (1) is limited to no more than 5 units per year of a particular device type, provided that such replication otherwise complies with this section; and

“(C) the manufacturer of such device notifies the Secretary on an annual basis, in a manner prescribed by the Secretary, of the manufacture of such device.

“(3) GUIDANCE.—Not later than 2 years after the date of enactment of this section, the Secretary shall issue final guidance on replication of multiple devices described in paragraph (2)(B).”

#### SEC. 618. HEALTH INFORMATION TECHNOLOGY.

(a) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”), acting through the Commissioner of Food and Drugs, and in consultation with the National Coordinator for Health Information Technology and the Chairman of the Federal Communications Commission, shall post on the Internet Web sites of the Food and Drug Administration, the Federal Communications Commission, and the Office of the National Coordinator for Health Information Technology, a report that contains a proposed strategy and recommendations on an appropriate, risk-based regulatory framework pertaining to health information technology, including mobile medical applications, that promotes innovation, protects patient safety, and avoids regulatory duplication.

(b) WORKING GROUP.—

(1) IN GENERAL.—In carrying out subsection (a), the Secretary may convene a working group of external stakeholders and experts to provide appropriate input on the strategy and recommendations required for the report under subsection (a).

(2) REPRESENTATIVES.—If the Secretary convenes the working group under paragraph (1), the Secretary, in consultation with the Commissioner of Food and Drugs, the National Coordinator for Health Information Technology, and the Chairman of the Federal Communications Commission, shall determine the number of representatives participating in the working group, and shall, to the extent practicable, ensure that the working group is geographically diverse and includes representatives of patients, consumers, health care providers, startup companies, health plans or other third-party payers, venture capital investors, information technology vendors, health information technology vendors, small businesses, purchasers, employers, and other stakeholders with relevant expertise, as determined by the Secretary.

#### SEC. 619. GOOD GUIDANCE PRACTICES RELATING TO DEVICES.

Subparagraph (C) of section 701(h)(1) (21 U.S.C. 371(h)(1)) is amended—

Notification. (1) by striking “(C) For guidance documents” and inserting “(C)(i) For guidance documents”; and  
 (2) by adding at the end the following:  
 “(ii) With respect to devices, if a notice to industry guidance letter, a notice to industry advisory letter, or any similar notice sets forth initial interpretations of a regulation or policy or sets forth changes in interpretation or policy, such notice shall be treated as a guidance document for purposes of this subparagraph.”.

#### **SEC. 620. PEDIATRIC DEVICE CONSORTIA.**

Deadlines.  
 21 USC 360e–1  
 note. (a) IN GENERAL.—Section 305(e) of Pediatric Medical Device Safety and Improvement Act (Public Law 110–85; 42 U.S.C. 282 note)) is amended by striking “\$6,000,000 for each of fiscal years 2008 through 2012” and inserting “\$5,250,000 for each of fiscal years 2013 through 2017”.

(b) FINAL RULE RELATING TO TRACKING OF PEDIATRIC USES OF DEVICES.—The Secretary of Health and Human Services shall issue—

(1) a proposed rule implementing section 515A(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e–1(a)(2)) not later than December 31, 2012; and

(2) a final rule implementing such section not later than December 31, 2013.

## **TITLE VII—DRUG SUPPLY CHAIN**

#### **SEC. 701. REGISTRATION OF DOMESTIC DRUG ESTABLISHMENTS.**

Section 510 (21 U.S.C. 360) is amended—

Time period. (1) in subsection (b)—  
 (A) in paragraph (1), by striking “On or before” and all that follows through the period at the end and inserting the following: “During the period beginning on October 1 and ending on December 31 of each year, every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs shall register with the Secretary the name of such person, places of business of such person, all such establishments, the unique facility identifier of each such establishment, and a point of contact e-mail address.; and

Applicability. (B) by adding at the end the following:  
 “(3) The Secretary shall specify the unique facility identifier system that shall be used by registrants under paragraph (1). The requirement to include a unique facility identifier in a registration under paragraph (1) shall not apply until the date that the identifier system is specified by the Secretary under the preceding sentence.”; and

(2) in subsection (c), by striking “with the Secretary his name, place of business, and such establishment” and inserting “with the Secretary—

“(1) with respect to drugs, the information described under subsection (b)(1); and

“(2) with respect to devices, the information described under subsection (b)(2).”.

**SEC. 702. REGISTRATION OF FOREIGN ESTABLISHMENTS.**

(a) **ENFORCEMENT OF REGISTRATION OF FOREIGN ESTABLISHMENTS.**—Section 502(o) (21 U.S.C. 352(o)) is amended by striking “in any State”.

(b) **REGISTRATION OF FOREIGN DRUG ESTABLISHMENTS.**—Section 510(i) (U.S.C. 360(i)) is amended—

21 USC 360.

(1) in paragraph (1)—

(A) by amending the matter preceding subparagraph (A) to read as follows: “Every person who owns or operates any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or device that is imported or offered for import into the United States shall, through electronic means in accordance with the criteria of the Secretary—”;

(B) by amending subparagraph (A) to read as follows: “(A) upon first engaging in any such activity, immediately submit a registration to the Secretary that includes—

“(i) with respect to drugs, the name and place of business of such person, all such establishments, the unique facility identifier of each such establishment, a point of contact e-mail address, the name of the United States agent of each such establishment, the name of each importer of such drug in the United States that is known to the establishment, and the name of each person who imports or offers for import such drug to the United States for purposes of importation; and

“(ii) with respect to devices, the name and place of business of the establishment, the name of the United States agent for the establishment, the name of each importer of such device in the United States that is known to the establishment, and the name of each person who imports or offers for import such device to the United States for purposes of importation; and”;

(C) by amending subparagraph (B) to read as follows:

“(B) each establishment subject to the requirements of subparagraph (A) shall thereafter register with the Secretary during the period beginning on October 1 and ending on December 31 of each year.”; and

Time period.

(2) by adding at the end the following:

“(4) The Secretary shall specify the unique facility identifier system that shall be used by registrants under paragraph (1) with respect to drugs. The requirement to include a unique facility identifier in a registration under paragraph (1) with respect to drugs shall not apply until the date that the identifier system is specified by the Secretary under the preceding sentence.”.

Applicability.

**SEC. 703. IDENTIFICATION OF DRUG EXCIPIENT INFORMATION WITH PRODUCT LISTING.**

Section 510(j) (21 U.S.C. 360(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking “; and” and inserting a semicolon;

(B) in subparagraph (D), by striking the period at the end and inserting “; and”;

(C) by adding at the end the following:

“(E) in the case of a drug contained in the applicable list, the name and place of business of each manufacturer of an excipient of the listed drug with which the person listing the drug conducts business, including all establishments used in the production of such excipient, the unique facility identifier of each such establishment, and a point of contact e-mail address for each such excipient manufacturer.”; and

(2) by adding at the end the following:

“(4) The Secretary shall require persons subject to this subsection to use, for purposes of this subsection, the unique facility identifier systems specified under subsections (b)(3) and (i)(4) with respect to drugs. Such requirement shall not apply until the date that the identifier system under subsection (b)(3) or (i)(4), as applicable, is specified by the Secretary.”.

#### **SEC. 704. ELECTRONIC SYSTEM FOR REGISTRATION AND LISTING.**

Section 510(p) (21 U.S.C. 360(p)) is amended—

(1) by striking “(p) Registrations and listings” and inserting the following:

“(p) ELECTRONIC REGISTRATION AND LISTING.—

“(1) IN GENERAL.—Registrations and listings”; and

(2) by adding at the end the following:

“(2) ELECTRONIC DATABASE.—Not later than 2 years after the Secretary specifies a unique facility identifier system under subsections (b) and (i), the Secretary shall maintain an electronic database, which shall not be subject to inspection under subsection (f), populated with the information submitted as described under paragraph (1) that—

“(A) enables personnel of the Food and Drug Administration to search the database by any field of information submitted in a registration described under paragraph (1), or combination of such fields; and

“(B) uses the unique facility identifier system to link with other relevant databases within the Food and Drug Administration, including the database for submission of information under section 801(r).

“(3) RISK-BASED INFORMATION AND COORDINATION.—The Secretary shall ensure the accuracy and coordination of relevant Food and Drug Administration databases in order to identify and inform risk-based inspections under section 510(h).”.

#### **SEC. 705. RISK-BASED INSPECTION FREQUENCY.**

Section 510(h) (21 U.S.C. 360(h)) is amended to read as follows:

“(h) INSPECTIONS.—

“(1) IN GENERAL.—Every establishment that is required to be registered with the Secretary under this section shall be subject to inspection pursuant to section 704.

“(2) BIENNIAL INSPECTIONS FOR DEVICES.—Every establishment described in paragraph (1), in any State, that is engaged in the manufacture, propagation, compounding, or processing of a device or devices classified in class II or III shall be so inspected by one or more officers or employees duly designated by the Secretary, or by persons accredited to conduct inspections under section 704(g), at least once in the 2-year period beginning with the date of registration of such establishment pursuant to this section and at least once in every successive 2-year period thereafter.

Deadline.



“(3) RISK-BASED SCHEDULE FOR DRUGS.—The Secretary, acting through one or more officers or employees duly designated by the Secretary, shall inspect establishments described in paragraph (1) that are engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs (referred to in this subsection as ‘drug establishments’) in accordance with a risk-based schedule established by the Secretary.

“(4) RISK FACTORS.—In establishing the risk-based schedule under paragraph (3), the Secretary shall inspect establishments according to the known safety risks of such establishments, which shall be based on the following factors:

“(A) The compliance history of the establishment.

“(B) The record, history, and nature of recalls linked to the establishment.

“(C) The inherent risk of the drug manufactured, prepared, propagated, compounded, or processed at the establishment.

“(D) The inspection frequency and history of the establishment, including whether the establishment has been inspected pursuant to section 704 within the last 4 years.

“(E) Whether the establishment has been inspected by a foreign government or an agency of a foreign government recognized under section 809.

“(F) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

“(5) EFFECT OF STATUS.—In determining the risk associated with an establishment for purposes of establishing a risk-based schedule under paragraph (3), the Secretary shall not consider whether the drugs manufactured, prepared, propagated, compounded, or processed by such establishment are drugs described in section 503(b).

“(6) ANNUAL REPORT ON INSPECTIONS OF ESTABLISHMENTS.—Beginning in 2014, not later than February 1 of each year, the Secretary shall make available on the Internet Web site of the Food and Drug Administration a report regarding—

Effective date.

“(A)(i) the number of domestic and foreign establishments registered pursuant to this section in the previous fiscal year; and

“(ii) the number of such domestic establishments and the number of such foreign establishments that the Secretary inspected in the previous fiscal year;

“(B) with respect to establishments that manufacture, prepare, propagate, compound, or process an active ingredient of a drug, a finished drug product, or an excipient of a drug, the number of each such type of establishment; and

“(C) the percentage of the budget of the Food and Drug Administration used to fund the inspections described under subparagraph (A).”.

#### SEC. 706. RECORDS FOR INSPECTION.

Section 704(a) (21 U.S.C. 374(a)) is amended by adding at the end the following:

“(4)(A) Any records or other information that the Secretary may inspect under this section from a person that owns or operates an establishment that is engaged in the manufacture, preparation, propagation, compounding, or processing of a drug shall, upon the request of the Secretary, be provided to the Secretary by such person, in advance of or in lieu of an inspection, within a reasonable timeframe, within reasonable limits, and in a reasonable manner, and in either electronic or physical form, at the expense of such person. The Secretary’s request shall include a sufficient description of the records requested.

Confirmation.

“(B) Upon receipt of the records requested under subparagraph (A), the Secretary shall provide to the person confirmation of receipt.

“(C) Nothing in this paragraph supplants the authority of the Secretary to conduct inspections otherwise permitted under this Act in order to ensure compliance with this Act.”.

**SEC. 707. PROHIBITION AGAINST DELAYING, DENYING, LIMITING, OR REFUSING INSPECTION.**

(a) IN GENERAL.—Section 501 (21 U.S.C. 351) is amended by adding at the end the following:

“(j) If it is a drug and it has been manufactured, processed, packed, or held in any factory, warehouse, or establishment and the owner, operator, or agent of such factory, warehouse, or establishment delays, denies, or limits an inspection, or refuses to permit entry or inspection.”.

Deadline.  
21 USC 351 note.

(b) GUIDANCE.—Not later than 1 year after the date of enactment of this section, the Secretary of Health and Human Services shall issue guidance that defines the circumstances that would constitute delaying, denying, or limiting inspection, or refusing to permit entry or inspection, for purposes of section 501(j) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

**SEC. 708. DESTRUCTION OF ADULTERATED, MISBRANDED, OR COUNTERFEIT DRUGS OFFERED FOR IMPORT.**

(a) IN GENERAL.—The sixth sentence of section 801(a) (21 U.S.C. 381(a)) is amended by inserting before the period at the end the following: “, except that the Secretary of Health and Human Services may destroy, without the opportunity for export, any drug refused admission under this section, if such drug is valued at an amount that is \$2,500 or less (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1498(a)(1)) and was not brought into compliance as described under subsection (b)).”.

Regulations.

(b) NOTICE.—Subsection (a) of section 801 (21 U.S.C. 381), as amended by subsection (a), is further amended by inserting after the sixth sentence the following: “The Secretary of Health and Human Services shall issue regulations providing for notice and an opportunity to appear before the Secretary of Health and Human Services and introduce testimony, as described in the first sentence of this subsection, on destruction of a drug under the sixth sentence of this subsection. The regulations shall provide that prior to destruction, appropriate due process is available to the owner or consignee seeking to challenge the decision to destroy the drug. Where the Secretary of Health and Human Services provides notice and an opportunity to appear and introduce testimony on the destruction of a drug, the Secretary of Health and Human Services shall store and, as applicable, dispose of the drug

after the issuance of the notice, except that the owner and consignee shall remain liable for costs pursuant to subsection (c). Such process may be combined with the notice and opportunity to appear before the Secretary and introduce testimony, as described in the first sentence of this subsection, as long as appropriate notice is provided to the owner or consignee.”.

(c) **APPLICABILITY.**—The amendment made by subsection (a) shall apply beginning on the effective date of the regulations promulgated pursuant to the amendment made by subsection (b). 21 USC 381 note.

(d) **REGULATIONS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall adopt final regulations implementing the amendments made this section. Deadlines.  
21 USC 381 note.

(2) **PROCEDURE.**—In promulgating a regulation implementing the amendments made by this section, the Secretary of Health and Human Services shall—

(A) issue a notice of proposed rulemaking that includes a copy of the proposed regulation; Notice.

(B) provide a period of not less than 60 days for comments on the proposed regulation; and Time period.

(C) publish the final regulation not less than 30 days before the effective date of the regulation. Publication.

(3) **RESTRICTIONS.**—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall promulgate regulations implementing the amendments made by this section only as described in paragraph (2).

#### **SEC. 709. ADMINISTRATIVE DETENTION.**

(a) **IN GENERAL.**—Section 304(g) (21 U.S.C. 335a(g)) is amended— 21 USC 334.

(1) in paragraph (1), by inserting “, drug,” after “device”, each place it appears;

(2) in paragraph (2)(A), by inserting “, drug,” after “(B), a device”; and

(3) in paragraph (2)(B), by inserting “or drug” after “device” each place it appears.

(b) **REGULATIONS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations in accordance with section 304(i) of the Federal Food, Drug, and Cosmetic Act, as added by paragraph (2) of this subsection, to implement administrative detention authority with respect to drugs, as authorized by the amendments made by subsection (a). Before promulgating such regulations, the Secretary shall consult with stakeholders, including manufacturers of drugs. Deadlines.  
21 USC 334 note.

(2) **IN GENERAL.**—Section 304 (21 U.S.C. 334) is amended by adding at the end the following:

“(i) **PROCEDURES FOR PROMULGATING REGULATIONS.**—

“(1) **IN GENERAL.**—In promulgating a regulation implementing this section, the Secretary shall—

“(A) issue a notice of proposed rulemaking that includes the proposed regulation; Notice.

“(B) provide a period of not less than 60 days for comments on the proposed regulation; and Time period.

Publication.

“(C) publish the final regulation not less than 30 days before the regulation’s effective date.

“(2) RESTRICTIONS.—Notwithstanding any other provision of Federal law, in implementing this section, the Secretary shall only promulgate regulations as described in paragraph (1).”.

21 USC 334 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall not take effect until the Secretary has issued a final regulation under subsection (b).

**SEC. 710. EXCHANGE OF INFORMATION.**

Section 708 (21 U.S.C. 379) is amended—

(1) by striking “CONFIDENTIAL INFORMATION” and all that follows through “The Secretary may provide” and inserting the following:

**“SEC. 708. CONFIDENTIAL INFORMATION.**

“(a) CONTRACTORS.—The Secretary may provide”; and

(2) by adding at the end the following:

“(b) ABILITY TO RECEIVE AND PROTECT CONFIDENTIAL INFORMATION OBTAINED FROM FOREIGN GOVERNMENTS.—

“(1) IN GENERAL.—The Secretary shall not be required to disclose under section 552 of title 5, United States Code (commonly referred to as the ‘Freedom of Information Act’), or any other provision of law, any information relating to drugs obtained from a foreign government agency, if—

“(A) the information concerns the inspection of a facility, is part of an investigation, alerts the United States to the potential need for an investigation, or concerns a drug that has a reasonable probability of causing serious adverse health consequences or death to humans or animals;

“(B) the information is provided or made available to the United States Government voluntarily on the condition that it not be released to the public; and

“(C) the information is covered by, and subject to, a written agreement between the Secretary and the foreign government.

Applicability.

“(2) TIME LIMITATIONS.—The written agreement described in paragraph (1)(C) shall specify the time period for which paragraph (1) shall apply to the voluntarily disclosed information. Paragraph (1) shall not apply with respect to such information after the date specified in such agreement, but all other applicable legal protections, including the provisions of section 552 of title 5, United States Code, and section 319L(e)(1) of the Public Health Service Act, as applicable, shall continue to apply to such information. If no date is specified in the written agreement, paragraph (1) shall not apply with respect to such information for a period of more than 36 months.

“(3) DISCLOSURES NOT AFFECTED.—Nothing in this section authorizes any official to withhold, or to authorize the withholding of, information from Congress or information required to be disclosed pursuant to an order of a court of the United States.

“(4) RELATION TO OTHER LAW.—For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

“(c) **AUTHORITY TO ENTER INTO MEMORANDA OF UNDERSTANDING FOR PURPOSES OF INFORMATION EXCHANGE.**—The Secretary may enter into written agreements to provide information referenced in section 301(j) to foreign governments subject to the following criteria:

“(1) **CERTIFICATION.**—The Secretary may enter into a written agreement to provide information under this subsection to a foreign government only if the Secretary has certified such government as having the authority and demonstrated ability to protect trade secret information from disclosure. Responsibility for this certification shall not be delegated to any officer or employee other than the Commissioner of Food and Drugs.

“(2) **WRITTEN AGREEMENT.**—The written agreement to provide information to the foreign government under this subsection shall include a commitment by the foreign government to protect information exchanged under this subsection from disclosure unless and until the sponsor gives written permission for disclosure or the Secretary makes a declaration of a public health emergency pursuant to section 319 of the Public Health Service Act that is relevant to the information.

“(3) **INFORMATION EXCHANGE.**—The Secretary may provide to a foreign government that has been certified under paragraph (1) and that has executed a written agreement under paragraph (2) information referenced in section 301(j) in only the following circumstances:

“(A) Information concerning the inspection of a facility may be provided to a foreign government if—

“(i) the Secretary reasonably believes, or the written agreement described in paragraph (2) establishes, that the government has authority to otherwise obtain such information; and

“(ii) the written agreement executed under paragraph (2) limits the recipient’s use of the information to the recipient’s civil regulatory purposes.

“(B) Information not described in subparagraph (A) may be provided as part of an investigation, or to alert the foreign government to the potential need for an investigation, if the Secretary has reasonable grounds to believe that a drug has a reasonable probability of causing serious adverse health consequences or death to humans or animals.

“(4) **EFFECT OF SUBSECTION.**—Nothing in this subsection affects the ability of the Secretary to enter into any written agreement authorized by other provisions of law to share confidential information.”.

**SEC. 711. ENHANCING THE SAFETY AND QUALITY OF THE DRUG SUPPLY.**

Section 501 (21 U.S.C. 351) is amended by adding at the end the following flush text:

“For purposes of paragraph (a)(2)(B), the term ‘current good manufacturing practice’ includes the implementation of oversight and controls over the manufacture of drugs to ensure quality, including managing the risk of and establishing the safety of raw materials, materials used in the manufacturing of drugs, and finished drug products.”.

Definition.

**SEC. 712. RECOGNITION OF FOREIGN GOVERNMENT INSPECTIONS.**

Chapter VIII (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

21 USC 384e.

**“SEC. 809. RECOGNITION OF FOREIGN GOVERNMENT INSPECTIONS.**

“(a) INSPECTION.—The Secretary—

“(1) may enter into arrangements and agreements with a foreign government or an agency of a foreign government to recognize the inspection of foreign establishments registered under section 510(i) in order to facilitate risk-based inspections in accordance with the schedule established in section 510(h)(3);

“(2) may enter into arrangements and agreements with a foreign government or an agency of a foreign government under this section only with a foreign government or an agency of a foreign government that the Secretary has determined as having the capability of conducting inspections that meet the applicable requirements of this Act; and

“(3) shall perform such reviews and audits of drug safety programs, systems, and standards of a foreign government or agency for the foreign government as the Secretary deems necessary to determine that the foreign government or agency of the foreign government is capable of conducting inspections that meet the applicable requirements of this Act.

“(b) RESULTS OF INSPECTION.—The results of inspections performed by a foreign government or an agency of a foreign government under this section may be used as—

“(1) evidence of compliance with section 501(a)(2)(B) or section 801(r); and

“(2) for any other purposes as determined appropriate by the Secretary.”.

Reviews.  
Audits.

**SEC. 713. STANDARDS FOR ADMISSION OF IMPORTED DRUGS.**

Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (o), by striking “drug or”; and

(2) by adding at the end the following:

“(r)(1) The Secretary may require, pursuant to the regulations promulgated under paragraph (4)(A), as a condition of granting admission to a drug imported or offered for import into the United States, that the importer electronically submit information demonstrating that the drug complies with applicable requirements of this Act.

“(2) The information described under paragraph (1) may include—

“(A) information demonstrating the regulatory status of the drug, such as the new drug application, abbreviated new drug application, or investigational new drug or drug master file number;

“(B) facility information, such as proof of registration and the unique facility identifier;

“(C) indication of compliance with current good manufacturing practice, testing results, certifications relating to satisfactory inspections, and compliance with the country of export regulations; and

“(D) any other information deemed necessary and appropriate by the Secretary to assess compliance of the article being offered for import.

“(3) Information requirements referred to in paragraph (2)(C) may, at the discretion of the Secretary, be satisfied—

“(A) through representation by a foreign government, if an inspection is conducted by a foreign government using standards and practices as determined appropriate by the Secretary;

“(B) through representation by a foreign government or an agency of a foreign government recognized under section 809; or

“(C) other appropriate documentation or evidence as described by the Secretary.

“(4)(A) Not later than 18 months after the date of enactment of the Food and Drug Administration Safety and Innovation Act, the Secretary shall adopt final regulations implementing this subsection. Such requirements shall be appropriate for the type of import, such as whether the drug is for import into the United States for use in preclinical research or in a clinical investigation under an investigational new drug exemption under 505(i).

Deadlines.  
Regulations.

“(B) In promulgating the regulations under subparagraph (A), the Secretary—

“(i) may, as appropriate, take into account differences among importers and types of imports, and, based on the level of risk posed by the imported drug, provide for expedited clearance for those importers that volunteer to participate in partnership programs for highly compliant companies and pass a review of internal controls, including sourcing of foreign manufacturing inputs, and plant inspections; and

“(ii) shall—

“(I) issue a notice of proposed rulemaking that includes the proposed regulation;

Notice.

“(II) provide a period of not less than 60 days for comments on the proposed regulation; and

Time period.

“(III) publish the final regulation not less than 30 days before the effective date of the regulation.

Publication.

“(C) Notwithstanding any other provision of law, the Secretary shall promulgate regulations implementing this subsection only as described in subparagraph (B).”.

#### SEC. 714. REGISTRATION OF COMMERCIAL IMPORTERS.

(a) PROHIBITIONS.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

“(aaa) The failure to register in accordance with section 801(s).”.

(b) REGISTRATION.—Section 801 (21 U.S.C. 381), as amended by section 713 of this Act, is further amended by adding at the end the following:

“(s) REGISTRATION OF COMMERCIAL IMPORTERS.—

“(1) REGISTRATION.—The Secretary shall require a commercial importer of drugs—

“(A) to be registered with the Secretary in a form and manner specified by the Secretary; and

“(B) subject to paragraph (4), to submit, at the time of registration, a unique identifier for the principal place of business for which the importer is required to register under this subsection.

“(2) REGULATIONS.—

Deadlines.

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Homeland Security acting through U.S.

Customs and Border Protection, shall promulgate regulations to establish good importer practices that specify the measures an importer shall take to ensure imported drugs are in compliance with the requirements of this Act and the Public Health Service Act.

“(B) PROCEDURE.—In promulgating a regulation under subparagraph (A), the Secretary shall—

Notice. “(i) issue a notice of proposed rulemaking that includes the proposed regulation;

Time period. “(ii) provide a period of not less than 60 days for comments on the proposed regulation; and

Publication. “(iii) publish the final regulation not less than 30 days before the regulation’s effective date.

“(C) RESTRICTIONS.—Notwithstanding any other provision of Federal law, in implementing this subsection, the Secretary shall only promulgate regulations as described in subparagraph (B).

“(3) DISCONTINUANCE OF REGISTRATION.—The Secretary shall discontinue the registration of any commercial importer of drugs that fails to comply with the regulations promulgated under this subsection.

Applicability. “(4) UNIQUE FACILITY IDENTIFIER.—The Secretary shall specify the unique facility identifier system that shall be used by registrants under paragraph (1). The requirement to include a unique facility identifier in a registration under paragraph (1) shall not apply until the date that the identifier system is specified by the Secretary under the preceding sentence.

Federal Register, publication. “(5) EXEMPTIONS.—The Secretary, by notice in the Federal Register, may establish exemptions from the requirements of this subsection.”

(c) MISBRANDING.—Section 502(o) (21 U.S.C. 352) is amended by inserting “if it is a drug and was imported or offered for import by a commercial importer of drugs not duly registered under section 801(s),” after “not duly registered under section 510,”.

Deadlines. (d) REGULATIONS.—

21 USC 381 note.

(1) IN GENERAL.—Not later than 36 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security acting through U.S. Customs and Border Protection, shall promulgate the regulations required to carry out section 801(s) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b).

(2) PROCEDURES FOR PROMULGATING REGULATIONS.—

(A) IN GENERAL.—In promulgating a regulation under paragraph (1), the Secretary shall—

Notice. (i) issue a notice of proposed rulemaking that includes the proposed regulation;

Time period. (ii) provide a period of not less than 60 days for comments on the proposed regulation; and

Publication. (iii) publish the final regulation not less than 30 days before the regulation’s effective date.

(B) RESTRICTIONS.—Notwithstanding any other provision of Federal law, in implementing section 801(s) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b), the Secretary shall promulgate regulations only as described in subparagraph (A).



(3) **EFFECTIVE DATE.**—In establishing the effective date of the regulations under paragraph (1), the Secretary of Health and Human Services shall, in consultation with the Secretary of Homeland Security acting through U.S. Customs and Border Protection, as determined appropriate by the Secretary of Health and Human Services, provide a reasonable period of time for an importer of a drug to comply with good importer practices, taking into account differences among importers and types of imports, including based on the level of risk posed by the imported product. Time period.

**SEC. 715. NOTIFICATION.**

(a) **PROHIBITED ACTS.**—Section 301 (21 U.S.C. 331), as amended by section 714 of this Act, is further amended by adding at the end the following:

“(bbb) The failure to notify the Secretary in violation of section 568.”.

(b) **NOTIFICATION.**—Subchapter E of chapter V (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

**“SEC. 568. NOTIFICATION.**

“(a) **NOTIFICATION TO SECRETARY.**—With respect to a drug, the Secretary may require notification to the Secretary by a regulated person if the regulated person knows—

“(1) that the use of such drug in the United States may result in serious injury or death;

“(2) of a significant loss or known theft of such drug intended for use in the United States; or

“(3) that—

“(A) such drug has been or is being counterfeited; and

“(B)(i) the counterfeit product is in commerce in the United States or could be reasonably expected to be introduced into commerce in the United States; or

“(ii) such drug has been or is being imported into the United States or may reasonably be expected to be offered for import into the United States.

“(b) **MANNER OF NOTIFICATION.**—Notification under this section shall be made in such manner and by such means as the Secretary may specify by regulation or guidance.

“(c) **SAVINGS CLAUSE.**—Nothing in this section shall be construed as limiting any other authority of the Secretary to require notifications related to a drug under any other provision of this Act or the Public Health Service Act.

“(d) **DEFINITION.**—In this section, the term ‘regulated person’ means—

“(1) a person who is required to register under section 510 or 801(s);

“(2) a wholesale distributor of a drug product; or

“(3) any other person that distributes drugs except a person that distributes drugs exclusively for retail sale.”.

**SEC. 716. PROTECTION AGAINST INTENTIONAL ADULTERATION.**

Section 303(b) (21 U.S.C. 333(b)) is amended by adding at the end the following:

“(7) Notwithstanding subsection (a)(2), any person that knowingly and intentionally adulterates a drug such that the drug is adulterated under subsection (a)(1), (b), (c), or (d) of section 501 and has a reasonable probability of causing serious adverse health

21 USC  
360bbb–7.

consequences or death to humans or animals shall be imprisoned for not more than 20 years or fined not more than \$1,000,000, or both.”.

**SEC. 717. PENALTIES FOR COUNTERFEITING DRUGS.**

(a) COUNTERFEIT DRUG PENALTY ENHANCEMENT.—

(1) OFFENSE.—Section 2320(a) of title 18, United States Code, is amended—

(A) by striking “or” at the end of paragraph (2);

(B) by inserting “or” at the end of paragraph (3);

(C) by inserting after paragraph (3) the following:

“(4) traffics in a counterfeit drug,”; and

(D) by striking “through (3)” and inserting “through (4)”.

(2) PENALTIES.—Section 2320(b)(3) of title 18, United States Code, is amended—

(A) in the heading, by inserting “AND COUNTERFEIT DRUGS” after “SERVICES”; and

(B) by inserting “or counterfeit drug” after “service”.

(3) DEFINITION.—Section 2320(f) of title 18, United States Code, is amended—

(A) by striking “and” at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting “; and”;

(C) by adding at the end the following:

“(6) the term ‘counterfeit drug’ means a drug, as defined by section 201 of the Federal Food, Drug, and Cosmetic Act, that uses a counterfeit mark on or in connection with the drug.”.

18 USC 2320  
note.

(4) PRIORITY GIVEN TO CERTAIN INVESTIGATIONS AND PROSECUTIONS.—The Attorney General shall give increased priority to efforts to investigate and prosecute offenses under section 2320 of title 18, United States Code, that involve counterfeit drugs.

28 USC 994 note.  
Review.  
Guidelines.

(b) SENTENCING COMMISSION DIRECTIVE.—

(1) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and amend, if appropriate, its guidelines and its policy statements applicable to persons convicted of an offense described in section 2320(a)(4) of title 18, United States Code, as amended by subsection (a), in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by the guidelines and policy statements.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the intent of Congress that the guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1) and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the extent to which the guidelines may or may not appropriately account for the potential and actual harm to the public resulting from the offense;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

**SEC. 718. EXTRATERRITORIAL JURISDICTION.**

Chapter III (21 U.S.C. 331 et seq.) is amended by adding at the end the following:

**“SEC. 311. EXTRATERRITORIAL JURISDICTION.**

21 USC 337a.

“There is extraterritorial jurisdiction over any violation of this Act relating to any article regulated under this Act if such article was intended for import into the United States or if any act in furtherance of the violation was committed in the United States.”.

## TITLE VIII—GENERATING ANTIBIOTIC INCENTIVES NOW

**SEC. 801. EXTENSION OF EXCLUSIVITY PERIOD FOR DRUGS.**

(a) **IN GENERAL.**—Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 505D the following:

**“SEC. 505E. EXTENSION OF EXCLUSIVITY PERIOD FOR NEW QUALIFIED INFECTIOUS DISEASE PRODUCTS.**

21 USC 355f.

“(a) **EXTENSION.**—If the Secretary approves an application pursuant to section 505 for a drug that has been designated as a qualified infectious disease product under subsection (d), the 4- and 5-year periods described in subsections (c)(3)(E)(ii) and (j)(5)(F)(ii) of section 505, the 3-year periods described in clauses (iii) and (iv) of subsection (c)(3)(E) and clauses (iii) and (iv) of subsection (j)(5)(F) of section 505, or the 7-year period described in section 527, as applicable, shall be extended by 5 years.

“(b) **RELATION TO PEDIATRIC EXCLUSIVITY.**—Any extension under subsection (a) of a period shall be in addition to any extension of the period under section 505A with respect to the drug.

“(c) **LIMITATIONS.**—Subsection (a) does not apply to the approval of—

“(1) a supplement to an application under section 505(b) for any qualified infectious disease product for which an extension described in subsection (a) is in effect or has expired;

“(2) a subsequent application filed with respect to a product approved under section 505 for a change that results in a new indication, route of administration, dosing schedule, dosage form, delivery system, delivery device, or strength; or

“(3) a product that does not meet the definition of a qualified infectious disease product under subsection (g) based upon its approved uses.

“(d) **DESIGNATION.**—

“(1) **IN GENERAL.**—The manufacturer or sponsor of a drug may request the Secretary to designate a drug as a qualified

Deadline. Determination.	infectious disease product at any time before the submission of an application under section 505(b) for such drug. The Secretary shall, not later than 60 days after the submission of such a request, determine whether the drug is a qualified infectious disease product.
	“(2) LIMITATION.—Except as provided in paragraph (3), a designation under this subsection shall not be withdrawn for any reason, including modifications to the list of qualifying pathogens under subsection (f)(2)(C).
	“(3) REVOCATION OF DESIGNATION.—The Secretary may revoke a designation of a drug as a qualified infectious disease product if the Secretary finds that the request for such designation contained an untrue statement of material fact.
Deadlines.	“(e) REGULATIONS.—
	“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Food and Drug Administration Safety and Innovation Act, the Secretary shall adopt final regulations implementing this section, including developing the list of qualifying pathogens described in subsection (f).
	“(2) PROCEDURE.—In promulgating a regulation implementing this section, the Secretary shall—
Notice.	“(A) issue a notice of proposed rulemaking that includes the proposed regulation;
Time period.	“(B) provide a period of not less than 60 days for comments on the proposed regulation; and
Publication.	“(C) publish the final regulation not less than 30 days before the effective date of the regulation.
	“(3) RESTRICTIONS.—Notwithstanding any other provision of law, the Secretary shall promulgate regulations implementing this section only as described in paragraph (2), except that the Secretary may issue interim guidance for sponsors seeking designation under subsection (d) prior to the promulgation of such regulations.
	“(4) DESIGNATION PRIOR TO REGULATIONS.—The Secretary shall designate drugs as qualified infectious disease products under subsection (d) prior to the promulgation of regulations under this subsection, if such drugs meet the definition of a qualified infectious disease product described in subsection (g).
	“(f) QUALIFYING PATHOGEN.—
	“(1) DEFINITION.—In this section, the term ‘qualifying pathogen’ means a pathogen identified and listed by the Secretary under paragraph (2) that has the potential to pose a serious threat to public health, such as—
	“(A) resistant gram positive pathogens, including methicillin-resistant <i>Staphylococcus aureus</i> , vancomycin-resistant <i>Staphylococcus aureus</i> , and vancomycin-resistant enterococcus;
	“(B) multi-drug resistant gram negative bacteria, including <i>Acinetobacter</i> , <i>Klebsiella</i> , <i>Pseudomonas</i> , and <i>E. coli</i> species;
	“(C) multi-drug resistant tuberculosis; and
	“(D) <i>Clostridium difficile</i> .
	“(2) LIST OF QUALIFYING PATHOGENS.—
Public information.	“(A) IN GENERAL.—The Secretary shall establish and maintain a list of qualifying pathogens, and shall make public the methodology for developing such list.

“(B) CONSIDERATIONS.—In establishing and maintaining the list of pathogens described under this section, the Secretary shall—

“(i) consider—

“(I) the impact on the public health due to drug-resistant organisms in humans;

“(II) the rate of growth of drug-resistant organisms in humans;

“(III) the increase in resistance rates in humans; and

“(IV) the morbidity and mortality in humans; and

“(ii) consult with experts in infectious diseases and antibiotic resistance, including the Centers for Disease Control and Prevention, the Food and Drug Administration, medical professionals, and the clinical research community. Consultation.

“(C) REVIEW.—Every 5 years, or more often as needed, the Secretary shall review, provide modifications to, and publish the list of qualifying pathogens under subparagraph (A) and shall by regulation revise the list as necessary, in accordance with subsection (e). Time period. Publication. Regulations.

“(g) QUALIFIED INFECTIOUS DISEASE PRODUCT.—The term ‘qualified infectious disease product’ means an antibacterial or antifungal drug for human use intended to treat serious or life-threatening infections, including those caused by— Definition.

“(1) an antibacterial or antifungal resistant pathogen, including novel or emerging infectious pathogens; or

“(2) qualifying pathogens listed by the Secretary under subsection (f).”.

(b) APPLICATION.—Section 505E of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), applies only with respect to a drug that is first approved under section 505(c) of such Act (21 U.S.C. 355(c)) on or after the date of the enactment of this Act. 21 USC 355f note.

#### SEC. 802. PRIORITY REVIEW.

(a) AMENDMENT.—Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 524 the following:

##### “SEC. 524A. PRIORITY REVIEW FOR QUALIFIED INFECTIOUS DISEASE PRODUCTS. 21 USC 360n–1.

“If the Secretary designates a drug under section 505E(d) as a qualified infectious disease product, then the Secretary shall give priority review to any application submitted for approval for such drug under section 505(b).”.

(b) APPLICATION.—Section 524A of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), applies only with respect to an application that is submitted under section 505(b) of such Act (21 U.S.C. 355(b)) on or after the date of the enactment of this Act. 21 USC 360n–1 note.

#### SEC. 803. FAST TRACK PRODUCT.

Section 506(a)(1) (21 U.S.C. 356(a)(1)), as amended by section 901(b) of this Act, is amended by inserting “, or if the Secretary designates the drug as a qualified infectious disease product under section 505E(d)” before the period at the end of the first sentence.

21 USC 360a-1.

**SEC. 804. CLINICAL TRIALS.****(a) REVIEW AND REVISION OF GUIDANCE DOCUMENTS.—**

(1) **IN GENERAL.**—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall review and, as appropriate, revise not fewer than 3 guidance documents per year, which shall include—

(A) reviewing the guidance documents of the Food and Drug Administration for the conduct of clinical trials with respect to antibacterial and antifungal drugs; and

(B) as appropriate, revising such guidance documents to reflect developments in scientific and medical information and technology and to ensure clarity regarding the procedures and requirements for approval of antibacterial and antifungal drugs under chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).

(2) **ISSUES FOR REVIEW.**—At a minimum, the review under paragraph (1) shall address the appropriate animal models of infection, in vitro techniques, valid microbiological surrogate markers, the use of noninferiority versus superiority trials, trial enrollment, data requirements, and appropriate delta values for noninferiority trials.

(3) **RULE OF CONSTRUCTION.**—Except to the extent to which the Secretary makes revisions under paragraph (1)(B), nothing in this section shall be construed to repeal or otherwise effect the guidance documents of the Food and Drug Administration.

**(b) RECOMMENDATIONS FOR INVESTIGATIONS.—**

(1) **REQUEST.**—The sponsor of a drug intended to be designated as a qualified infectious disease product may request that the Secretary provide written recommendations for non-clinical and clinical investigations which the Secretary believes may be necessary to be conducted with the drug before such drug may be approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in treating, detecting, preventing, or identifying a qualifying pathogen, as defined in section 505E of such Act.

(2) **RECOMMENDATIONS.**—If the Secretary has reason to believe that a drug for which a request is made under this subsection is a qualified infectious disease product, the Secretary shall provide the person making the request written recommendations for the nonclinical and clinical investigations which the Secretary believes, on the basis of information available to the Secretary at the time of the request, would be necessary for approval under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) of such drug for the use described in paragraph (1).

Definition.

(c) **QUALIFIED INFECTIOUS DISEASE PRODUCT.**—For purposes of this section, the term “qualified infectious disease product” has the meaning given such term in section 505E(g) of the Federal Food, Drug, and Cosmetic Act, as added by section 801 of this Act.

**SEC. 805. REASSESSMENT OF QUALIFIED INFECTIOUS DISEASE PRODUCT INCENTIVES IN 5 YEARS.**

Reports.

(a) **IN GENERAL.**—Not later than 5 years after the date of enactment of this Act, the Secretary of Health and Human Services shall, in consultation with the Food and Drug Administration, the Centers for Disease Control and Prevention, and other appropriate

agencies, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains the following:

(1)(A) The number of initial designations of drugs as qualified infectious disease products under section 505E of the Federal Food, Drug, and Cosmetic Act.

(B) The number of qualified infectious disease products approved under such section 505E.

(C) Whether such products address the need for antibacterial and antifungal drugs to treat serious and life-threatening infections.

(D) A list of qualified infectious disease products with information on the types of exclusivity granted for each product, consistent with the information published under section 505(j)(7)(A)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)(A)(iii)).

(E) The progress made regarding the review and revision of the clinical trial guidance documents required under section 804 and the impact such review and revision has had on the review and approval of qualified infectious disease products.

(F) The Federal contribution, if any, to funding of the clinical trials for each qualified infectious disease product for each phase.

(2) Recommendations—

(A) based on the information under paragraph (1) and any other relevant data, on any changes that should be made to the list of pathogens that are defined as qualifying pathogens under section 505E(f)(2) of the Federal Food, Drug, and Cosmetic Act, as added by section 801 of this Act; and

(B) on whether any additional program (such as the development of public-private collaborations to advance antibacterial drug innovation) or changes to the incentives under this subtitle may be needed to promote the development of antibacterial drugs.

(3) An examination of—

(A) the adoption of programs to measure the use of antibacterial drugs in health care settings; and

(B) the implementation and effectiveness of antimicrobial stewardship protocols across all health care settings.

(4) Any recommendations for ways to encourage further development and establishment of stewardship programs.

(5) A description of the regulatory challenges and impediments to clinical development, approval, and licensure of qualified infectious disease products, and the steps the Secretary has taken and will take to address such challenges and ensure regulatory certainty and predictability with respect to qualified infectious disease products.

(b) DEFINITION.—For purposes of this section, the term “qualified infectious disease product” has the meaning given such term in section 505E(g) of the Federal Food, Drug, and Cosmetic Act, as added by section 801 of this Act.

Deadlines.  
Publication.  
21 USC 355 note.

**SEC. 806. GUIDANCE ON PATHOGEN-FOCUSED ANTIBACTERIAL DRUG DEVELOPMENT.**

(a) DRAFT GUIDANCE.—Not later than June 30, 2013, in order to facilitate the development of antibacterial drugs for serious or life-threatening bacterial infections, particularly in areas of unmet need, the Secretary of Health and Human Services shall publish draft guidance that—

(1) specifies how preclinical and clinical data can be utilized to inform an efficient and streamlined pathogen-focused antibacterial drug development program that meets the approval standards of the Food and Drug Administration; and

(2) provides advice on approaches for the development of antibacterial drugs that target a more limited spectrum of pathogens.

Public comments.

(b) FINAL GUIDANCE.—Not later than December 31, 2014, after notice and opportunity for public comment on the draft guidance under subsection (a), the Secretary of Health and Human Services shall publish final guidance consistent with this section.

## **TITLE IX—DRUG APPROVAL AND PATIENT ACCESS**

**SEC. 901. ENHANCEMENT OF ACCELERATED PATIENT ACCESS TO NEW MEDICAL TREATMENTS.**

21 USC 356 note.

(a) FINDINGS; SENSE OF CONGRESS.—

(1) FINDINGS.—Congress finds as follows:

(A) The Food and Drug Administration (referred to in this section as the “FDA”) serves a critical role in helping to assure that new medicines are safe and effective. Regulatory innovation is 1 element of the Nation’s strategy to address serious and life-threatening diseases or conditions by promoting investment in and development of innovative treatments for unmet medical needs.

(B) During the 2 decades following the establishment of the accelerated approval mechanism, advances in medical sciences, including genomics, molecular biology, and bioinformatics, have provided an unprecedented understanding of the underlying biological mechanism and pathogenesis of disease. A new generation of modern, targeted medicines is under development to treat serious and life-threatening diseases, some applying drug development strategies based on biomarkers or pharmacogenomics, predictive toxicology, clinical trial enrichment techniques, and novel clinical trial designs, such as adaptive clinical trials.

(C) As a result of these remarkable scientific and medical advances, the FDA should be encouraged to implement more broadly effective processes for the expedited development and review of innovative new medicines intended to address unmet medical needs for serious or life-threatening diseases or conditions, including those for rare diseases or conditions, using a broad range of surrogate or clinical endpoints and modern scientific tools earlier in the drug development cycle when appropriate. This may result in fewer, smaller, or shorter clinical trials for the intended patient population or targeted subpopulation



without compromising or altering the high standards of the FDA for the approval of drugs.

(D) Patients benefit from expedited access to safe and effective innovative therapies to treat unmet medical needs for serious or life-threatening diseases or conditions.

(E) For these reasons, the statutory authority in effect on the day before the date of enactment of this Act governing expedited approval of drugs for serious or life-threatening diseases or conditions should be amended in order to enhance the authority of the FDA to consider appropriate scientific data, methods, and tools, and to expedite development and access to novel treatments for patients with a broad range of serious or life-threatening diseases or conditions.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Food and Drug Administration should apply the accelerated approval and fast track provisions set forth in section 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356), as amended by this section, to help expedite the development and availability to patients of treatments for serious or life-threatening diseases or conditions while maintaining safety and effectiveness standards for such treatments.

(b) EXPEDITED APPROVAL OF DRUGS FOR SERIOUS OR LIFE-THREATENING DISEASES OR CONDITIONS.—Section 506 (21 U.S.C. 356) is amended to read as follows:

**“SEC. 506. EXPEDITED APPROVAL OF DRUGS FOR SERIOUS OR LIFE-THREATENING DISEASES OR CONDITIONS.**

**“(a) DESIGNATION OF DRUG AS FAST TRACK PRODUCT.—**

**“(1) IN GENERAL.—**The Secretary shall, at the request of the sponsor of a new drug, facilitate the development and expedite the review of such drug if it is intended, whether alone or in combination with one or more other drugs, for the treatment of a serious or life-threatening disease or condition, and it demonstrates the potential to address unmet medical needs for such a disease or condition. (In this section, such a drug is referred to as a ‘fast track product’.)

**“(2) REQUEST FOR DESIGNATION.—**The sponsor of a new drug may request the Secretary to designate the drug as a fast track product. A request for the designation may be made concurrently with, or at any time after, submission of an application for the investigation of the drug under section 505(i) or section 351(a)(3) of the Public Health Service Act.

**“(3) DESIGNATION.—**Within 60 calendar days after the receipt of a request under paragraph (2), the Secretary shall determine whether the drug that is the subject of the request meets the criteria described in paragraph (1). If the Secretary finds that the drug meets the criteria, the Secretary shall designate the drug as a fast track product and shall take such actions as are appropriate to expedite the development and review of the application for approval of such product.

Deadline.  
Determination.

**“(b) ACCELERATED APPROVAL OF A DRUG FOR A SERIOUS OR LIFE-THREATENING DISEASE OR CONDITION, INCLUDING A FAST TRACK PRODUCT.—**

**“(1) IN GENERAL.—**

**“(A) ACCELERATED APPROVAL.—**The Secretary may approve an application for approval of a product for a

serious or life-threatening disease or condition, including a fast track product, under section 505(c) or section 351(a) of the Public Health Service Act upon a determination that the product has an effect on a surrogate endpoint that is reasonably likely to predict clinical benefit, or on a clinical endpoint that can be measured earlier than irreversible morbidity or mortality, that is reasonably likely to predict an effect on irreversible morbidity or mortality or other clinical benefit, taking into account the severity, rarity, or prevalence of the condition and the availability or lack of alternative treatments. The approval described in the preceding sentence is referred to in this section as ‘accelerated approval’.

“(B) EVIDENCE.—The evidence to support that an endpoint is reasonably likely to predict clinical benefit under subparagraph (A) may include epidemiological, pathophysiological, therapeutic, pharmacologic, or other evidence developed using biomarkers, for example, or other scientific methods or tools.

“(2) LIMITATION.—Approval of a product under this subsection may be subject to 1 or both of the following requirements:

“(A) That the sponsor conduct appropriate postapproval studies to verify and describe the predicted effect on irreversible morbidity or mortality or other clinical benefit.

“(B) That the sponsor submit copies of all promotional materials related to the product during the preapproval review period and, following approval and for such period thereafter as the Secretary determines to be appropriate, at least 30 days prior to dissemination of the materials.

“(3) EXPEDITED WITHDRAWAL OF APPROVAL.—The Secretary may withdraw approval of a product approved under accelerated approval using expedited procedures (as prescribed by the Secretary in regulations which shall include an opportunity for an informal hearing) if—

“(A) the sponsor fails to conduct any required postapproval study of the drug with due diligence;

“(B) a study required to verify and describe the predicted effect on irreversible morbidity or mortality or other clinical benefit of the product fails to verify and describe such effect or benefit;

“(C) other evidence demonstrates that the product is not safe or effective under the conditions of use; or

“(D) the sponsor disseminates false or misleading promotional materials with respect to the product.

“(c) REVIEW OF INCOMPLETE APPLICATIONS FOR APPROVAL OF A FAST TRACK PRODUCT.—

“(1) IN GENERAL.—If the Secretary determines, after preliminary evaluation of clinical data submitted by the sponsor, that a fast track product may be effective, the Secretary shall evaluate for filing, and may commence review of portions of, an application for the approval of the product before the sponsor submits a complete application. The Secretary shall commence such review only if the applicant—

“(A) provides a schedule for submission of information necessary to make the application complete; and

Records.  
Determination.  
Deadline.

Regulations.

Evaluation.

“(B) pays any fee that may be required under section 736.

“(2) EXCEPTION.—Any time period for review of human drug applications that has been agreed to by the Secretary and that has been set forth in goals identified in letters of the Secretary (relating to the use of fees collected under section 736 to expedite the drug development process and the review of human drug applications) shall not apply to an application submitted under paragraph (1) until the date on which the application is complete. Applicability.

“(d) AWARENESS EFFORTS.—The Secretary shall—

“(1) develop and disseminate to physicians, patient organizations, pharmaceutical and biotechnology companies, and other appropriate persons a description of the provisions of this section applicable to accelerated approval and fast track products; and

“(2) establish a program to encourage the development of surrogate and clinical endpoints, including biomarkers, and other scientific methods and tools that can assist the Secretary in determining whether the evidence submitted in an application is reasonably likely to predict clinical benefit for serious or life-threatening conditions for which significant unmet medical needs exist.

“(e) CONSTRUCTION.—

“(1) PURPOSE.—The amendments made by the Food and Drug Administration Safety and Innovation Act to this section are intended to encourage the Secretary to utilize innovative and flexible approaches to the assessment of products under accelerated approval for treatments for patients with serious or life-threatening diseases or conditions and unmet medical needs.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to alter the standards of evidence under subsection (c) or (d) of section 505 (including the substantial evidence standard in section 505(d)) of this Act or under section 351(a) of the Public Health Service Act. Such sections and standards of evidence apply to the review and approval of products under this section, including whether a product is safe and effective. Nothing in this section alters the ability of the Secretary to rely on evidence that does not come from adequate and well-controlled investigations for the purpose of determining whether an endpoint is reasonably likely to predict clinical benefit as described in subsection (b)(1)(B).”

(c) GUIDANCE; AMENDED REGULATIONS.—

(1) DRAFT GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall issue draft guidance to implement the amendments made by this section. In developing such guidance, the Secretary shall specifically consider issues arising under the accelerated approval and fast track processes under section 506 of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (b), for drugs designated for a rare disease or condition under section 526 of such Act (21 U.S.C. 360bb) and shall also consider any unique issues associated with very rare diseases.

21 USC 356 note.  
Deadline.

Deadline.  
Public comments.

(2) **FINAL GUIDANCE.**—Not later than 1 year after the issuance of draft guidance under paragraph (1), and after an opportunity for public comment, the Secretary shall—

(A) issue final guidance; and

(B) amend the regulations governing accelerated approval in parts 314 and 601 of title 21, Code of Federal Regulations, as necessary to conform such regulations with the amendment made by subsection (b).

(3) **CONSIDERATION.**—In developing the guidance under paragraphs (1) and (2)(A) and the amendments under paragraph (2)(B), the Secretary shall consider how to incorporate novel approaches to the review of surrogate endpoints based on pathophysiologic and pharmacologic evidence in such guidance, especially in instances where the low prevalence of a disease renders the existence or collection of other types of data unlikely or impractical.

(4) **CONFORMING CHANGES.**—The Secretary shall issue, as necessary, conforming amendments to the applicable regulations under title 21, Code of Federal Regulations, governing accelerated approval.

(5) **NO EFFECT OF INACTION ON REQUESTS.**—The issuance (or nonissuance) of guidance or conforming regulations implementing the amendment made by subsection (b) shall not preclude the review of, or action on, a request for designation or an application for approval submitted pursuant to section 506 of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (b).

(d) **INDEPENDENT REVIEW.**—The Secretary may, in conjunction with other planned reviews, contract with an independent entity with expertise in assessing the quality and efficiency of biopharmaceutical development and regulatory review programs to evaluate the Food and Drug Administration's application of the processes described in section 506 of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (b), and the impact of such processes on the development and timely availability of innovative treatments for patients suffering from serious or life-threatening conditions. Any such evaluation shall include consultation with regulated industries, patient advocacy and disease research foundations, and relevant academic medical centers.

#### **SEC. 902. BREAKTHROUGH THERAPIES.**

(a) **IN GENERAL.**—Section 506 (21 U.S.C. 356), as amended by section 901 of this Act, is further amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(2) by redesignating subsection (d) as subsection (f);

(3) by inserting before subsection (b), as so redesignated, the following:

“(a) **DESIGNATION OF A DRUG AS A BREAKTHROUGH THERAPY.**—

“(1) **IN GENERAL.**—The Secretary shall, at the request of the sponsor of a drug, expedite the development and review of such drug if the drug is intended, alone or in combination with 1 or more other drugs, to treat a serious or life-threatening disease or condition and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over existing therapies on 1 or more clinically significant endpoints, such as substantial treatment effects observed early in clinical

development. (In this section, such a drug is referred to as a ‘breakthrough therapy’.)

“(2) REQUEST FOR DESIGNATION.—The sponsor of a drug may request the Secretary to designate the drug as a breakthrough therapy. A request for the designation may be made concurrently with, or at any time after, the submission of an application for the investigation of the drug under section 505(i) or section 351(a)(3) of the Public Health Service Act.

“(3) DESIGNATION.—

“(A) IN GENERAL.—Not later than 60 calendar days after the receipt of a request under paragraph (2), the Secretary shall determine whether the drug that is the subject of the request meets the criteria described in paragraph (1). If the Secretary finds that the drug meets the criteria, the Secretary shall designate the drug as a breakthrough therapy and shall take such actions as are appropriate to expedite the development and review of the application for approval of such drug.

Deadline.  
Determination.

“(B) ACTIONS.—The actions to expedite the development and review of an application under subparagraph (A) may include, as appropriate—

“(i) holding meetings with the sponsor and the review team throughout the development of the drug;

“(ii) providing timely advice to, and interactive communication with, the sponsor regarding the development of the drug to ensure that the development program to gather the nonclinical and clinical data necessary for approval is as efficient as practicable;

“(iii) involving senior managers and experienced review staff, as appropriate, in a collaborative, cross-disciplinary review;

“(iv) assigning a cross-disciplinary project lead for the Food and Drug Administration review team to facilitate an efficient review of the development program and to serve as a scientific liaison between the review team and the sponsor; and

“(v) taking steps to ensure that the design of the clinical trials is as efficient as practicable, when scientifically appropriate, such as by minimizing the number of patients exposed to a potentially less efficacious treatment.”; and

(4) in subsection (f)(1), as so redesignated, by striking “applicable to accelerated approval” and inserting “applicable to breakthrough therapies, accelerated approval, and”.

(b) GUIDANCE; AMENDED REGULATIONS.—

(1) IN GENERAL.—

(A) GUIDANCE.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall issue draft guidance on implementing the requirements with respect to breakthrough therapies, as set forth in section 506(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356(a)), as amended by this section. The Secretary shall issue final guidance not later than 1 year after the close of the comment period for the draft guidance.

21 USC 356 note.  
Deadlines.

## (B) AMENDED REGULATIONS.—

(i) IN GENERAL.—If the Secretary determines that it is necessary to amend the regulations under title 21, Code of Federal Regulations in order to implement the amendments made by this section to section 506(a) of the Federal Food, Drug, and Cosmetic Act, the Secretary shall amend such regulations not later than 2 years after the date of enactment of this Act.

(ii) PROCEDURE.—In amending regulations under clause (i), the Secretary shall—

Notice.

(I) issue a notice of proposed rulemaking that includes the proposed regulation;

Time period.

(II) provide a period of not less than 60 days for comments on the proposed regulation; and

Publication.

(III) publish the final regulation not less than 30 days before the effective date of the regulation.

(iii) RESTRICTIONS.—Notwithstanding any other provision of law, the Secretary shall promulgate regulations implementing the amendments made by this section only as described in clause (ii).

(2) REQUIREMENTS.—Guidance issued under this section shall—

(A) specify the process and criteria by which the Secretary makes a designation under section 506(a)(3) of the Federal Food, Drug, and Cosmetic Act; and

(B) specify the actions the Secretary shall take to expedite the development and review of a breakthrough therapy pursuant to such designation under such section 506(a)(3), including updating good review management practices to reflect breakthrough therapies.

(c) CONFORMING AMENDMENTS.—Section 506B(e) (21 U.S.C. 356b) is amended by striking “section 506(b)(2)(A)” each place such term appears and inserting “section 506(c)(2)(A)”.

**SEC. 903. CONSULTATION WITH EXTERNAL EXPERTS ON RARE DISEASES, TARGETED THERAPIES, AND GENETIC TARGETING OF TREATMENTS.**

Subchapter E of chapter V (21 U.S.C. 360bbb et seq.), as amended by section 715 of this Act, is further amended by adding at the end the following:

21 USC  
360bbb–8.

**“SEC. 569. CONSULTATION WITH EXTERNAL EXPERTS ON RARE DISEASES, TARGETED THERAPIES, AND GENETIC TARGETING OF TREATMENTS.**

Applicability.

“(a) IN GENERAL.—For the purpose of promoting the efficiency of and informing the review by the Food and Drug Administration of new drugs and biological products for rare diseases and drugs and biological products that are genetically targeted, the following shall apply:

“(1) CONSULTATION WITH STAKEHOLDERS.—Consistent with sections X.C and IX.E.4 of the PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2013 through 2017, as referenced in the letters described in section 101(b) of the Prescription Drug User Fee Amendments of 2012, the Secretary shall ensure that opportunities exist, at a time the Secretary determines appropriate, for consultations with stakeholders on the topics described in subsection (b).

“(2) CONSULTATION WITH EXTERNAL EXPERTS.—

“(A) IN GENERAL.—The Secretary shall develop and maintain a list of external experts who, because of their special expertise, are qualified to provide advice on rare disease issues, including topics described in subsection (c). The Secretary may, when appropriate to address a specific regulatory question, consult such external experts on issues related to the review of new drugs and biological products for rare diseases and drugs and biological products that are genetically targeted, including the topics described in subsection (b), when such consultation is necessary because the Secretary lacks the specific scientific, medical, or technical expertise necessary for the performance of the Secretary’s regulatory responsibilities and the necessary expertise can be provided by the external experts.

Records.

“(B) EXTERNAL EXPERTS.—For purposes of subparagraph (A), external experts are individuals who possess scientific or medical training that the Secretary lacks with respect to one or more rare diseases.

“(b) TOPICS FOR CONSULTATION.—Topics for consultation pursuant to this section may include—

“(1) rare diseases;

“(2) the severity of rare diseases;

“(3) the unmet medical need associated with rare diseases;

“(4) the willingness and ability of individuals with a rare disease to participate in clinical trials;

“(5) an assessment of the benefits and risks of therapies to treat rare diseases;

“(6) the general design of clinical trials for rare disease populations and subpopulations; and

“(7) the demographics and the clinical description of patient populations.

“(c) CLASSIFICATION AS SPECIAL GOVERNMENT EMPLOYEES.—The external experts who are consulted under this section may be considered special government employees, as defined under section 202 of title 18, United States Code.

“(d) PROTECTION OF CONFIDENTIAL INFORMATION AND TRADE SECRETS.—

“(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter the protections offered by laws, regulations, and policies governing disclosure of confidential commercial or trade secret information, and any other information exempt from disclosure pursuant to section 552(b) of title 5, United States Code, as such provisions would be applied to consultation with individuals and organizations prior to the date of enactment of this section.

“(2) CONSENT REQUIRED FOR DISCLOSURE.—The Secretary shall not disclose confidential commercial or trade secret information to an expert consulted under this section without the written consent of the sponsor unless the expert is a special government employee (as defined under section 202 of title 18, United States Code) or the disclosure is otherwise authorized by law.

“(e) OTHER CONSULTATION.—Nothing in this section shall be construed to limit the ability of the Secretary to consult with individuals and organizations as authorized prior to the date of enactment of this section.

“(f) NO RIGHT OR OBLIGATION.—

“(1) NO RIGHT TO CONSULTATION.—Nothing in this section shall be construed to create a legal right for a consultation on any matter or require the Secretary to meet with any particular expert or stakeholder.

“(2) NO ALTERING OF GOALS.—Nothing in this section shall be construed to alter agreed upon goals and procedures identified in the letters described in section 101(b) of the Prescription Drug User Fee Amendments of 2012.

“(3) NO CHANGE TO NUMBER OF REVIEW CYCLES.—Nothing in this section is intended to increase the number of review cycles as in effect before the date of enactment of this section.

“(g) NO DELAY IN PRODUCT REVIEW.—

“(1) IN GENERAL.—Prior to a consultation with an external expert, as described in this section, relating to an investigational new drug application under section 505(i), a new drug application under section 505(b), or a biologics license application under section 351 of the Public Health Service Act, the Director of the Center for Drug Evaluation and Research or the Director of the Center for Biologics Evaluation and Research (or appropriate Division Director), as appropriate, shall determine that—

“(A) such consultation will—

“(i) facilitate the Secretary’s ability to complete the Secretary’s review; and

“(ii) address outstanding deficiencies in the application; or

“(B) the sponsor authorized such consultation.

Applicability.

“(2) LIMITATION.—The requirements of this subsection shall apply only in instances where the consultation is undertaken solely under the authority of this section. The requirements of this subsection shall not apply to any consultation initiated under any other authority.”.

29 USC 792 note. **SEC. 904. ACCESSIBILITY OF INFORMATION ON PRESCRIPTION DRUG CONTAINER LABELS BY VISUALLY IMPAIRED AND BLIND CONSUMERS.**

(a) ESTABLISHMENT OF WORKING GROUP.—

(1) IN GENERAL.—The Architectural and Transportation Barriers Compliance Board (referred to in this section as the “Access Board”) shall convene a stakeholder working group (referred to in this section as the “working group”) to develop best practices on access to information on prescription drug container labels for individuals who are blind or visually impaired.

(2) MEMBERS.—The working group shall be comprised of representatives of national organizations representing blind and visually impaired individuals, national organizations representing the elderly, and industry groups representing stakeholders, including retail, mail-order, and independent community pharmacies, who would be impacted by such best practices. Representation within the working group shall be divided equally between consumer and industry advocates.

(3) BEST PRACTICES.—

Deadline.

(A) IN GENERAL.—The working group shall develop, not later than 1 year after the date of the enactment of this Act, best practices for pharmacies to ensure that



blind and visually impaired individuals have safe, consistent, reliable, and independent access to the information on prescription drug container labels.

(B) PUBLIC AVAILABILITY.—The best practices developed under subparagraph (A) may be made publicly available, including through the Internet Web sites of the working group participant organizations, and through other means, in a manner that provides access to interested individuals, including individuals with disabilities.

(C) LIMITATIONS.—The best practices developed under subparagraph (A) shall not be construed as accessibility guidelines or standards of the Access Board, and shall not confer any rights or impose any obligations on working group participants or other persons. Nothing in this section shall be construed to limit or condition any right, obligation, or remedy available under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or any other Federal or State law requiring effective communication, barrier removal, or nondiscrimination on the basis of disability.

(4) CONSIDERATIONS.—In developing and issuing the best practices under paragraph (3)(A), the working group shall consider—

(A) the use of—

(i) Braille;

(ii) auditory means, such as—

(I) “talking bottles” that provide audible container label information;

(II) digital voice recorders attached to the prescription drug container; and

(III) radio frequency identification tags;

(iii) enhanced visual means, such as—

(I) large font labels or large font “duplicate” labels that are affixed or matched to a prescription drug container;

(II) high-contrast printing; and

(III) sans-serif font; and

(iv) other relevant alternatives as determined by the working group;

(B) whether there are technical, financial, manpower, or other factors unique to pharmacies with 20 or fewer retail locations which may pose significant challenges to the adoption of the best practices; and

(C) such other factors as the working group determines to be appropriate.

(5) INFORMATION CAMPAIGN.—Upon completion of development of the best practices under subsection (a)(3), the National Council on Disability, in consultation with the working group, shall conduct an informational and educational campaign designed to inform individuals with disabilities, pharmacists, and the public about such best practices.

(6) FACCA WAIVER.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group.

(b) GAO STUDY.—

(1) IN GENERAL.—Beginning 18 months after the completion of the development of best practices under subsection (a)(3)(A), the Comptroller General of the United States shall conduct a review of the extent to which pharmacies are utilizing such

Effective date.

best practices, and the extent to which barriers to accessible information on prescription drug container labels for blind and visually impaired individuals continue.

(2) **REPORT.**—Not later than September 30, 2016, the Comptroller General of the United States shall submit to Congress a report on the review conducted under paragraph (1). Such report shall include recommendations about how best to reduce the barriers experienced by blind and visually impaired individuals to independently accessing information on prescription drug container labels.

(c) **DEFINITIONS.**—In this section—

(1) the term “pharmacy” includes a pharmacy that receives prescriptions and dispenses prescription drugs through an Internet Web site or by mail;

(2) the term “prescription drug” means a drug subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)); and

(3) the term “prescription drug container label” means the label with the directions for use that is affixed to the prescription drug container by the pharmacist and dispensed to the consumer.

#### **SEC. 905. RISK-BENEFIT FRAMEWORK.**

Section 505(d) (21 U.S.C. 355(d)) is amended by adding at the end the following: “The Secretary shall implement a structured risk-benefit assessment framework in the new drug approval process to facilitate the balanced consideration of benefits and risks, a consistent and systematic approach to the discussion and regulatory decisionmaking, and the communication of the benefits and risks of new drugs. Nothing in the preceding sentence shall alter the criteria for evaluating an application for premarket approval of a drug.”.

#### **SEC. 906. GRANTS AND CONTRACTS FOR THE DEVELOPMENT OF ORPHAN DRUGS.**

(a) **QUALIFIED TESTING DEFINITION.**—Section 5(b)(1)(A)(ii) of the Orphan Drug Act (21 U.S.C. 360ee(b)(1)(A)(ii)) is amended by striking “after the date such drug is designated under section 526 of such Act and”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—For grants and contracts under subsection (a), there is authorized to be appropriated \$30,000,000 for each of fiscal years 2013 through 2017.”.

#### **SEC. 907. REPORTING OF INCLUSION OF DEMOGRAPHIC SUBGROUPS IN CLINICAL TRIALS AND DATA ANALYSIS IN APPLICATIONS FOR DRUGS, BIOLOGICS, AND DEVICES.**

(a) **REPORT.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Commissioner, shall publish on the Internet Web site of the Food and Drug Administration a report, consistent with the regulations of the Food and Drug Administration pertaining to the protection of sponsors’ confidential commercial information as of the date of enactment of this Act, addressing the extent to which clinical trial participation and the inclusion of safety and effectiveness data by demographic subgroups

Web posting.

including sex, age, race, and ethnicity, is included in applications submitted to the Food and Drug Administration, and shall provide such publication to Congress.

(2) CONTENTS OF REPORT.—The report described in paragraph (1) shall contain the following:

(A) A description of existing tools to ensure that data to support demographic analyses are submitted in applications for drugs, biological products, and devices, and that these analyses are conducted by applicants consistent with applicable Food and Drug Administration requirements and Guidance for Industry. The report shall address how the Food and Drug Administration makes available information about differences in safety and effectiveness of medical products according to demographic subgroups, such as sex, age, racial, and ethnic subgroups, to health care providers, researchers, and patients.

(B) An analysis of the extent to which demographic data subset analyses on sex, age, race, and ethnicity is presented in applications for new drug applications for new molecular entities under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), in biologics license applications under section 351 of the Public Health Service Act (42 U.S.C. 262), and in premarket approval applications under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e) for products approved or licensed by the Food and Drug Administration, consistent with applicable requirements and Guidance for Industry, and consistent with the regulations of the Food and Drug Administration pertaining to the protection of sponsors' confidential commercial information as of the date of enactment of this Act.

(C) An analysis of the extent to which demographic subgroups, including sex, age, racial, and ethnic subgroups, are represented in clinical studies to support applications for approved or licensed new molecular entities, biological products, and devices.

(D) An analysis of the extent to which a summary of product safety and effectiveness data by demographic subgroups including sex, age, race, and ethnicity is readily available to the public in a timely manner by means of the product labeling or the Food and Drug Administration's Internet Web site.

(b) ACTION PLAN.—

(1) IN GENERAL.—Not later than 1 year after the publication of the report described in subsection (a), the Secretary, acting through the Commissioner, shall publish an action plan on the Internet Web site of the Food and Drug Administration, and provide such publication to Congress.

Web posting.

(2) CONTENT OF ACTION PLAN.—The plan described in paragraph (1) shall include—

(A) recommendations, as appropriate, to improve the completeness and quality of analyses of data on demographic subgroups in summaries of product safety and effectiveness data and in labeling;

(B) recommendations, as appropriate, on the inclusion of such data, or the lack of availability of such data in labeling;

(C) recommendations, as appropriate, to otherwise improve the public availability of such data to patients, health care providers, and researchers; and

(D) a determination with respect to each recommendation identified in subparagraphs (A) through (C) that distinguishes between product types referenced in subsection (a)(2)(B) insofar as the applicability of each such recommendation to each type of product.

(c) **DEFINITIONS.**—In this section:

(1) The term “Commissioner” means the Commissioner of Food and Drugs.

(2) The term “device” has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(3) The term “drug” has the meaning given such term in section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)).

(4) The term “biological product” has the meaning given such term in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)).

(5) The term “Secretary” means the Secretary of Health and Human Services.

**SEC. 908. RARE PEDIATRIC DISEASE PRIORITY REVIEW VOUCHER INCENTIVE PROGRAM.**

Subchapter B of chapter V (21 U.S.C. 360aa et seq.) is amended by adding at the end the following:

21 USC 360ff.

**“SEC. 529. PRIORITY REVIEW TO ENCOURAGE TREATMENTS FOR RARE PEDIATRIC DISEASES.**

“(a) **DEFINITIONS.**—In this section:

Deadline.

“(1) **PRIORITY REVIEW.**—The term ‘priority review’, with respect to a human drug application as defined in section 735(1), means review and action by the Secretary on such application not later than 6 months after receipt by the Secretary of such application, as described in the Manual of Policies and Procedures of the Food and Drug Administration and goals identified in the letters described in section 101(b) of the Prescription Drug User Fee Amendments of 2012.

“(2) **PRIORITY REVIEW VOUCHER.**—The term ‘priority review voucher’ means a voucher issued by the Secretary to the sponsor of a rare pediatric disease product application that entitles the holder of such voucher to priority review of a single human drug application submitted under section 505(b)(1) or section 351(a) of the Public Health Service Act after the date of approval of the rare pediatric disease product application.

“(3) **RARE PEDIATRIC DISEASE.**—The term ‘rare pediatric disease’ means a disease that meets each of the following criteria:

“(A) The disease primarily affects individuals aged from birth to 18 years, including age groups often called neonates, infants, children, and adolescents.

“(B) The disease is a rare disease or condition, within the meaning of section 526.

“(4) **RARE PEDIATRIC DISEASE PRODUCT APPLICATION.**—The term ‘rare pediatric disease product application’ means a human drug application, as defined in section 735(1), that—

“(A) is for a drug or biological product—

“(i) that is for the prevention or treatment of a rare pediatric disease; and

“(ii) that contains no active ingredient (including any ester or salt of the active ingredient) that has been previously approved in any other application under section 505(b)(1), 505(b)(2), or 505(j) of this Act or section 351(a) or 351(k) of the Public Health Service Act;

“(B) is submitted under section 505(b)(1) of this Act or section 351(a) of the Public Health Service Act;

“(C) the Secretary deems eligible for priority review;

“(D) that relies on clinical data derived from studies examining a pediatric population and dosages of the drug intended for that population;

“(E) that does not seek approval for an adult indication in the original rare pediatric disease product application; and

“(F) is approved after the date of the enactment of the Prescription Drug User Fee Amendments of 2012.

“(b) PRIORITY REVIEW VOUCHER.—

“(1) IN GENERAL.—The Secretary shall award a priority review voucher to the sponsor of a rare pediatric disease product application upon approval by the Secretary of such rare pediatric disease product application.

“(2) TRANSFERABILITY.—

“(A) IN GENERAL.—The sponsor of a rare pediatric disease product application that receives a priority review voucher under this section may transfer (including by sale) the entitlement to such voucher. There is no limit on the number of times a priority review voucher may be transferred before such voucher is used.

“(B) NOTIFICATION OF TRANSFER.—Each person to whom a voucher is transferred shall notify the Secretary of such change in ownership of the voucher not later than 30 days after such transfer.

Deadline.

“(3) LIMITATION.—A sponsor of a rare pediatric disease product application may not receive a priority review voucher under this section if the rare pediatric disease product application was submitted to the Secretary prior to the date that is 90 days after the date of enactment of the Prescription Drug User Fee Amendments of 2012.

Time period.

“(4) NOTIFICATION.—

“(A) IN GENERAL.—The sponsor of a human drug application shall notify the Secretary not later than 90 days prior to submission of the human drug application that is the subject of a priority review voucher of an intent to submit the human drug application, including the date on which the sponsor intends to submit the application. Such notification shall be a legally binding commitment to pay for the user fee to be assessed in accordance with this section.

Deadline.

“(B) TRANSFER AFTER NOTICE.—The sponsor of a human drug application that provides notification of the intent of such sponsor to use the voucher for the human drug application under subparagraph (A) may transfer the voucher after such notification is provided, if such sponsor

has not yet submitted the human drug application described in the notification.

Time period.

“(5) TERMINATION OF AUTHORITY.—The Secretary may not award any priority review vouchers under paragraph (1) after the last day of the 1-year period that begins on the date that the Secretary awards the third rare pediatric disease priority voucher under this section.

“(c) PRIORITY REVIEW USER FEE.—

“(1) IN GENERAL.—The Secretary shall establish a user fee program under which a sponsor of a human drug application that is the subject of a priority review voucher shall pay to the Secretary a fee determined under paragraph (2). Such fee shall be in addition to any fee required to be submitted by the sponsor under chapter VII.

“(2) FEE AMOUNT.—The amount of the priority review user fee shall be determined each fiscal year by the Secretary, based on the difference between—

“(A) the average cost incurred by the Food and Drug Administration in the review of a human drug application subject to priority review in the previous fiscal year; and

“(B) the average cost incurred by the Food and Drug Administration in the review of a human drug application that is not subject to priority review in the previous fiscal year.

Effective date.

“(3) ANNUAL FEE SETTING.—The Secretary shall establish, before the beginning of each fiscal year beginning after September 30, 2012, the amount of the priority review user fee for that fiscal year.

“(4) PAYMENT.—

“(A) IN GENERAL.—The priority review user fee required by this subsection shall be due upon the notification by a sponsor of the intent of such sponsor to use the voucher, as specified in subsection (b)(4)(A). All other user fees associated with the human drug application shall be due as required by the Secretary or under applicable law.

“(B) COMPLETE APPLICATION.—An application described under subparagraph (A) for which the sponsor requests the use of a priority review voucher shall be considered incomplete if the fee required by this subsection and all other applicable user fees are not paid in accordance with the Secretary’s procedures for paying such fees.

“(C) NO WAIVERS, EXEMPTIONS, REDUCTIONS, OR REFUNDS.—The Secretary may not grant a waiver, exemption, reduction, or refund of any fees due and payable under this section.

“(5) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year—

“(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Food and Drug Administration; and

“(B) shall not be collected for any fiscal year except to the extent provided in advance in appropriations Acts.

“(d) DESIGNATION PROCESS.—

“(1) IN GENERAL.—Upon the request of the manufacturer or the sponsor of a new drug, the Secretary may designate—

“(A) the new drug as a drug for a rare pediatric disease; and

“(B) the application for the new drug as a rare pediatric disease product application.

“(2) REQUEST FOR DESIGNATION.—The request for a designation under paragraph (1) shall be made at the same time a request for designation of orphan disease status under section 526 or fast-track designation under section 506 is made. Requesting designation under this subsection is not a prerequisite to receiving a priority review voucher under this section.

“(3) DETERMINATION BY SECRETARY.—Not later than 60 days after a request is submitted under paragraph (1), the Secretary shall determine whether—

“(A) the disease or condition that is the subject of such request is a rare pediatric disease; and

“(B) the application for the new drug is a rare pediatric disease product application.

“(e) MARKETING OF RARE PEDIATRIC DISEASE PRODUCTS.—

“(1) REVOCATION.—The Secretary may revoke any priority review voucher awarded under subsection (b) if the rare pediatric disease product for which such voucher was awarded is not marketed in the United States within the 365-day period beginning on the date of the approval of such drug under section 505 of this Act or section 351 of the Public Health Service Act.

“(2) POSTAPPROVAL PRODUCTION REPORT.—The sponsor of an approved rare pediatric disease product shall submit a report to the Secretary not later than 5 years after the approval of the applicable rare pediatric disease product application. Such report shall provide the following information, with respect to each of the first 4 years after approval of such product:

“(A) The estimated population in the United States suffering from the rare pediatric disease.

“(B) The estimated demand in the United States for such rare pediatric disease product.

“(C) The actual amount of such rare pediatric disease product distributed in the United States.

“(f) NOTICE AND REPORT.—

“(1) NOTICE OF ISSUANCE OF VOUCHER AND APPROVAL OF PRODUCTS UNDER VOUCHER.—The Secretary shall publish a notice in the Federal Register and on the Internet Web site of the Food and Drug Administration not later than 30 days after the occurrence of each of the following:

“(A) The Secretary issues a priority review voucher under this section.

“(B) The Secretary approves a drug pursuant to an application submitted under section 505(b) of this Act or section 351(a) of the Public Health Service Act for which the sponsor of the application used a priority review voucher under this section.

“(2) NOTIFICATION.—If, after the last day of the 1-year period that begins on the date that the Secretary awards the third rare pediatric disease priority voucher under this section, a sponsor of an application submitted under section 505(b) of this Act or section 351(a) of the Public Health Service Act

for a drug uses a priority review voucher under this section for such application, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a document—

“(A) notifying such Committees of the use of such voucher; and

“(B) identifying the drug for which such priority review voucher is used.

“(g) ELIGIBILITY FOR OTHER PROGRAMS.—Nothing in this section precludes a sponsor who seeks a priority review voucher under this section from participating in any other incentive program, including under this Act.

“(h) RELATION TO OTHER PROVISIONS.—The provisions of this section shall supplement, not supplant, any other provisions of this Act or the Public Health Service Act that encourage the development of drugs for tropical diseases and rare pediatric diseases.

“(i) GAO STUDY AND REPORT.—

“(1) STUDY.—

“(A) IN GENERAL.—Beginning on the date that the Secretary awards the third rare pediatric disease priority voucher under this section, the Comptroller General of the United States shall conduct a study of the effectiveness of awarding rare pediatric disease priority vouchers under this section in the development of human drug products that treat or prevent such diseases.

“(B) CONTENTS OF STUDY.—In conducting the study under subparagraph (A), the Comptroller General shall examine the following:

“(i) The indications for which each rare disease product for which a priority review voucher was awarded was approved under section 505 or section 351 of the Public Health Service Act.

“(ii) Whether, and to what extent, an unmet need related to the treatment or prevention of a rare pediatric disease was met through the approval of such a rare disease product.

“(iii) The value of the priority review voucher if transferred.

“(iv) Identification of each drug for which a priority review voucher was used.

“(v) The length of the period of time between the date on which a priority review voucher was awarded and the date on which it was used.

“(2) REPORT.—Not later than 1 year after the date under paragraph (1)(A), the Comptroller General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report containing the results of the study under paragraph (1).”.



## TITLE X—DRUG SHORTAGES

### SEC. 1001. DISCONTINUANCE OR INTERRUPTION IN THE PRODUCTION OF LIFE-SAVING DRUGS.

(a) IN GENERAL.—Section 506C (21 U.S.C. 356c) is amended to read as follows:

#### “SEC. 506C. DISCONTINUANCE OR INTERRUPTION IN THE PRODUCTION OF LIFE-SAVING DRUGS.

“(a) IN GENERAL.—A manufacturer of a drug—

“(1) that is—

“(A) life-supporting;

“(B) life-sustaining; or

“(C) intended for use in the prevention or treatment of a debilitating disease or condition, including any such drug used in emergency medical care or during surgery; and

“(2) that is not a radio pharmaceutical drug product or any other product as designated by the Secretary,

Notification.

shall notify the Secretary, in accordance with subsection (b), of a permanent discontinuance in the manufacture of the drug or an interruption of the manufacture of the drug that is likely to lead to a meaningful disruption in the supply of that drug in the United States, and the reasons for such discontinuance or interruption.

“(b) TIMING.—A notice required under subsection (a) shall be submitted to the Secretary—

“(1) at least 6 months prior to the date of the discontinuance or interruption; or

“(2) if compliance with paragraph (1) is not possible, as soon as practicable.

“(c) DISTRIBUTION.—To the maximum extent practicable, the Secretary shall distribute, through such means as the Secretary deems appropriate, information on the discontinuation or interruption of the manufacture of the drugs described in subsection (a) to appropriate organizations, including physician, health provider, and patient organizations, as described in section 506E.

“(d) CONFIDENTIALITY.—Nothing in this section shall be construed as authorizing the Secretary to disclose any information that is a trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, or section 1905 of title 18, United States Code.

“(e) COORDINATION WITH ATTORNEY GENERAL.—Not later than 30 days after the receipt of a notification described in subsection (a), the Secretary shall—

Deadline.  
Determination.

“(1) determine whether the notification pertains to a controlled substance subject to a production quota under section 306 of the Controlled Substances Act; and

“(2) if necessary, as determined by the Secretary—

“(A) notify the Attorney General that the Secretary has received such a notification;

Notification.

“(B) request that the Attorney General increase the aggregate and individual production quotas under section 306 of the Controlled Substances Act applicable to such controlled substance and any ingredient therein to a level the Secretary deems necessary to address a shortage of

Public  
information.  
Web posting.  
  
Notifications.  
Deadlines.

a controlled substance based on the best available market data; and

“(C) if the Attorney General determines that the level requested is not necessary to address a shortage of a controlled substance, the Attorney General shall provide to the Secretary a written response detailing the basis for the Attorney General’s determination.

The Secretary shall make the written response provided under subparagraph (C) available to the public on the Internet Web site of the Food and Drug Administration.

“(f) FAILURE TO MEET REQUIREMENTS.—If a person fails to submit information required under subsection (a) in accordance with subsection (b)—

“(1) the Secretary shall issue a letter to such person informing such person of such failure;

“(2) not later than 30 calendar days after the issuance of a letter under paragraph (1), the person who receives such letter shall submit to the Secretary a written response to such letter setting forth the basis for noncompliance and providing information required under subsection (a); and

“(3) not later than 45 calendar days after the issuance of a letter under paragraph (1), the Secretary shall make such letter and any response to such letter under paragraph (2) available to the public on the Internet Web site of the Food and Drug Administration, with appropriate redactions made to protect information described in subsection (d), except that, if the Secretary determines that the letter under paragraph (1) was issued in error or, after review of such response, the person had a reasonable basis for not notifying as required under subsection (a), the requirements of this paragraph shall not apply.

“(g) EXPEDITED INSPECTIONS AND REVIEWS.—If, based on notifications described in subsection (a) or any other relevant information, the Secretary concludes that there is, or is likely to be, a drug shortage of a drug described in subsection (a), the Secretary may—

“(1) expedite the review of a supplement to a new drug application submitted under section 505(b), an abbreviated new drug application submitted under section 505(j), or a supplement to such an application submitted under section 505(j) that could help mitigate or prevent such shortage; or

“(2) expedite an inspection or reinspection of an establishment that could help mitigate or prevent such drug shortage.

“(h) DEFINITIONS.—For purposes of this section—

“(1) the term ‘drug’—

“(A) means a drug (as defined in section 201(g)) that is intended for human use and that is subject to section 503(b)(1); and

“(B) does not include biological products (as defined in section 351 of the Public Health Service Act), unless otherwise provided by the Secretary in the regulations promulgated under subsection (i);

“(2) the term ‘drug shortage’ or ‘shortage’, with respect to a drug, means a period of time when the demand or projected demand for the drug within the United States exceeds the supply of the drug; and

“(3) the term ‘meaningful disruption’—

“(A) means a change in production that is reasonably likely to lead to a reduction in the supply of a drug by a manufacturer that is more than negligible and affects the ability of the manufacturer to fill orders or meet expected demand for its product; and

“(B) does not include interruptions in manufacturing due to matters such as routine maintenance or insignificant changes in manufacturing so long as the manufacturer expects to resume operations in a short period of time.

“(i) REGULATIONS.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Food and Drug Administration Safety and Innovation Act, the Secretary shall adopt a final regulation implementing this section.

Deadline.

“(2) CONTENTS.—Such regulation shall define, for purposes of this section, the terms ‘life-supporting’, ‘life-sustaining’, and ‘intended for use in the prevention or treatment of a debilitating disease or condition’.

Definitions.

“(3) INCLUSION OF BIOLOGICAL PRODUCTS.—

“(A) IN GENERAL.—The Secretary may by regulation apply this section to biological products (as defined in section 351 of the Public Health Service Act), including plasma products derived from human plasma protein and their recombinant analogs, if the Secretary determines such inclusion would benefit the public health. Such regulation shall take into account any supply reporting programs and shall aim to reduce duplicative notification.

Determination.

“(B) RULE FOR VACCINES.—If the Secretary applies this section to vaccines pursuant to subparagraph (A), the Secretary shall—

“(i) consider whether the notification requirement under subsection (a) may be satisfied by submitting a notification to the Centers for Disease Control and Prevention under the vaccine shortage notification program of such Centers; and

“(ii) explain the determination made by the Secretary under clause (i) in the regulation.

“(4) PROCEDURE.—In promulgating a regulation implementing this section, the Secretary shall—

“(A) issue a notice of proposed rulemaking that includes the proposed regulation;

Notice.

“(B) provide a period of not less than 60 days for comments on the proposed regulation; and

Time period.

“(C) publish the final regulation not less than 30 days before the regulation’s effective date.

Publication.

“(5) RESTRICTIONS.—Notwithstanding any other provision of Federal law, in implementing this section, the Secretary shall only promulgate regulations as described in paragraph (4).”.

(b) EFFECT OF NOTIFICATION.—The submission of a notification to the Secretary of Health and Human Services (referred to in this title as the “Secretary”) for purposes of complying with the requirement in section 506C(a) of the Federal Food, Drug, and Cosmetic Act (as amended by subsection (a)) shall not be construed—

21 USC 356c  
note.

(1) as an admission that any product that is the subject of such notification violates any provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(2) as evidence of an intention to promote or market the product for an indication or use for which the product has not been approved by the Secretary.

**SEC. 1002. ANNUAL REPORTING ON DRUG SHORTAGES.**

Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 506C, as amended by section 1001 of this Act, the following:

21 USC 356c–1.

**“SEC. 506C–1. ANNUAL REPORTING ON DRUG SHORTAGES.**

“(a) ANNUAL REPORTS TO CONGRESS.—Not later than the end of calendar year 2013, and not later than the end of each calendar year thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on drug shortages that—

“(1) specifies the number of manufacturers that submitted a notification to the Secretary under section 506C(a) during such calendar year;

“(2) describes the communication between the field investigators of the Food and Drug Administration and the staff of the Center for Drug Evaluation and Research’s Office of Compliance and Drug Shortage Program, including the Food and Drug Administration’s procedures for enabling and ensuring such communication;

“(3)(A) lists the major actions taken by the Secretary to prevent or mitigate the drug shortages described in paragraph (7);

“(B) in the list under subparagraph (A), includes—

“(i) the number of applications and supplements for which the Secretary expedited review under section 506C(g)(1) during such calendar year; and

“(ii) the number of establishment inspections or re-inspections that the Secretary expedited under section 506C(g)(2) during such calendar year;

“(4) describes the coordination between the Food and Drug Administration and the Drug Enforcement Administration on efforts to prevent or alleviate drug shortages;

“(5) identifies the number of and describes the instances in which the Food and Drug Administration exercised regulatory flexibility and discretion to prevent or alleviate a drug shortage;

“(6) lists the names of manufacturers that were issued letters under section 506C(f); and

“(7) specifies the number of drug shortages occurring during such calendar year, as identified by the Secretary.

Study.

“(b) TREND ANALYSIS.—The Secretary is authorized to retain a third party to conduct a study, if the Secretary believes such a study would help clarify the causes, trends, or solutions related to drug shortages.

“(c) DEFINITION.—In this section, the term ‘drug shortage’ or ‘shortage’ has the meaning given such term in section 506C.”.

**SEC. 1003. COORDINATION; TASK FORCE AND STRATEGIC PLAN.**

Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 506C–1, as added by section 1002 of this Act, the following:

**“SEC. 506D. COORDINATION; TASK FORCE AND STRATEGIC PLAN.**

21 USC 356d.

**“(a) TASK FORCE AND STRATEGIC PLAN.—****“(1) IN GENERAL.—**

“(A) TASK FORCE.—As soon as practicable after the date of enactment of the Food and Drug Administration Safety and Innovation Act, the Secretary shall establish a task force to develop and implement a strategic plan for enhancing the Secretary’s response to preventing and mitigating drug shortages.

“(B) STRATEGIC PLAN.—The strategic plan described in subparagraph (A) shall include—

“(i) plans for enhanced interagency and intra-agency coordination, communication, and decision-making;

“(ii) plans for ensuring that drug shortages are considered when the Secretary initiates a regulatory action that could precipitate a drug shortage or exacerbate an existing drug shortage;

“(iii) plans for effective communication with outside stakeholders, including who the Secretary should alert about potential or actual drug shortages, how the communication should occur, and what types of information should be shared;

“(iv) plans for considering the impact of drug shortages on research and clinical trials; and

“(v) an examination of whether to establish a ‘qualified manufacturing partner program’, as described in subparagraph (C).

“(C) DESCRIPTION OF PROGRAM.—In conducting the examination of a ‘qualified manufacturing partner program’ under subparagraph (B)(v), the Secretary—

“(i) shall take into account that—

“(I) a ‘qualified manufacturer’, for purposes of such program, would need to have the capability and capacity to supply products determined or anticipated to be in shortage; and

“(II) in examining the capability and capacity to supply products in shortage, the ‘qualified manufacturer’ could have a site that manufactures a drug listed under section 506E or have the capacity to produce drugs in response to a shortage within a rapid timeframe; and

“(ii) shall examine whether incentives are necessary to encourage the participation of ‘qualified manufacturers’ in such a program.

“(D) CONSULTATION.—In carrying out this paragraph, the task force shall ensure consultation with the appropriate offices within the Food and Drug Administration, including the Office of the Commissioner, the Center for Drug Evaluation and Research, the Office of Regulatory Affairs, and employees within the Department of Health

Publication.  
Submission.

and Human Services with expertise regarding drug shortages. The Secretary shall engage external stakeholders and experts as appropriate.

“(2) TIMING.—Not later than 1 year after the date of enactment of the Food and Drug Administration Safety and Innovation Act, the task force shall—

“(A) publish the strategic plan described in paragraph (1); and

“(B) submit such plan to Congress.

“(b) COMMUNICATION.—The Secretary shall ensure that, prior to any enforcement action or issuance of a warning letter that the Secretary determines could reasonably be anticipated to lead to a meaningful disruption in the supply in the United States of a drug described under section 506C(a), there is communication with the appropriate office of the Food and Drug Administration with expertise regarding drug shortages regarding whether the action or letter could cause, or exacerbate, a shortage of the drug.

Determination.  
Evaluation.

“(c) ACTION.—If the Secretary determines, after the communication described in subsection (b), that an enforcement action or a warning letter could reasonably cause or exacerbate a shortage of a drug described under section 506C(a), then the Secretary shall evaluate the risks associated with the impact of such shortage upon patients and those risks associated with the violation involved before taking such action or issuing such letter, unless there is imminent risk of serious adverse health consequences or death to humans.

“(d) REPORTING BY OTHER ENTITIES.—The Secretary shall identify or establish a mechanism by which health care providers and other third-party organizations may report to the Secretary evidence of a drug shortage.

“(e) REVIEW AND CONSTRUCTION.—No determination, finding, action, or omission of the Secretary under this section shall—

“(1) be subject to judicial review; or

“(2) be construed to establish a defense to an enforcement action by the Secretary.

“(f) SUNSET.—Subsections (a), (b), (c), and (e) shall cease to be effective on the date that is 5 years after the date of enactment of the Food and Drug Administration Safety and Innovation Act.”.

#### SEC. 1004. DRUG SHORTAGE LIST.

Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 506D, as added by section 1003 of this Act, the following:

21 USC 356e.

#### “SEC. 506E. DRUG SHORTAGE LIST.

“(a) ESTABLISHMENT.—The Secretary shall maintain an up-to-date list of drugs that are determined by the Secretary to be in shortage in the United States.

“(b) CONTENTS.—For each drug on such list, the Secretary shall include the following information:

“(1) The name of the drug in shortage, including the National Drug Code number for such drug.

“(2) The name of each manufacturer of such drug.

“(3) The reason for the shortage, as determined by the Secretary, selecting from the following categories:

“(A) Requirements related to complying with good manufacturing practices.

“(B) Regulatory delay.

“(C) Shortage of an active ingredient.

“(D) Shortage of an inactive ingredient component.

“(E) Discontinuation of the manufacture of the drug.

“(F) Delay in shipping of the drug.

“(G) Demand increase for the drug.

“(4) The estimated duration of the shortage as determined by the Secretary.

“(c) PUBLIC AVAILABILITY.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall make the information in such list publicly available.

“(2) TRADE SECRETS AND CONFIDENTIAL INFORMATION.—Nothing in this section alters or amends section 1905 of title 18, United States Code, or section 552(b)(4) of title 5 of such Code.

“(3) PUBLIC HEALTH EXCEPTION.—The Secretary may choose not to make information collected under this section publicly available under paragraph (1) or section 506C(c) if the Secretary determines that disclosure of such information would adversely affect the public health (such as by increasing the possibility of hoarding or other disruption of the availability of drug products to patients).”.

#### SEC. 1005. QUOTAS APPLICABLE TO DRUGS IN SHORTAGE.

Section 306 of the Controlled Substances Act (21 U.S.C. 826) is amended by adding at the end the following:

“(h)(1) Not later than 30 days after the receipt of a request described in paragraph (2), the Attorney General shall—

“(A) complete review of such request; and

“(B)(i) as necessary to address a shortage of a controlled substance, increase the aggregate and individual production quotas under this section applicable to such controlled substance and any ingredient therein to the level requested; or

“(ii) if the Attorney General determines that the level requested is not necessary to address a shortage of a controlled substance, the Attorney General shall provide a written response detailing the basis for the Attorney General’s determination.

The Secretary shall make the written response provided under subparagraph (B)(ii) available to the public on the Internet Web site of the Food and Drug Administration.

“(2) A request is described in this paragraph if—

“(A) the request pertains to a controlled substance on the list of drugs in shortage maintained under section 506E of the Federal Food, Drug, and Cosmetic Act;

“(B) the request is submitted by the manufacturer of the controlled substance; and

“(C) the controlled substance is in schedule II.”.

#### SEC. 1006. ATTORNEY GENERAL REPORT ON DRUG SHORTAGES.

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on the Judiciary of the Senate a report on drug shortages that—

(1) identifies the number of requests received under section 306(h) of the Controlled Substances Act (as added by section 1005 of this Act), the average review time for such requests,

Deadline.

Review.

Determination.

Public information.  
Web posting.

21 USC 826a.

the number of requests granted and denied under such section, and, for each of the requests denied under such section, the basis for such denial;

(2) describes the coordination between the Drug Enforcement Administration and Food and Drug Administration on efforts to prevent or alleviate drug shortages; and

(3) identifies drugs containing a controlled substance subject to section 306 of the Controlled Substances Act when such a drug is determined by the Secretary to be in shortage.

**SEC. 1007. HOSPITAL REPACKAGING OF DRUGS IN SHORTAGE.**

Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 506E, as added by section 1004 of this Act, the following:

21 USC 356f.

**“SEC. 506F. HOSPITAL REPACKAGING OF DRUGS IN SHORTAGE.**

“(a) **DEFINITIONS.**—In this section:

“(1) **DRUG.**—The term ‘drug’ excludes any controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

“(2) **HEALTH SYSTEM.**—The term ‘health system’ means a collection of hospitals that are owned and operated by the same entity and that share access to databases with drug order information for their patients.

“(3) **REPACKAGE.**—For the purposes of this section only, the term ‘repackage’, with respect to a drug, means to divide the volume of a drug into smaller amounts in order to—

“(A) extend the supply of a drug in response to the placement of the drug on a drug shortage list under section 506E; and

“(B) facilitate access to the drug by hospitals within the same health system.

“(b) **EXCLUSION FROM REGISTRATION.**—Notwithstanding any other provision of this Act, a hospital shall not be considered an establishment for which registration is required under section 510 solely because it repackages a drug and transfers it to another hospital within the same health system in accordance with the conditions in subsection (c)—

“(1) during any period in which the drug is listed on the drug shortage list under section 506E; or

“(2) during the 60-day period following any period described in paragraph (1).

“(c) **CONDITIONS.**—Subsection (b) shall only apply to a hospital, with respect to the repackaging of a drug for transfer to another hospital within the same health system, if the following conditions are met:

“(1) **DRUG FOR INTRASYSTEM USE ONLY.**—In no case may a drug that has been repackaged in accordance with this section be sold or otherwise distributed by the health system or a hospital within the system to an entity or individual that is not a hospital within such health system.

“(2) **COMPLIANCE WITH STATE RULES.**—Repackaging of a drug under this section shall be done in compliance with applicable State requirements of each State in which the drug is repackaged and received.

“(d) **TERMINATION.**—This section shall not apply on or after the date on which the Secretary issues final guidance that clarifies the policy of the Food and Drug Administration regarding hospital



pharmacies repackaging and safely transferring repackaged drugs to other hospitals within the same health system during a drug shortage.”.

**SEC. 1008. STUDY ON DRUG SHORTAGES.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study to examine the cause of drug shortages and formulate recommendations on how to prevent or alleviate such shortages.

(b) **CONSIDERATION.**—In conducting the study under this section, the Comptroller General shall consider the following questions:

(1) What are the dominant characteristics of drugs that have gone into a drug shortage over the preceding 3 years?

(2) Are there systemic high-risk factors (such as drug pricing structure, including Federal reimbursements, or the number of manufacturers producing a drug product) that have led to the concentration of drug shortages in certain drug products that have made such products vulnerable to drug shortages?

(3) Is there a reason why drug shortages have occurred primarily in the sterile injectable market and in certain therapeutic areas?

(4)(A) How have regulations, guidance documents, regulatory practices, policies, and other actions of Federal departments and agencies (including the effectiveness of interagency and intra-agency coordination, communication, strategic planning, and decisionmaking), including those used to enforce statutory requirements, affected drug shortages?

(B) Do any such regulations, guidances, policies, or practices cause, exacerbate, prevent, or mitigate drug shortages?

(C) How can regulations, guidances, policies, or practices be modified, streamlined, expanded, or discontinued in order to reduce or prevent such drug shortages?

(D) What effect would the changes described in subparagraph (C) have on the public health?

(5) How does hoarding affect drug shortages?

(6) How would incentives alleviate or prevent drug shortages?

(7) To what extent are health care providers, including hospitals and physicians responding to drug shortages, able to adjust care effectively to compensate for such shortages, and what impediments exist that hinder provider ability to adjust to such shortages?

(8)(A) Have drug shortages led market participants to stockpile affected drugs or sell such drugs at inflated prices?

(B) What has been the impact of any such activities described in subparagraph (A) on Federal revenue, and are there any economic factors that have exacerbated or created a market for such activities?

(C) Is there a need for any additional reporting or enforcement actions to address such activities?

(9)(A) How have the activities under section 506D of the Federal Food, Drug, and Cosmetic Act (as added by section 1003 of this Act) improved the efforts of the Food and Drug Administration to mitigate and prevent drug shortages?

(B) Is there a need to continue the task force and strategic plan under such section 506D, or are there any other recommendations to increase communication and coordination

inside the Food and Drug Administration, between the Food and Drug Administration and other agencies, and between the Food and Drug Administration and stakeholders?

(c) **CONSULTATION WITH STAKEHOLDERS.**—In conducting the study under this section, the Comptroller General shall consult with relevant stakeholders, including physicians, pharmacists, hospitals, patients, drug manufacturers, and other health providers.

(d) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the results of the study under this section.

## **TITLE XI—OTHER PROVISIONS**

### **Subtitle A—Reauthorizations**

#### **SEC. 1101. REAUTHORIZATION OF PROVISION RELATING TO EXCLUSIVITY OF CERTAIN DRUGS CONTAINING SINGLE ENANTIOMERS.**

(a) **IN GENERAL.**—Section 505(u)(4) (21 U.S.C. 355(u)(4)) is amended by striking “2012” and inserting “2017”.

(b) **AMENDMENT.**—Section 505(u)(1)(A)(ii)(II) (21 U.S.C. 355(u)(1)(A)(ii)(II)) is amended by inserting “clinical” after “any”.

#### **SEC. 1102. REAUTHORIZATION OF THE CRITICAL PATH PUBLIC-PRIVATE PARTNERSHIPS.**

Subsection (f) of section 566 (21 U.S.C. 360bbb–5) is amended to read as follows:

“(f) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there is authorized to be appropriated \$6,000,000 for each of fiscal years 2013 through 2017.”.

### **Subtitle B—Medical Gas Product Regulation**

#### **SEC. 1111. REGULATION OF MEDICAL GASES.**

Chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

#### **“Subchapter G—Medical Gases**

21 USC 360ddd.

#### **“SEC. 575. DEFINITIONS.**

“In this subchapter:

“(1) The term ‘designated medical gas’ means any of the following:

“(A) Oxygen that meets the standards set forth in an official compendium.

“(B) Nitrogen that meets the standards set forth in an official compendium.

“(C) Nitrous oxide that meets the standards set forth in an official compendium.

“(D) Carbon dioxide that meets the standards set forth in an official compendium.

“(E) Helium that meets the standards set forth in an official compendium.

“(F) Carbon monoxide that meets the standards set forth in an official compendium.

“(G) Medical air that meets the standards set forth in an official compendium.

“(H) Any other medical gas deemed appropriate by the Secretary, after taking into account any investigational new drug application or investigational new animal drug application for the same medical gas submitted in accordance with regulations applicable to such applications in title 21 of the Code of Federal Regulations, unless any period of exclusivity under section 505(c)(3)(E)(ii) or section 505(j)(5)(F)(ii), or the extension of any such period under section 505A, applicable to such medical gas has not expired.

“(2) The term ‘medical gas’ means a drug that—

“(A) is manufactured or stored in a liquefied, nonliquefied, or cryogenic state; and

“(B) is administered as a gas.

**“SEC. 576. REGULATION OF MEDICAL GASES.**

“(a) CERTIFICATION OF DESIGNATED MEDICAL GASES.—

“(1) SUBMISSION.—Beginning 180 days after the date of enactment of this section, any person may file with the Secretary a request for certification of a medical gas as a designated medical gas. Any such request shall contain the following information:

“(A) A description of the medical gas.

“(B) The name and address of the sponsor.

“(C) The name and address of the facility or facilities where the medical gas is or will be manufactured.

“(D) Any other information deemed appropriate by the Secretary to determine whether the medical gas is a designated medical gas.

“(2) GRANT OF CERTIFICATION.—The certification requested under paragraph (1) is deemed to be granted unless, within 60 days of the filing of such request, the Secretary finds that—

“(A) the medical gas subject to the certification is not a designated medical gas;

“(B) the request does not contain the information required under paragraph (1) or otherwise lacks sufficient information to permit the Secretary to determine that the medical gas is a designated medical gas; or

“(C) denying the request is necessary to protect the public health.

“(3) EFFECT OF CERTIFICATION.—

“(A) IN GENERAL.—

“(i) APPROVED USES.—A designated medical gas for which a certification is granted under paragraph (2) is deemed, alone or in combination, as medically appropriate, with another designated medical gas or gases for which a certification or certifications have been granted, to have in effect an approved application under section 505 or 512, subject to all applicable postapproval requirements, for the following indications for use:

21 USC  
360ddd–1.

Effective date.

Time period.

“(I) In the case of oxygen, the treatment or prevention of hypoxemia or hypoxia.

“(II) In the case of nitrogen, use in hypoxic challenge testing.

“(III) In the case of nitrous oxide, analgesia.

“(IV) In the case of carbon dioxide, use in extracorporeal membrane oxygenation therapy or respiratory stimulation.

“(V) In the case of helium, the treatment of upper airway obstruction or increased airway resistance.

“(VI) In the case of medical air, to reduce the risk of hyperoxia.

“(VII) In the case of carbon monoxide, use in lung diffusion testing.

“(VIII) Any other indication for use for a designated medical gas or combination of designated medical gases deemed appropriate by the Secretary, unless any period of exclusivity under clause (iii) or (iv) of section 505(c)(3)(E), clause (iii) or (iv) of section 505(j)(5)(F), or section 527, or the extension of any such period under section 505A, applicable to such indication for use for such gas or combination of gases has not expired.

“(ii) LABELING.—The requirements of sections 503(b)(4) and 502(f) are deemed to have been met for a designated medical gas if the labeling on final use container for such medical gas bears—

“(I) the information required by section 503(b)(4);

“(II) a warning statement concerning the use of the medical gas as determined by the Secretary by regulation; and

“(III) appropriate directions and warnings concerning storage and handling.

“(B) INAPPLICABILITY OF EXCLUSIVITY PROVISIONS.—

“(i) NO EXCLUSIVITY FOR A CERTIFIED MEDICAL GAS.—No designated medical gas deemed under subparagraph (A)(i) to have in effect an approved application is eligible for any period of exclusivity under section 505(c), 505(j), or 527, or the extension of any such period under section 505A, on the basis of such deemed approval.

“(ii) EFFECT ON CERTIFICATION.—No period of exclusivity under section 505(c), 505(j), or section 527, or the extension of any such period under section 505A, with respect to an application for a drug product shall prohibit, limit, or otherwise affect the submission, grant, or effect of a certification under this section, except as provided in subsection (a)(3)(A)(i)(VIII) and section 575(1)(H).

“(4) WITHDRAWAL, SUSPENSION, OR REVOCATION OF APPROVAL.—

“(A) WITHDRAWAL, SUSPENSION OF APPROVAL.—Nothing in this subchapter limits the Secretary’s authority to withdraw or suspend approval of a drug product, including a designated medical gas deemed under this section to

have in effect an approved application under section 505 or section 512 of this Act.

“(B) REVOCATION OF CERTIFICATION.—The Secretary may revoke the grant of a certification under paragraph (2) if the Secretary determines that the request for certification contains any material omission or falsification.

Determination.

“(b) PRESCRIPTION REQUIREMENT.—

“(1) IN GENERAL.—A designated medical gas shall be subject to the requirements of section 503(b)(1) unless the Secretary exercises the authority provided in section 503(b)(3) to remove such medical gas from the requirements of section 503(b)(1), the gas is approved for use without a prescription pursuant to an application under section 505 or 512, or the use in question is authorized pursuant to another provision of this Act relating to use of medical products in emergencies.

“(2) OXYGEN.—

“(A) NO PRESCRIPTION REQUIRED FOR CERTAIN USES.—Notwithstanding paragraph (1), oxygen may be provided without a prescription for the following uses:

“(i) For use in the event of depressurization or other environmental oxygen deficiency.

“(ii) For oxygen deficiency or for use in emergency resuscitation, when administered by properly trained personnel.

“(B) LABELING.—For oxygen provided pursuant to subparagraph (A), the requirements of section 503(b)(4) shall be deemed to have been met if its labeling bears a warning that the oxygen can be used for emergency use only and for all other medical applications a prescription is required.

**“SEC. 577. INAPPLICABILITY OF DRUG FEES TO DESIGNATED MEDICAL GASES.**

21 USC 360ddd–2.

“A designated medical gas, alone or in combination with another designated gas or gases (as medically appropriate) deemed under section 576 to have in effect an approved application shall not be assessed fees under section 736(a) on the basis of such deemed approval.”

**SEC. 1112. CHANGES TO REGULATIONS.**

21 USC 360ddd note.  
Determination.

(a) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary, after obtaining input from medical gas manufacturers and any other interested members of the public, shall—

(1) determine whether any changes to the Federal drug regulations are necessary for medical gases; and

(2) submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report regarding any such changes.

(b) REGULATIONS.—If the Secretary determines under subsection (a) that changes to the Federal drug regulations are necessary for medical gases, the Secretary shall issue final regulations revising the Federal drug regulations with respect to medical gases not later than 48 months after the date of the enactment of this Act.

(c) DEFINITIONS.—In this section:

(1) The term “Federal drug regulations” means regulations in title 21 of the Code of Federal Regulations pertaining to drugs.

(2) The term “medical gas” has the meaning given to such term in section 575 of the Federal Food, Drug, and Cosmetic Act, as added by section 1111 of this Act.

(3) The term “Secretary” means the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs.

21 USC 360ddd  
note.

**SEC. 1113. RULES OF CONSTRUCTION.**

Nothing in this subtitle and the amendments made by this subtitle applies with respect to—

(1) a drug that is approved prior to May 1, 2012, pursuant to an application submitted under section 505 or 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 360b);

(2) any gas listed in subparagraphs (A) through (G) of section 575(1) of the Federal Food, Drug, and Cosmetic Act, as added by section 1111 of this Act, or any combination of any such gases, for an indication that—

(A) is not included in, or is different from, those specified in subclauses (I) through (VII) of section 576(a)(3)(A)(i) of such Act; and

(B) is approved on or after May 1, 2012, pursuant to an application submitted under section 505 or 512; or

(3) any designated medical gas added pursuant to subparagraph (H) of section 575(1) of such Act for an indication that—

(A) is not included in, or is different from, those originally added pursuant to subparagraph (H) of section 575(1) and section 576(a)(3)(A)(i)(VIII); and

(B) is approved on or after May 1, 2012, pursuant to an application submitted under section 505 or 512 of such Act.

## Subtitle C—Miscellaneous Provisions

Deadline.  
21 USC 379d–5.

**SEC. 1121. GUIDANCE DOCUMENT REGARDING PRODUCT PROMOTION USING THE INTERNET.**

Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance that describes Food and Drug Administration policy regarding the promotion, using the Internet (including social media), of medical products that are regulated by such Administration.

**SEC. 1122. COMBATING PRESCRIPTION DRUG ABUSE.**

(a) **IN GENERAL.**—To combat the significant rise in prescription drug abuse and the consequences of such abuse, the Secretary of Health and Human Services (referred to in this section as the “Secretary”), in coordination with other Federal agencies, as appropriate, shall review current Federal initiatives and identify gaps and opportunities with respect to—

(1) ensuring the safe use of prescription drugs with the potential for abuse; and

(2) the treatment of prescription drug dependence.

Web posting.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall post on the Department of Health and Human Service’s Internet Web site a report on the findings

of the review under subsection (a). Such report shall include findings and recommendations on—

(1) how best to leverage and build upon existing Federal and federally funded data sources, such as prescription drug monitoring program data and the sentinel initiative of the Food and Drug Administration under section 505(k)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(k)(3)), as it relates to collection of information relevant to adverse events, patient safety, and patient outcomes, to create a centralized data clearinghouse and early warning tool;

(2) how best to develop and disseminate widely best practices models and suggested standard requirements to States for achieving greater interoperability and effectiveness of prescription drug monitoring programs, especially with respect to provider participation, producing standardized data on adverse events, patient safety, and patient outcomes; and

(3) how best to develop provider, pharmacist, and patient education tools and a strategy to widely disseminate such tools and assess the efficacy of such tools.

(c) **GUIDANCE ON ABUSE-DETERRENT PRODUCTS.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall promulgate guidance on the development of abuse-deterrent drug products.

Deadline.  
21 USC 355 note.

**SEC. 1123. OPTIMIZING GLOBAL CLINICAL TRIALS.**

Subchapter E of chapter V (21 U.S.C. 360bbb et seq.), as amended by section 903 of this Act, is further amended by adding at the end the following:

**“SEC. 569A. OPTIMIZING GLOBAL CLINICAL TRIALS.**

21 USC  
360bbb–8a.

“(a) **IN GENERAL.**—The Secretary shall—

“(1) work with other regulatory authorities of similar standing, medical research companies, and international organizations to foster and encourage uniform, scientifically driven clinical trial standards with respect to medical products around the world; and

“(2) enhance the commitment to provide consistent parallel scientific advice to manufacturers seeking simultaneous global development of new medical products in order to—

“(A) enhance medical product development;

“(B) facilitate the use of foreign data; and

“(C) minimize the need to conduct duplicative clinical studies, preclinical studies, or nonclinical studies.

“(b) **MEDICAL PRODUCT.**—In this section, the term ‘medical product’ means a drug, as defined in subsection (g) of section 201, a device, as defined in subsection (h) of such section, or a biological product, as defined in section 351(i) of the Public Health Service Act.

“(c) **SAVINGS CLAUSE.**—Nothing in this section shall alter the criteria for evaluating the safety or effectiveness of a medical product under this Act.

**“SEC. 569B. USE OF CLINICAL INVESTIGATION DATA FROM OUTSIDE THE UNITED STATES.**

21 USC  
360bbb–8b.

“(a) **IN GENERAL.**—In determining whether to approve, license, or clear a drug or device pursuant to an application submitted under this chapter, the Secretary shall accept data from clinical investigations conducted outside of the United States, including

the European Union, if the applicant demonstrates that such data are adequate under applicable standards to support approval, licensure, or clearance of the drug or device in the United States.

“(b) NOTICE TO SPONSOR.—If the Secretary finds under subsection (a) that the data from clinical investigations conducted outside the United States, including in the European Union, are inadequate for the purpose of making a determination on approval, clearance, or licensure of a drug or device pursuant to an application submitted under this chapter, the Secretary shall provide written notice to the sponsor of the application of such finding and include the rationale for such finding.”.

21 USC 393 note.

**SEC. 1124. ADVANCING REGULATORY SCIENCE TO PROMOTE PUBLIC HEALTH INNOVATION.**

Deadline.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall develop a strategy and implementation plan for advancing regulatory science for medical products in order to promote the public health and advance innovation in regulatory decisionmaking.

(b) REQUIREMENTS.—The strategy and implementation plan developed under subsection (a) shall be consistent with the user fee performance goals in the Prescription Drug User Fee Agreement commitment letter, the Generic Drug User Fee Agreement commitment letter, and the Biosimilar User Fee Agreement commitment letter transmitted by the Secretary to Congress on January 13, 2012, and the Medical Device User Fee Agreement commitment letter transmitted by the Secretary to Congress on April 20, 2012, and shall—

(1) identify a clear vision of the fundamental role of efficient, consistent, and predictable, science-based decisions throughout regulatory decisionmaking of the Food and Drug Administration with respect to medical products;

(2) identify the regulatory science priorities of the Food and Drug Administration directly related to fulfilling the mission of the agency with respect to decisionmaking concerning medical products and allocation of resources toward such regulatory science priorities;

(3) identify regulatory and scientific gaps that impede the timely development and review of, and regulatory certainty with respect to, the approval, licensure, or clearance of medical products, including with respect to companion products and new technologies, and facilitating the timely introduction and adoption of new technologies and methodologies in a safe and effective manner;

(4) identify clear, measurable metrics by which progress on the priorities identified under paragraph (2) and gaps identified under paragraph (3) will be measured by the Food and Drug Administration, including metrics specific to the integration and adoption of advances in regulatory science described in paragraph (5) and improving medical product decisionmaking, in a predictable and science-based manner; and

(5) set forth how the Food and Drug Administration will ensure that advances in regulatory science for medical products are adopted, as appropriate, on an ongoing basis and in a manner integrated across centers, divisions, and branches of



the Food and Drug Administration, including by senior managers and reviewers, including through the—

(A) development, updating, and consistent application of guidance documents that support medical product decisionmaking; and

(B) adoption of the tools, methods, and processes under section 566 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–5).

(c) **PERFORMANCE REPORTS.**—The annual performance reports submitted to Congress under sections 736B(a) (as amended by section 104 of this Act), 738A(a) (as amended by section 204 of this Act), 744C(a) (as added by section 303 of this Act), and 744I(a) (as added by section 403 of this Act) of the Federal Food, Drug, and Cosmetic Act for each of fiscal years 2014 and 2016, shall include a report from the Secretary on the progress made with respect to—

(1) advancing the regulatory science priorities identified under paragraph (2) of subsection (b) and resolving the gaps identified under paragraph (3) of such subsection, including reporting on specific metrics identified under paragraph (4) of such subsection;

(2) the integration and adoption of advances in regulatory science as set forth in paragraph (5) of such subsection; and

(3) the progress made in advancing the regulatory science goals outlined in the Prescription Drug User Fee Agreement commitment letter, the Generic Drug User Fee Agreement commitment letter, and the Biosimilar User Fee Agreement commitment letter transmitted by the Secretary to Congress on January 13, 2012, and the Medical Device User Fee Agreement transmitted by the Secretary to Congress on April 20, 2012.

(d) **MEDICAL PRODUCT.**—In this section, the term “medical product” means a drug, as defined in subsection (g) of section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), a device, as defined in subsection (h) of such section, or a biological product, as defined in section 351(i) of the Public Health Service Act.

Definition.

#### **SEC. 1125. INFORMATION TECHNOLOGY.**

21 USC 393 note.

(a) **HHS REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall—

(1) report to Congress on—

(A) the milestones and a completion date for developing and implementing a comprehensive information technology strategic plan to align the information technology systems modernization projects with the strategic goals of the Food and Drug Administration, including results-oriented goals, strategies, milestones, performance measures;

(B) efforts to finalize and approve a comprehensive inventory of the information technology systems of the Food and Drug Administration that includes information describing each system, such as costs, system function or purpose, and status information, and incorporate use of the system portfolio into the information investment management process of the Food and Drug Administration;

(C) the ways in which the Food and Drug Administration uses the plan described in subparagraph (A) to guide and coordinate the modernization projects and activities of the Food and Drug Administration, including the interdependencies among projects and activities; and

(D) the extent to which the Food and Drug Administration has fulfilled or is implementing recommendations of the Government Accountability Office with respect to the Food and Drug Administration and information technology; and

(2) develop—

(A) a documented enterprise architecture program management plan that includes the tasks, activities, and timeframes associated with developing and using the architecture and addresses how the enterprise architecture program management will be performed in coordination with other management disciplines, such as organizational strategic planning, capital planning and investment control, and performance management; and

(B) a skills inventory, needs assessment, gap analysis, and initiatives to address skills gaps as part of a strategic approach to information technology human capital planning.

(b) GAO REPORT.—Not later than January 1, 2016, the Comptroller General of the United States shall issue a report regarding the strategic plan described in subsection (a)(1)(A) and related actions carried out by the Food and Drug Administration. Such report shall assess the progress the Food and Drug Administration has made on—

(1) the development and implementation of a comprehensive information technology strategic plan, including the results-oriented goals, strategies, milestones, and performance measures identified in subsection (a)(1)(A);

(2) the effectiveness of the comprehensive information technology strategic plan described in subsection (a)(1)(A), including the results-oriented goals and performance measures; and

(3) the extent to which the Food and Drug Administration has fulfilled recommendations of the Government Accountability Office with respect to such agency and information technology.

21 USC 399e.

**SEC. 1126. NANOTECHNOLOGY.**

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall intensify and expand activities related to enhancing scientific knowledge regarding nanomaterials included or intended for inclusion in products regulated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or other statutes administered by the Food and Drug Administration, to address issues relevant to the regulation of those products, including the potential toxicology of such nanomaterials, the potential benefit of new therapies derived from nanotechnology, the effects of such nanomaterials on biological systems, and the interaction of such nanomaterials with biological systems.

(b) ACTIVITIES.—In conducting activities related to nanotechnology, the Secretary may—

(1) assess scientific literature and data on general nanomaterials interactions with biological systems and on specific nanomaterials of concern to the Food and Drug Administration;

(2) in cooperation with other Federal agencies, develop and organize information using databases and models that will facilitate the identification of generalized principles and characteristics regarding the behavior of classes of nanomaterials with biological systems;

(3) promote Food and Drug Administration programs and participate in collaborative efforts, to further the understanding of the science of novel properties of nanomaterials that might contribute to toxicity;

(4) promote and participate in collaborative efforts to further the understanding of measurement and detection methods for nanomaterials;

(5) collect, synthesize, interpret, and disseminate scientific information and data related to the interactions of nanomaterials with biological systems;

(6) build scientific expertise on nanomaterials within the Food and Drug Administration, including field and laboratory expertise, for monitoring the production and presence of nanomaterials in domestic and imported products regulated under this Act;

(7) ensure ongoing training, as well as dissemination of new information within the centers of the Food and Drug Administration, and more broadly across the Food and Drug Administration, to ensure timely, informed consideration of the most current science pertaining to nanomaterials;

(8) encourage the Food and Drug Administration to participate in international and national consensus standards activities pertaining to nanomaterials; and

(9) carry out other activities that the Secretary determines are necessary and consistent with the purposes described in paragraphs (1) through (8).

#### **SEC. 1127. ONLINE PHARMACY REPORT TO CONGRESS.**

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes any problems posed by pharmacy Internet Web sites that violate Federal or State law, including—

(1) the methods by which Internet Web sites are used to sell prescription drugs in violation of Federal or State law or established industry standards;

(2) the harmful health effects that patients experience when they consume prescription drugs purchased through such pharmacy Internet Web sites;

(3) efforts by the Federal Government and State and local governments to investigate and prosecute the owners or operators of pharmacy Internet Web sites, to address the threats such Web sites pose, and to protect patients;

(4) the level of success that Federal, State, and local governments have experienced in investigating and prosecuting such cases;

(5) whether the law, as in effect on the date of the report, provides sufficient authorities to Federal, State, and local governments to investigate and prosecute the owners and operators of pharmacy Internet Web sites that violate Federal or State law or established industry standards;

(6) additional authorities that could assist Federal, State, and local governments in investigating and prosecuting the owners and operators of pharmacy Internet Web sites that violate Federal or State law or established industry standards;

(7) laws, policies, and activities that would educate consumers about how to distinguish pharmacy Internet Web sites that comply with Federal and State laws and established industry standards from those pharmacy Internet Web sites that do not comply with such laws and standards; and

(8) activities that private sector actors are taking to address the prevalence of illegitimate pharmacy Internet Web sites, and any policies to encourage further activities.

**SEC. 1128. REPORT ON SMALL BUSINESSES.**

Not later than 1 year after the date of enactment of this Act, the Commissioner of Food and Drugs shall submit a report to Congress that includes—

(1) a listing of and staffing levels of all small business offices at the Food and Drug Administration, including the small business liaison program;

(2) the status of partnership efforts between the Food and Drug Administration and the Small Business Administration;

(3) a summary of outreach efforts to small businesses and small business associations, including availability of toll-free telephone help lines;

(4) with respect to the program under the Orphan Drug Act (Public Law 97–414), the number of applications made by small businesses and number of applications approved for research grants and the number of companies receiving protocol assistance for the development of drugs for rare diseases and disorders;

(5) the number of small businesses submitting applications and receiving approval for unsolicited grant applications from the Food and Drug Administration;

(6) the number of small businesses submitting applications and receiving approval for solicited grant applications from the Food and Drug Administration; and

(7) barriers small businesses encounter in the drug and medical device approval process.

**SEC. 1129. PROTECTIONS FOR THE COMMISSIONED CORPS OF THE PUBLIC HEALTH SERVICE ACT.**

(a) IN GENERAL.—Section 221(a) of the Public Health Service Act (42 U.S.C. 213a(a)) is amended by adding at the end the following:

“(18) Section 1034, Protected Communications; Prohibition of Retaliatory Personnel Actions.”.

(b) CONFORMING AMENDMENT.—Section 221(b) of the Public Health Service Act (42 U.S.C. 213a(b)) is amended by adding at the end the following: “For purposes of paragraph (18) of subsection (a), the term ‘Inspector General’ in section 1034 of such title 10 shall mean the Inspector General of the Department of Health and Human Services.”.

**SEC. 1130. COMPLIANCE DATE FOR RULE RELATING TO SUNSCREEN DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE.**

In accordance with the final rule issued by the Commissioner of Food and Drug entitled “Labeling and Effectiveness Testing; Sunscreen Drug Products for Over-the-Counter Human Use; Delay of Compliance Dates” (77 Fed. Reg. 27591 (May 11, 2012)), a product subject to the final rule issued by the Commissioner entitled “Labeling and Effectiveness Testing; Sunscreen Drug Products for Over-the-Counter Human Use” (76 Fed. Reg. 35620 (June 17, 2011)), shall comply with such rule not later than—

- (1) December 17, 2013, for products subject to such rule with annual sales of less than \$25,000 and
- (2) December 17, 2012, for all other products subject to such rule.

**SEC. 1131. STRATEGIC INTEGRATED MANAGEMENT PLAN.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a strategic integrated management plan for the Center for Drug Evaluation and Research, the Center for Biologics Evaluation and Research, and the Center for Devices and Radiological Health. Such strategic management plan shall—

Deadline.

- (1) identify strategic institutional goals, priorities, and mechanisms to improve efficiency, for the Center for Drug Evaluation and Research, the Center for Biologics Evaluation and Research, and the Center for Devices and Radiological Health;
- (2) describe the actions the Secretary will take to recruit, retain, train, and continue to develop the workforce at the Center for Drug Evaluation and Research, the Center for Biologics Evaluation and Research, and the Center for Devices and Radiological Health to fulfill the public health mission of the Food and Drug Administration; and
- (3) identify results-oriented, outcome-based measures that the Secretary will use to measure the progress of achieving the strategic goals, priorities, and mechanisms identified under paragraph (1) and the effectiveness of the actions identified under paragraph (2), including metrics to ensure that managers and reviewers of the Center for Drug Evaluation and Research, the Center for Biologics Evaluation and Research, and the Center for Devices and Radiological Health are familiar with and appropriately and consistently apply the requirements under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), including new requirements under parts 2, 3, 7, and 8 of subchapter C of title VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379f et seq.).

**SEC. 1132. ASSESSMENT AND MODIFICATION OF REMS.**

(a) ASSESSMENT AND MODIFICATION OF APPROVED STRATEGY.—Section 505–1(g) (21 U.S.C. 355–1(g)) is amended—

- (1) in paragraph (1), by striking “, and propose a modification to,”;
- (2) in paragraph (2)—
  - (A) in the matter before subparagraph (A)—
    - (i) by striking “, subject to paragraph (5),”; and
    - (ii) by striking “, and may propose a modification to,”;

(B) in subparagraph (C), by striking “new safety or effectiveness information indicates that” and all that follows and inserting the following: “an assessment is needed to evaluate whether the approved strategy should be modified to—

“(i) ensure the benefits of the drug outweigh the risks of the drug; or

“(ii) minimize the burden on the health care delivery system of complying with the strategy.”; and (C) by striking subparagraph (D);

(3) in paragraph (3), by striking “for a drug shall include—” and all that follows and inserting the following “for a drug shall include, with respect to each goal included in the strategy, an assessment of the extent to which the approved strategy, including each element of the strategy, is meeting the goal or whether 1 or more such goals or such elements should be modified.”; and

(4) by amending paragraph (4) to read as follows:

Proposal.

“(4) MODIFICATION.—

“(A) ON INITIATIVE OF RESPONSIBLE PERSON.—After the approval of a risk evaluation and mitigation strategy by the Secretary, the responsible person may, at any time, submit to the Secretary a proposal to modify the approved strategy. Such proposal may propose the addition, modification, or removal of any goal or element of the approved strategy and shall include an adequate rationale to support such proposed addition, modification, or removal of any goal or element of the strategy.

Deadline.

“(B) ON INITIATIVE OF SECRETARY.—After the approval of a risk evaluation and mitigation strategy by the Secretary, the Secretary may, at any time, require a responsible person to submit a proposed modification to the strategy within 120 days or within such reasonable time as the Secretary specifies, if the Secretary, in consultation with the offices described in subsection (c)(2), determines that 1 or more goals or elements should be added, modified, or removed from the approved strategy to—

“(i) ensure the benefits of the drug outweigh the risks of the drug; or

“(ii) minimize the burden on the health care delivery system of complying with the strategy.”.

(b) REVIEW OF PROPOSED STRATEGIES; REVIEW OF ASSESSMENTS AND MODIFICATIONS OF APPROVED STRATEGIES.—Section 505–1(h) (21 U.S.C. 355–1(h)) is amended—

(1) in the subsection heading by inserting “AND MODIFICATIONS” after “REVIEW OF ASSESSMENTS”;

(2) in paragraph (1)—

(A) by inserting “and proposed modification to” after “under subsection (a) and each assessment of”; and

(B) by inserting “, and, if necessary, promptly initiate discussions with the responsible person about such proposed strategy, assessment, or modification” after “subsection (g)”;

(3) by striking paragraph (2);

(4) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(5) in paragraph (2), as redesignated by paragraph (4)—

(A) by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—

Deadlines.

“(i) TIMEFRAME.—Unless the dispute resolution process described under paragraph (3) or (4) applies, and, except as provided in clause (ii) or clause (iii) below, the Secretary, in consultation with the offices described in subsection (c)(2), shall review and act on the proposed risk evaluation and mitigation strategy for a drug or any proposed modification to any required strategy within 180 days of receipt of the proposed strategy or modification.

“(ii) MINOR MODIFICATIONS.—The Secretary shall review and act on a proposed minor modification, as defined by the Secretary in guidance, within 60 days of receipt of such modification.

“(iii) REMS MODIFICATION DUE TO SAFETY LABEL CHANGES.—Not later than 60 days after the Secretary receives a proposed modification to an approved risk evaluation and mitigation strategy to conform the strategy to approved safety label changes, including safety labeling changes initiated by the sponsor in accordance with FDA regulatory requirements, or to a safety label change that the Secretary has directed the holder of the application to make pursuant to section 505(o)(4), the Secretary shall review and act on such proposed modification to the approved strategy.

“(iv) GUIDANCE.—The Secretary shall establish, through guidance, that responsible persons may implement certain modifications to an approved risk evaluation and mitigation strategy following notification to the Secretary.”; and

(B) by amending subparagraph (C) to read as follows:

“(C) PUBLIC AVAILABILITY.—Upon acting on a proposed risk evaluation and mitigation strategy or proposed modification to a risk evaluation and mitigation strategy under subparagraph (A), the Secretary shall make publicly available an action letter describing the actions taken by the Secretary under such subparagraph (A).”;

(6) in paragraph (4), as redesignated by paragraph (4)—

(A) in subparagraph (A)(i)—

(i) by striking “Not earlier than 15 days, and not later than 35 days, after discussions under paragraph (2) have begun, the” and inserting “The”; and

(ii) by inserting “, after the sponsor is required to make a submission under subsection (a)(2) or (g),” before “request in writing”; and

(B) in subparagraph (I)—

(i) by striking clauses (i) and (ii); and

(ii) by striking “if the Secretary—” and inserting “if the Secretary has complied with the timing requirements of scheduling review by the Drug Safety Oversight Board, providing a written recommendation, and issuing an action letter under subparagraphs (B), (F), and (G), respectively.”;

(7) in paragraph (5), as redesignated by paragraph (4)—

(A) in subparagraph (A), by striking “any of subparagraphs (B) through (D)” and inserting “subparagraph (B) or (C)”; and

(B) in subparagraph (C), by striking “paragraph (4) or (5)” and inserting “paragraph (3) or (4)”; and

(8) in paragraph (8), as redesignated by paragraph (4), by striking “paragraphs (7) and (8)” and inserting “paragraphs (6) and (7).”.

Deadline.  
21 USC 355–1  
note.

(c) GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance that, for purposes of section 505–1(h)(2)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1(h)(2)(A)), describes the types of modifications to approved risk evaluation and mitigation strategies that shall be considered to be minor modifications of such strategies.

21 USC 355 note.

**SEC. 1133. EXTENSION OF PERIOD FOR FIRST APPLICANT TO OBTAIN TENTATIVE APPROVAL WITHOUT FORFEITING 180-DAY-EXCLUSIVITY PERIOD.**

(a) EXTENSION.—

(1) IN GENERAL.—If a first applicant files an application during the 30-month period ending on the date of enactment of this Act and such application initially contains a certification described in paragraph (2)(A)(vii)(IV) of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), or if a first applicant files an application and the application is amended during such period to first contain such a certification, the phrase “30 months” in paragraph (5)(D)(i)(IV) of such section shall, with respect to such application, be read as meaning—

(A) during the period beginning on the date of enactment of this Act, and ending on September 30, 2015, “40 months”; and

(B) during the period beginning on October 1, 2015, and ending on September 30, 2016, “36 months”.

(2) CONFORMING AMENDMENT.—In the case of an application to which an extended period under paragraph (1) applies, the reference to the 30-month period under section 505(q)(1)(G) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(q)(1)(G)) shall be read to be the applicable period under paragraph (1).

(b) PERIOD FOR OBTAINING TENTATIVE APPROVAL OF CERTAIN APPLICATIONS.—If an application is filed on or before the date of enactment of this Act and such application is amended during the period beginning on the day after the date of enactment of this Act and ending on September 30, 2017, to first contain a certification described in paragraph (2)(A)(vii)(IV) of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), the date of the filing of such amendment (rather than the date of the filing of such application) shall be treated as the beginning of the 30-month period described in paragraph (5)(D)(i)(IV) of such section 505(j).

(c) DEFINITIONS.—For the purposes of this section, the terms “application” and “first applicant” mean application and first applicant, as such terms are used in section 505(j)(5)(D)(i)(IV) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(IV)).



**SEC. 1134. DEADLINE FOR DETERMINATION ON CERTAIN PETITIONS.**

(a) **IN GENERAL.**—Section 505 (21 U.S.C. 355) is amended by adding at the end the following:

“(w) **DEADLINE FOR DETERMINATION ON CERTAIN PETITIONS.**—The Secretary shall issue a final, substantive determination on a petition submitted pursuant to subsection (b) of section 314.161 of title 21, Code of Federal Regulations (or any successor regulations), no later than 270 days after the date the petition is submitted.”

(b) **APPLICATION.**—The amendment made by subsection (a) shall apply to any petition that is submitted pursuant to subsection (b) of section 314.161 of title 21, Code of Federal Regulations (or any successor regulations), on or after the date of enactment of this Act.

21 USC 355 note.

**SEC. 1135. FINAL AGENCY ACTION RELATING TO PETITIONS AND CIVIL ACTIONS.**

Section 505(q) (21 U.S.C. 355(q)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “subsection (b)(2) or (j)” and inserting “subsection (b)(2) or (j) of this section or section 351(k) of the Public Health Service Act”; and

(B) in subparagraph (F), by striking “180 days” and inserting “150 days”;

(2) in paragraph (2)(A)—

(A) in the subparagraph heading, by striking “180” and inserting “150”; and

(B) in clause (i), by striking “180-day” and inserting “150-day”;

(3) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses, as so redesignated, 2 ems to the right;

(B) by striking “This subsection does not apply to—” and inserting the following:

“(A) This subsection does not apply to—”; and

(C) by adding at the end the following:

“(B) Paragraph (2) does not apply to a petition addressing issues concerning an application submitted pursuant to section 351(k) of the Public Health Service Act.”; and

(4) in paragraph (5), by striking “subsection (b)(2) or (j)” inserting “subsection (b)(2) or (j) of the Act or 351(k) of the Public Health Service Act”.

**SEC. 1136. ELECTRONIC SUBMISSION OF APPLICATIONS.**

Subchapter D of chapter VII (21 U.S.C. 379k et seq.) is amended by inserting after section 745 the following:

**“SEC. 745A. ELECTRONIC FORMAT FOR SUBMISSIONS.**

21 USC 379k–1.

“(a) **DRUGS AND BIOLOGICS.**—

“(1) **IN GENERAL.**—Beginning no earlier than 24 months after the issuance of a final guidance issued after public notice and opportunity for comment, submissions under subsection (b), (i), or (j) of section 505 of this Act or subsection (a) or (k) of section 351 of the Public Health Service Act shall be submitted in such electronic format as specified by the Secretary in such guidance.

Effective date.

“(2) GUIDANCE CONTENTS.—In the guidance under paragraph (1), the Secretary may—

“(A) provide a timetable for establishment by the Secretary of further standards for electronic submission as required by such paragraph; and

“(B) set forth criteria for waivers of and exemptions from the requirements of this subsection.

“(3) EXCEPTION.—This subsection shall not apply to submissions described in section 561.

“(b) DEVICES.—

Effective date.

“(1) IN GENERAL.—Beginning after the issuance of final guidance implementing this paragraph, presubmissions and submissions for devices under section 510(k), 513(f)(2)(A), 515(c), 515(d), 515(f), 520(g), 520(m), or 564 of this Act or section 351 of the Public Health Service Act, and any supplements to such presubmissions or submissions, shall include an electronic copy of such presubmissions or submissions.

“(2) GUIDANCE CONTENTS.—In the guidance under paragraph (1), the Secretary may—

“(A) provide standards for the electronic copy required under such paragraph; and

“(B) set forth criteria for waivers of and exemptions from the requirements of this subsection.”.

**SEC. 1137. PATIENT PARTICIPATION IN MEDICAL PRODUCT DISCUSSIONS.**

Subchapter E of chapter V (21 U.S.C. 360bbb et seq.), as amended by section 1123 of this Act, is further amended by adding at the end the following:

21 USC  
360bbb–8c.

**“SEC. 569C. PATIENT PARTICIPATION IN MEDICAL PRODUCT DISCUSSION.**

“(a) IN GENERAL.—The Secretary shall develop and implement strategies to solicit the views of patients during the medical product development process and consider the perspectives of patients during regulatory discussions, including by—

“(1) fostering participation of a patient representative who may serve as a special government employee in appropriate agency meetings with medical product sponsors and investigators; and

“(2) exploring means to provide for identification of patient representatives who do not have any, or have minimal, financial interests in the medical products industry.

“(b) PROTECTION OF PROPRIETARY INFORMATION.—Nothing in this section shall be construed to alter the protections offered by laws, regulations, or policies governing disclosure of confidential commercial or trade secret information and any other information exempt from disclosure pursuant to section 552(b) of title 5, United States Code, as such laws, regulations, or policies would apply to consultation with individuals and organizations prior to the date of enactment of this section.

“(c) OTHER CONSULTATION.—Nothing in this section shall be construed to limit the ability of the Secretary to consult with individuals and organizations as authorized prior to the date of enactment of this section.

“(d) NO RIGHT OR OBLIGATION.—Nothing in this section shall be construed to create a legal right for a consultation on any matter or require the Secretary to meet with any particular expert

or stakeholder. Nothing in this section shall be construed to alter agreed upon goals and procedures identified in the letters described in section 101(b) of the Prescription Drug User Fee Amendments of 2012. Nothing in this section is intended to increase the number of review cycles as in effect before the date of enactment of this section.

“(e) FINANCIAL INTEREST.—In this section, the term ‘financial interest’ means a financial interest under section 208(a) of title 18, United States Code.”.

Definition.

**SEC. 1138. ENSURING ADEQUATE INFORMATION REGARDING PHARMACEUTICALS FOR ALL POPULATIONS, PARTICULARLY UNDERREPRESENTED SUBPOPULATIONS, INCLUDING RACIAL SUBGROUPS.**

21 USC 399f.

(a) COMMUNICATION PLAN.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”), acting through the Commissioner of Food and Drugs, shall review and modify, as necessary, the Food and Drug Administration’s communication plan to inform and educate health care providers and patients on the benefits and risks of medical products, with particular focus on underrepresented subpopulations, including racial subgroups.

(b) CONTENT.—The communication plan described under subsection (a)—

(1) shall take into account—

(A) the goals and principles set forth in the Strategic Action Plan to Reduce Racial and Ethnic Health Disparities issued by the Department of Health and Human Services;

(B) the nature of the medical product; and

(C) health and disease information available from other agencies within such Department, as well as any new means of communicating health and safety benefits and risks related to medical products;

(2) taking into account the nature of the medical product, shall address the best strategy for communicating safety alerts, labeled indications for the medical products, changes to the label or labeling of medical products (including black-box warnings, health advisories, health and safety benefits and risks), particular actions to be taken by health care professionals and patients, any information identifying particular subpopulations, and any other relevant information as determined appropriate to enhance communication, including varied means of electronic communication; and

(3) shall include a process for implementation of any improvements or other modifications determined to be necessary.

(c) ISSUANCE AND POSTING OF COMMUNICATION PLAN.—

(1) COMMUNICATION PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Commissioner of Food and Drugs, shall issue the communication plan described under this section.

Deadline.

(2) POSTING OF COMMUNICATION PLAN ON THE OFFICE OF MINORITY HEALTH WEB SITE.—The Secretary, acting through the Commissioner of Food and Drugs, shall publicly post the communication plan on the Internet Web site of the Office of Minority Health of the Food and Drug Administration, and

provide links to any other appropriate Internet Web site, and seek public comment on the communication plan.

**SEC. 1139. SCHEDULING OF HYDROCODONE.**

Deadline.  
Public meeting.  
Evaluation.

(a) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, if practicable, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall hold a public meeting to solicit advice and recommendations to assist in conducting a scientific and medical evaluation in connection with a scheduling recommendation to the Drug Enforcement Administration regarding drug products containing hydrocodone, combined with other analgesics or as an antitussive.

(b) **STAKEHOLDER INPUT.**—In conducting the evaluation under subsection (a), the Secretary shall solicit input from a variety of stakeholders including patients, health care providers, harm prevention experts, the National Institute on Drug Abuse, the Centers for Disease Control and Prevention, and the Drug Enforcement Administration regarding the health benefits and risks, including the potential for abuse and the impact of up-scheduling of these products.

Web posting.

(c) **TRANSCRIPT.**—The transcript of any public meeting conducted pursuant to this section shall be published on the Internet Web site of the Food and Drug Administration.

**SEC. 1140. STUDY ON DRUG LABELING BY ELECTRONIC MEANS.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the benefits and efficiencies of electronic patient labeling of prescription drugs, as a complete or partial substitute for patient labeling in paper form. The study shall address the implementation costs to the different levels of the distribution system, logistical barriers to utilizing a system of electronic patient labeling, and any anticipated public health impact of movement to electronic labeling.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study under subsection (a).

**SEC. 1141. RECOMMENDATIONS ON INTEROPERABILITY STANDARDS.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services may facilitate, and, as appropriate, may consult with the Attorney General to facilitate, the development of recommendations on interoperability standards to inform and facilitate the exchange of prescription drug information across State lines by States receiving grant funds under—

(1) the Harold Rogers Prescription Drug Monitoring Program established under the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107–77; 115 Stat. 748); and

(2) the Controlled Substance Monitoring Program established under section 399O of the Public Health Service Act (42 U.S.C. 280g–3).

(b) **REQUIREMENTS.**—The Secretary of Health and Human Services shall consider the following in facilitating the development of recommendations on interoperability of prescription drug monitoring programs under subsection (a)—

(1) open standards that are freely available, without cost and without restriction, in order to promote broad implementation;

(2) the use of exchange intermediaries, or hubs, as necessary to facilitate interstate interoperability by accommodating State-to-hub, hub-to-hub, and direct State-to-State communication;

(3) the support of transmissions that are fully secured as required, using industry standard methods of encryption, to ensure that protected health information and personally identifiable information are not compromised at any point during such transmission;

(4) access control methodologies to share protected information solely in accordance with State laws and regulations; and

(5) consider model interoperability standards developed by the Alliance of States with Prescription Monitoring Programs.

(c) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on enhancing the interoperability of State prescription drug monitoring programs with other technologies and databases used for detecting and reducing fraud, diversion, and abuse of prescription drugs.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an assessment of legal, technical, fiscal, privacy, or security challenges that have an impact on interoperability;

(B) a discussion of how State prescription drug monitoring programs could increase the production and distribution of unsolicited reports to prescribers and dispensers of prescription drugs, law enforcement officials, and health professional licensing agencies, including the enhancement of such reporting through interoperability with other States and relevant technology and databases;

(C) any recommendations for addressing challenges that impact interoperability of State prescription drug monitoring programs in order to reduce fraud, diversion, and abuse of prescription drugs; and

(D) an assessment of the extent to which providers use prescription drug management programs in delivering care and preventing prescription drug abuse.

#### SEC. 1142. CONFLICTS OF INTEREST.

(a) IN GENERAL.—Section 712 (21 U.S.C. 379d-1) is amended—

(1) by striking subsections (b) and (c) and inserting the following subsections:

“(b) RECRUITMENT FOR ADVISORY COMMITTEES.—

“(1) IN GENERAL.—The Secretary shall—

“(A) develop and implement strategies on effective outreach to potential members of advisory committees at universities, colleges, other academic research centers, professional and medical societies, and patient and consumer groups;

“(B) seek input from professional medical and scientific societies to determine the most effective informational and recruitment activities;

Time period.

“(C) at least every 180 days, request referrals for potential members of advisory committees from a variety of stakeholders, including—

“(i) product developers, patient groups, and disease advocacy organizations; and

“(ii) relevant—

“(I) professional societies;

“(II) medical societies;

“(III) academic organizations; and

“(IV) governmental organizations; and

“(D) in carrying out subparagraphs (A) and (B), take into account the levels of activity (including the numbers of annual meetings) and the numbers of vacancies of the advisory committees.

“(2) RECRUITMENT ACTIVITIES.—The recruitment activities under paragraph (1) may include—

“(A) advertising the process for becoming an advisory committee member at medical and scientific society conferences;

“(B) making widely available, including by using existing electronic communications channels, the contact information for the Food and Drug Administration point of contact regarding advisory committee nominations; and

“(C) developing a method through which an entity receiving funding from the National Institutes of Health, the Agency for Healthcare Research and Quality, the Centers for Disease Control and Prevention, or the Veterans Health Administration can identify a person whom the Food and Drug Administration can contact regarding the nomination of individuals to serve on advisory committees.

“(3) EXPERTISE.—In carrying out this subsection, the Secretary shall seek to ensure that the Secretary has access to the most current expert advice.

Applicability.  
Deadlines.  
Web posting.

“(c) DISCLOSURE OF DETERMINATIONS AND CERTIFICATIONS.—Notwithstanding section 107(a)(2) of the Ethics in Government Act of 1978, the following shall apply:

“(1) 15 OR MORE DAYS IN ADVANCE.—As soon as practicable, but (except as provided in paragraph (2)) not later than 15 days prior to a meeting of an advisory committee to which a written determination as referred to in section 208(b)(1) of title 18, United States Code, or a written certification as referred to in section 208(b)(3) of such title, applies, the Secretary shall disclose (other than information exempted from disclosure under section 552 or section 552a of title 5, United States Code (popularly known as the Freedom of Information Act and the Privacy Act of 1974, respectively)) on the Internet Web site of the Food and Drug Administration—

“(A) the type, nature, and magnitude of the financial interests of the advisory committee member to which such determination or certification applies; and

“(B) the reasons of the Secretary for such determination or certification, including, as appropriate, the public health interest in having the expertise of the member with respect to the particular matter before the advisory committee.

“(2) LESS THAN 30 DAYS IN ADVANCE.—In the case of a financial interest that becomes known to the Secretary less than 30 days prior to a meeting of an advisory committee

to which a written determination as referred to in section 208(b)(1) of title 18, United States Code, or a written certification as referred to in section 208(b)(3) of such title applies, the Secretary shall disclose (other than information exempted from disclosure under section 552 or 552a of title 5, United States Code) on the Internet Web site of the Food and Drug Administration, the information described in subparagraphs (A) and (B) of paragraph (1) as soon as practicable after the Secretary makes such determination or certification, but in no case later than the date of such meeting.”;

(2) in subsection (d), by striking “subsection (c)(3)” and inserting “subsection (c)”;

(3) by amending subsection (e) to read as follows:

“(e) ANNUAL REPORT.—

“(1) IN GENERAL.—Not later than February 1 of each year, the Secretary shall submit to the Committee on Appropriations and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives, a report that describes—

“(A) with respect to the fiscal year that ended on September 30 of the previous year, the number of persons nominated for participation at meetings for each advisory committee, the number of persons so nominated, and willing to serve, the number of vacancies on each advisory committee, and the number of persons contacted for service as members on each advisory committee meeting for each advisory committee who did not participate because of the potential for such participation to constitute a disqualifying financial interest under section 208 of title 18, United States Code;

“(B) with respect to such year, the number of persons contacted for services as members for each advisory committee meeting for each advisory committee who did not participate because of reasons other than the potential for such participation to constitute a disqualifying financial interest under section 208 of title 18, United States Code;

“(C) with respect to such year, the number of members attending meetings for each advisory committee; and

“(D) with respect to such year, the aggregate number of disclosures required under subsection (d) and the percentage of individuals to whom such disclosures did not apply who served on such committee.

“(2) PUBLIC AVAILABILITY.—Not later than 30 days after submitting any report under paragraph (1) to the committees specified in such paragraph, the Secretary shall make each such report available to the public.”;

(4) in subsection (f), by striking “shall review guidance” and all that follows through the end of the subsection and inserting the following: “shall—

“(1) review guidance of the Food and Drug Administration with respect to advisory committees regarding disclosure of conflicts of interest and the application of section 208 of title 18, United States Code; and

“(2) update such guidance as necessary to ensure that the Food and Drug Administration receives appropriate access

to needed scientific expertise, with due consideration of the requirements of such section 208.”; and

(5) by adding at the end the following:

“(g) **GUIDANCE ON REPORTED DISCLOSED FINANCIAL INTEREST OR INVOLVEMENT.**—The Secretary shall issue guidance that describes how the Secretary reviews the financial interests and involvement of advisory committee members that are disclosed under subsection (c) but that the Secretary determines not to meet the definition of a disqualifying interest under section 208 of title 18, United States Code for the purposes of participating in a particular matter.”.

Effective date.  
21 USC 379d–1  
note.  
21 USC 371 note.

(b) **APPLICABILITY.**—The amendments made by subsection (a) apply beginning on October 1, 2012.

**SEC. 1143. NOTIFICATION OF FDA INTENT TO REGULATE LABORATORY-DEVELOPED TESTS.**

Time period.

(a) **IN GENERAL.**—The Food and Drug Administration may not issue any draft or final guidance on the regulation of laboratory-developed tests under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) without, at least 60 days prior to such issuance—

(1) notifying the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate of the Administration’s intent to take such action; and

(2) including in such notification the anticipated details of such action.

(b) **SUNSET.**—Subsection (a) shall cease to have force or effect on the date that is 5 years after the date of enactment of this Act.

Synthetic Drug  
Abuse Prevention  
Act of 2012.  
21 USC 801 note.

## Subtitle D—Synthetic Drugs

**SEC. 1151. SHORT TITLE.**

This subtitle may be cited as the “Synthetic Drug Abuse Prevention Act of 2012”.

**SEC. 1152. ADDITION OF SYNTHETIC DRUGS TO SCHEDULE I OF THE CONTROLLED SUBSTANCES ACT.**

(a) **CANNABIMIMETIC AGENTS.**—Schedule I, as set forth in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end the following:

“(d)(1) Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

Definition.

“(2) In paragraph (1):

“(A) The term ‘cannabimimetic agents’ means any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

“(i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.



“(ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.

“(iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

“(iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.

“(v) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

“(B) Such term includes—

“(i) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP–47,497);

“(ii) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP–47,497 C8-homolog);

“(iii) 1-pentyl-3-(1-naphthoyl)indole (JWH–018 and AM678);

“(iv) 1-butyl-3-(1-naphthoyl)indole (JWH–073);

“(v) 1-hexyl-3-(1-naphthoyl)indole (JWH–019);

“(vi) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200);

“(vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH–250);

“(viii) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH–081);

“(ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH–122);

“(x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH–398);

“(xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

“(xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

“(xiii) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR–19 and RCS–4);

“(xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR–18 and RCS–8); and

“(xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH–203).”.

(b) OTHER DRUGS.—Schedule I of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended in subsection (c) by adding at the end the following:

“(18) 4-methylmethcathinone (Mephedrone).

“(19) 3,4-methylenedioxypyrovalerone (MDPV).

“(20) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C–E).

“(21) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C–D).

“(22) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C–C).

“(23) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C–I).

“(24) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–2).

“(25) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–4).

“(26) 2-(2,5-Dimethoxyphenyl)ethanamine (2C–H).

“(27) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C–N).

“(28) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C–P).”.

**SEC. 1153. TEMPORARY SCHEDULING TO AVOID IMMINENT HAZARDS TO PUBLIC SAFETY EXPANSION.**

Section 201(h)(2) of the Controlled Substances Act (21 U.S.C. 811(h)(2)) is amended—

(1) by striking “one year” and inserting “2 years”; and

(2) by striking “six months” and inserting “1 year”.

Approved July 9, 2012.

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**LEGISLATIVE HISTORY—S. 3187:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 23, 24, considered and passed Senate.

June 20, considered and passed House, amended.

June 21, 25, 26, Senate considered and concurred in House amendment.



Public Law 112–145  
112th Congress

An Act

To amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia.

July 18, 2012  
[H.R. 3902]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “District of Columbia Special Election Reform Act”.

District of  
Columbia  
Special Election  
Reform Act.

**SEC. 2. TIMING OF SPECIAL ELECTIONS FOR LOCAL OFFICE IN DISTRICT OF COLUMBIA.**

(a) COUNCIL.—

(1) CHAIR.—The first sentence of section 401(b)(3) of the District of Columbia Home Rule Act (sec. 1–204.01(b)(3), D.C. Official Code) is amended to read as follows: “To fill a vacancy in the Office of Chairman, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation.”

(2) MEMBERS ELECTED FROM WARDS.—The first sentence of section 401(d)(1) of such Act (sec. 1–204.01(d)(1), D.C. Official Code) is amended to read as follows: “In the event of a vacancy in the Council of a member elected from a ward, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation.”

(3) MEMBERS ELECTED AT-LARGE.—The second sentence of section 401(d)(2) of such Act (sec. 1–204.01(d)(2)) is amended by striking “and such special election” and all that follows and inserting the following: “and such special election shall be held on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the

election, will provide the opportunity for the greatest level of voter participation.”.

(b) MAYOR.—The first sentence of section 421(c)(2) of such Act (sec. 1–204.21(c)(2), D.C. Official Code) is amended to read as follows: “To fill a vacancy in the Office of Mayor, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation.”.

(c) ATTORNEY GENERAL.—The first sentence of section 435(b)(1) of such Act (sec. 1–204.35(b)(1), D.C. Official Code) is amended by striking “the Board” and all that follows and inserting the following: “the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation.”.

#### **SEC. 3. EFFECTIVE DATE.**

The amendments made by section 2 shall apply with respect to vacancies occurring on or after the enactment of this Act.

Approved July 18, 2012.

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#### **LEGISLATIVE HISTORY—H.R. 3902:**

SENATE REPORTS: No. 112–186 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Feb. 29, considered and passed House.

July 12, considered and passed Senate.



Public Law 112–146  
112th Congress

An Act

To provide for an exchange of land between the Department of Homeland Security  
and the South Carolina State Ports Authority.

July 18, 2012  
[S. 2061]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Former Charleston Naval Base  
Land Exchange Act of 2012”.

Former  
Charleston  
Naval Base Land  
Exchange Act  
of 2012.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **FEDERAL LAND.**—The term “Federal land” means the parcels consisting of approximately 10.499 acres of land (including improvements) that are owned by the United States, located on the former U.S. Naval Base Complex in North Charleston, South Carolina, and included within the Charleston County Tax Assessor’s Office Tax Map Number 400–00–00–004, and shown as New Parcel B in that certain plat of Forsberg Engineering and Surveying Inc., dated May 25, 2007, entitled in part “Plat Showing the Subdivision of TMS 400–00–00–004 into Parcel B and Remaining Residual (Parcel A).”

(2) **NON-FEDERAL LAND.**—The term “non-Federal land” means the 3 parcels of land (including improvements) authorized to be conveyed to the United States under this Act.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(4) **STATE PORTS AUTHORITY.**—The term “State Ports Authority” means the South Carolina State Ports Authority, an agency of the State of South Carolina.

**SEC. 3. LAND EXCHANGE.**

(a) **LAND EXCHANGE.**—

(1) **IN GENERAL.**—In exchange for the conveyance to the Secretary, by quitclaim deed, of all right, title, and interest of the State Ports Authority to the non-Federal land owned by the State Ports Authority, the Secretary is authorized to convey to the State Ports Authority, by quitclaim deed, all right, title, and interest of the United States in and to the Federal land.

(2) **EXCHANGE.**—If the State Ports Authority offers to convey to the Secretary all right, title, and interest of the State Ports Authority in and to the non-Federal parcels identified in subsection (b), the Secretary—

(A) is authorized to accept the offer; and

(B) on acceptance of the offer, shall simultaneously convey to the State Ports Authority all right, title, and interest of the United States in and to approximately 10.499 acres of Federal land.

(b) NON-FEDERAL LAND DESCRIBED.—The non-Federal land (including improvements) to be conveyed under this section consists of—

(1) the approximately 18.736 acres of land that is owned by the State Ports Authority, located on S. Hobson Avenue, and currently depicted in the Charleston County Tax Assessor's Office as Tax Map Number 400-00-00-158, and as New I-48.55 Parcel B, containing 18.736 acres, on the plat recorded in the Charleston County RMC Office in Plat Book EL, at page 280;

(2) the approximately 4.069 acres of land that is owned by the State Ports Authority, located on Thompson Avenue and the Cooper River, and currently depicted in the Charleston County Tax Assessor's Office as Tax Map Number 400-00-00-156, and as New II-121.44 Parcel C, containing 4.069 acres, on the plat recorded in the Charleston County RMC Office in Plat Book L09, at pages 0391-393; and

(3) the approximately 2.568 acres of land that is owned by the State Ports Authority, located on Partridge Avenue, and currently depicted in the Charleston County Tax Assessor's Office as Tax Map Number 400-00-00-157, and as New II-121.44 Parcel B, containing 2.568 acres, on the plat recorded in the Charleston County RMC Office in Plat Book L09, at pages 0391-0393.

(c) LAND TITLE.—Title to the non-Federal land conveyed to the Secretary under this section shall—

(1) be acceptable to the Secretary; and

(2) conform to the title approval standards of the Attorney General of the United States applicable to land acquisitions by the Federal Government.

#### **SEC. 4. EXCHANGE TERMS AND CONDITIONS.**

(a) IN GENERAL.—The conveyance of Federal land under section 3 shall be subject to—

(1) any valid existing rights; and

(2) any additional terms and conditions that the Secretary determines to be appropriate to protect the interests of the United States.

(b) COSTS.—The costs of carrying out the exchange of land under section 3 shall be shared equally by the Secretary and the State Ports Authority.

(c) EQUAL VALUE EXCHANGE.—Notwithstanding the appraised value of the land exchanged under section 3, the values of the Federal and non-Federal land in the land exchange under section 3 shall be considered to be equal.

#### **SEC. 5. BOUNDARY ADJUSTMENT.**

On acceptance of title to the non-Federal land by the Secretary—

(1) the non-Federal land shall be added to and administered as part of the Federal Law Enforcement Training Center; and

(2) the boundaries of the Federal Law Enforcement Training Center shall be adjusted to exclude the exchanged Federal land.

Approved July 18, 2012.

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LEGISLATIVE HISTORY—S. 2061:

SENATE REPORTS: No. 112-171 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 5, considered and passed Senate.

July 9, considered and passed House.



Public Law 112–147  
112th Congress

An Act

July 23, 2012  
[H.R. 4155]

To direct the head of each Federal department and agency to treat relevant military training as sufficient to satisfy training or certification requirements for Federal licenses.

Veteran Skills to  
Jobs Act.  
38 USC 4114  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Veteran Skills to Jobs Act”.

**SEC. 2. CONSIDERATION OF RELEVANT MILITARY TRAINING FOR ISSUANCE OF A FEDERAL LICENSE.**

(a) **IN GENERAL.**—The head of each Federal licensing authority shall consider and may accept, in the case of any individual applying for a license, any relevant training received by such individual while serving as a member of the armed forces, for the purpose of satisfying the requirements for such license.

(b) **DEFINITIONS.**—For purposes of this Act—

(1) the term “license” means a license, certification, or other grant of permission to engage in a particular activity;

(2) the term “Federal licensing authority” means a department, agency, or other entity of the Government having authority to issue a license;

(3) the term “armed forces” has the meaning given such term by section 2101(2) of title 5, United States Code; and

(4) the term “Government” means the Government of the United States.

Deadlines.

**SEC. 3. REGULATIONS.**

The head of each Federal licensing authority shall—

(1) with respect to any license a licensing authority grants or is empowered to grant as of the date of enactment of this Act, prescribe any regulations necessary to carry out this Act not later than 180 days after such date; and

(2) with respect to any license of a licensing authority not constituted or not empowered to grant the license as of the date of enactment of this Act, prescribe any regulations necessary to carry out this Act not later than 180 days after the date on which the agency is so constituted or empowered, as the case may be.

Approved July 23, 2012.

**LEGISLATIVE HISTORY—H.R. 4155:**

HOUSE REPORTS: No. 112–585 (Comm. on Oversight and Government Reform).  
CONGRESSIONAL RECORD, Vol. 158 (2012):

July 9, considered and passed House.

July 11, considered and passed Senate.





Public Law 112–148  
112th Congress

An Act

July 26, 2012  
[H.R. 3001]

To award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Raoul  
Wallenberg  
Centennial  
Celebration Act.  
31 USC 5111  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Raoul Wallenberg Centennial Celebration Act”.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Raoul Wallenberg was born in Europe on August 4, 1912, to Swedish Christian parents.

(2) In 1935, he graduated from the University of Michigan in Ann Arbor, completing a five-year program in three-and-a-half years.

(3) In a letter to his grandfather, Wallenberg wrote of his time in America: “I feel so at home in my little Ann Arbor that I’m beginning to sink down roots here and have a hard time imagining my leaving it. . . . Every now and then I feel strange when I think about how tiny my own country is and how large and wonderful America is.”

(4) Raoul returned to Sweden, where he began a career as a businessman, and afterwards, a Swedish diplomat.

(5) In 1936, Raoul’s grandfather arranged a position for him at the Holland Bank in Haifa, Palestine. There Raoul began to meet young Jews who had already been forced to flee from Nazi persecution in Germany. Their stories affected him deeply.

(6) He was greatly troubled by the fate of Jews in Europe, confiding to actress Viveca Lindfors the horrific plight of Jews under Nazi Europe.

(7) Under the direction of President Franklin D. Roosevelt, the War Refugee Board was established in January 1944 to aid civilians that fell victim to the Nazi and Axis powers in Europe.

(8) One of War Refugee Board’s top priorities was protection of the 750,000 Hungarian Jews still alive.

(9) It was decided that Raoul Wallenberg, aged 31 at the time, would be most effective in protecting Jews and victims of the Nazis in Hungary under the War Refugee Board. He was recruited by Iver Olsen, an agent for the Office of Strategic Services and sent to Budapest, Hungary, under his official profession as a Swedish diplomat. He was instructed to use

passports and other creative means to save as many lives as possible.

(10) Wallenberg created a new Swedish passport, the Schutzpass, which looked more imposing and official than the actual Swedish passport. He reportedly put up huge place cards of it throughout Budapest to make the Nazis familiar with it. He unilaterally announced that it granted the holder immunity from the death camps. The Schutzpasses alone are credited with saving 20,000 Jewish lives.

(11) In one example of his heroism, Wallenberg was told of a Nazi plot to round up several thousand Jewish women and acted swiftly to save them. Former Wallenberg staffer, Agnes Adachi, recalls the time when she and other staff, spent the whole night making around 2,000 Schutzpasses before 6 a.m. They were all completed and personally delivered to the women in time to save their lives.

(12) Using the money the United States put into the War Refugee Board, Wallenberg was able to purchase about thirty buildings, which he used as hospitals, schools, soup kitchens, and safe houses for over 8,000 children whose parents have already been deported or killed.

(13) Tommy Lapid, a young boy who was staying with his mother in a Swedish safe house (his father was already dead), gave an eyewitness account of how his family was helped by Wallenberg and the War Refugee Board: “One morning, a group of Hungarian Fascists came into the house and said that all the able-bodied women must go with them. We knew what this meant. My mother kissed me and I cried and she cried. We knew we were parting forever and she left me there, an orphan to all intents and purposes. Then two or three hours later, to my amazement, my mother returned with the other women. It seemed like a mirage, a miracle. My mother was there—she was alive and she was hugging me and kissing me, and she said one word: Wallenberg.”.

(14) Even as the war was coming to a close, Wallenberg remained vigilant and attentive to the people under his care. Adolf Eichmann, the SS colonel charged with the extermination of Jews in Eastern Europe, was determined to exterminate the 70,000 Jews kept as prisoners in a guarded ghetto in Budapest. As soon as Wallenberg heard of the plot, he sent Pal Szalay, an Arrow-Crossman senior official, who defected and turned to Wallenberg. Szalay was sent to speak to General Schmidhuber, who was ordered to spearhead the ghetto extermination in Budapest. Szalay informed Schmidhuber that, seeing as the war was coming to an end, if the planned massacre took place, Wallenberg would see to it personally that Schmidhuber would be prosecuted as a war criminal and hanged. The plans were ultimately abandoned and considered Wallenberg’s last big victory.

(15) Of the 120,000 Hungarian Jews that survived, Raoul Wallenberg, acting under the War Refugee Board, is credited with saving an estimated 100,000 of them in a six-month period.

(16) Raoul Wallenberg’s fate remains a mystery. In January 13, 1945, he contacted the Russians in an effort to secure food for the Jews under his protection—as he was still working hard to protect them.

(17) In 1981, President Ronald Reagan made Raoul Wallenberg an honorary citizen of the United States, an honor only previously extended to Winston Churchill.

(18) These findings show that Raoul Wallenberg showed exceptional heroism and bravery with his actions during the holocaust. Working with the War Refugee Board, a United State's agency, he was able to save about 100,000 Hungarian Jews, many of which were later able to immigrate to the United States.

(19) Indeed, hundreds of thousands of American Jews can directly or indirectly attribute their own lives to Raoul Wallenberg's actions during World War II. Many of the people Wallenberg saved have been influential citizens contributing to American institutions and culture, including Congressman Tom Lantos (February 1, 1928–February 11, 2008), Annette Lantos, and the Liska Rebbe, Rabbi Yoizef (Joseph) Friedlander, who carried forth the Liska Hassidic dynasty from Hungary to the United States after being saved by Raoul Wallenberg.

(20) His actions and character make him an excellent contender for a Congressional Gold Medal in time for the centennial of his birth, to celebrate his achievements and humanitarian accomplishments.

### **SEC. 3. CONGRESSIONAL GOLD MEDAL.**

(a) **PRESENTATION AUTHORIZED.**—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design to the next of kin or personal representative of Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

(b) **DESIGN AND STRIKING.**—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

### **SEC. 4. DUPLICATE MEDALS.**

Under such regulations as the Secretary of the Treasury may prescribe, the Secretary may strike duplicate medals in bronze of the gold medal struck pursuant to section 3 and sell such duplicate medals at a price sufficient to cover the costs of the duplicate medals (including labor, materials, dies, use of machinery, overhead expenses) and the cost of the gold medal.

### **SEC. 5. STATUS OF MEDALS.**

(a) **NATIONAL MEDALS.**—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) **NUMISMATIC ITEMS.**—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

### **SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) **AUTHORIZATION OF CHARGES.**—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 4 shall be deposited in the United States Mint Public Enterprise Fund.

Approved July 26, 2012.

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LEGISLATIVE HISTORY—H.R. 3001:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Apr. 16, considered and passed House.

July 11, considered and passed Senate.



Public Law 112–149  
112th Congress

An Act

July 26, 2012  
[S. 2009]

To improve the administration of programs in the insular areas, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Insular Areas Act of 2011.  
48 USC 1901 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Insular Areas Act of 2011”.

**SEC. 2. CONTINUED MONITORING ON RUNIT ISLAND.**

Section 103(f)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921b(f)(1)) is amended—

(1) by striking “Notwithstanding” and inserting the following:

“(A) IN GENERAL.—Notwithstanding”; and

(2) by adding at the end the following:

“(B) CONTINUED MONITORING ON RUNIT ISLAND.—

“(i) CACTUS CRATER CONTAINMENT AND GROUNDWATER MONITORING.—Effective beginning January 1, 2012, the Secretary of Energy shall, as a part of the Marshall Islands program conducted under subparagraph (A), periodically (but not less frequently than every 4 years) conduct—

“(I) a visual study of the concrete exterior of the Cactus Crater containment structure on Runit Island; and

“(II) a radiochemical analysis of the groundwater surrounding and in the Cactus Crater containment structure on Runit Island.

“(ii) REPORT.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives, a report that contains—

“(I) a description of—

“(aa) the results of each visual survey conducted under clause (i)(I); and

“(bb) the results of the radiochemical analysis conducted under clause (i)(II); and

“(II) a determination on whether the surveys and analyses indicate any significant change in the health risks to the people of Enewetak from the contaminants within the Cactus Crater containment structure.

“(iii) FUNDING FOR GROUNDWATER MONITORING.—The Secretary of the Interior shall make available to

Effective date.  
Time period.

the Department of Energy, Marshall Islands Program, from funds available for the Technical Assistance Program of the Office of Insular Affairs, the amounts necessary to conduct the radiochemical analysis of groundwater under clause(i)(II).”.

**SEC. 3. CLARIFYING THE TEMPORARY ASSIGNMENT OF JUDGES TO COURTS OF THE FREELY ASSOCIATED STATES.**

Section 297(a) of title 28, United States Code, is amended by striking “circuit or district judge” and inserting “circuit, district, magistrate, or territorial judge of a court”.

**SEC. 4. DELAY OF SCHEDULED MINIMUM WAGE INCREASE IN AMERICAN SAMOA.**

(a) **DELAYED INCREASE PENDING GOVERNMENT ACCOUNTABILITY OFFICE REPORT.**—Section 8103(b)(2)(C) of the Fair Minimum Wage Act of 2007 (29 U.S.C. 206 note; Public Law 110–28) is amended—

(1) by striking “each year thereafter until” and inserting “on September 30 of every third year thereafter until”; and

(2) by striking “except that” and all that follows through “September 30” and inserting “except that there shall be no such increase in 2012, 2013, and 2014 pending the triennial report required under section 8104(a)”.

(b) **TRIENNIAL GOVERNMENT ACCOUNTABILITY OFFICE REPORT.**—Section 8104(a) of the Fair Minimum Wage Act of 2007 (29 U.S.C. 206 note; Public Law 110–28) is amended by striking “April 1, 2013, and every 2 years” and inserting “April 1, 2014, and every 3 years”.

Approved July 26, 2012.

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**LEGISLATIVE HISTORY—S. 2009:**

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Dec. 16, considered and passed Senate.

Vol. 158 (2012): July 17, considered and passed House.



Public Law 112–150  
112th Congress

An Act

July 27, 2012  
[S. 2165]

To enhance strategic cooperation between the United States and Israel, and for other purposes.

United States-  
Israel Enhanced  
Security  
Cooperation Act  
of 2012.  
22 USC 8601  
note.  
22 USC 8601.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “United States-Israel Enhanced Security Cooperation Act of 2012”.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Since 1948, United States Presidents and both houses of Congress, on a bipartisan basis and supported by the American people, have repeatedly reaffirmed the special bond between the United States and Israel, based on shared values and shared interests.

(2) The Middle East is undergoing rapid change, bringing with it hope for an expansion of democracy but also great challenges to the national security of the United States and our allies in the region, particularly to our most important ally in the region, Israel.

(3) The Government of the Islamic Republic of Iran is continuing its decades-long pattern of seeking to foment instability and promote extremism in the Middle East, particularly in this time of dramatic political transition.

(4) At the same time, the Government of the Islamic Republic of Iran continues to enrich uranium in defiance of multiple United Nations Security Council resolutions.

(5) A nuclear-weapons capable Iran would fundamentally threaten vital United States interests, encourage regional nuclear proliferation, further empower Iran, the world’s leading state sponsor of terror, and pose a serious and destabilizing threat to Israel and the region.

(6) Over the past several years, with the assistance of the Governments of the Islamic Republic of Iran and Syria, Hizbollah and Hamas have increased their stockpile of rockets, with more than 60,000 now ready to be fired at Israel. The Government of the Islamic Republic of Iran continues to add to its arsenal of ballistic missiles and cruise missiles, which threaten Iran’s neighbors, Israel, and United States Armed Forces in the region.

(7) As a result, Israel is facing a fundamentally altered strategic environment.



(8) Pursuant to chapter 5 of title 1 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 576), the authority to make available loan guarantees to Israel is currently set to expire on September 30, 2012.

**SEC. 3. STATEMENT OF POLICY.**

22 USC 8602.

It is the policy of the United States:

(1) To reaffirm our unwavering commitment to the security of the State of Israel as a Jewish state. As President Barack Obama stated on December 16, 2011, “America’s commitment and my commitment to Israel and Israel’s security is unshakeable.” And as President George W. Bush stated before the Israeli Knesset on May 15, 2008, on the 60th anniversary of the founding of the State of Israel, “The alliance between our governments is unbreakable, yet the source of our friendship runs deeper than any treaty.”

(2) To help the Government of Israel preserve its qualitative military edge amid rapid and uncertain regional political transformation.

(3) To veto any one-sided anti-Israel resolutions at the United Nations Security Council.

(4) To support Israel’s inherent right to self-defense.

(5) To pursue avenues to expand cooperation with the Government of Israel both in defense and across the spectrum of civilian sectors, including high technology, agriculture, medicine, health, pharmaceuticals, and energy.

(6) To assist the Government of Israel with its ongoing efforts to forge a peaceful, negotiated settlement of the Israeli-Palestinian conflict that results in two states living side-by-side in peace and security, and to encourage Israel’s neighbors to recognize Israel’s right to exist as a Jewish state.

(7) To encourage further development of advanced technology programs between the United States and Israel given current trends and instability in the region.

**SEC. 4. UNITED STATES ACTIONS TO ASSIST IN THE DEFENSE OF ISRAEL AND PROTECT UNITED STATES INTERESTS.**

22 USC 8603.

It is the sense of Congress that the United States Government should take the following actions to assist in the defense of Israel:

(1) Seek to enhance the capabilities of the Governments of the United States and Israel to address emerging common threats, increase security cooperation, and expand joint military exercises.

(2) Provide the Government of Israel such support as may be necessary to increase development and production of joint missile defense systems, particularly such systems that defend against the urgent threat posed to Israel and United States forces in the region.

(3) Provide the Government of Israel assistance specifically for the production and procurement of the Iron Dome defense system for purposes of intercepting short-range missiles, rockets, and projectiles launched against Israel.

(4) Provide the Government of Israel defense articles and defense services through such mechanisms as appropriate, to include air refueling tankers, missile defense capabilities, and specialized munitions.

(5) Provide the Government of Israel additional excess defense articles, as appropriate, in the wake of the withdrawal of United States forces from Iraq.

(6) Examine ways to strengthen existing and ongoing efforts, including the Gaza Counter Arms Smuggling Initiative, aimed at preventing weapons smuggling into Gaza pursuant to the 2009 agreement following the Israeli withdrawal from Gaza, as well as measures to protect against weapons smuggling and terrorist threats from the Sinai Peninsula.

(7) Offer the Air Force of Israel additional training and exercise opportunities in the United States to compensate for Israel's limited air space.

(8) Work to encourage an expanded role for Israel with the North Atlantic Treaty Organization (NATO), including an enhanced presence at NATO headquarters and exercises.

(9) Expand already-close intelligence cooperation, including satellite intelligence, with Israel.

#### **SEC. 5. ADDITIONAL STEPS TO DEFEND ISRAEL AND PROTECT AMERICAN INTERESTS.**

(a) EXTENSION OF WAR RESERVES STOCKPILE AUTHORITY.—

(1) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005.—Section 12001(d) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1011) is amended by striking “more than 8 years after” and inserting “more than 10 years after”.

(2) FOREIGN ASSISTANCE ACT OF 1961.—Section 514(b)(2)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)(A)) is amended by striking “fiscal years 2011 and 2012” and inserting “fiscal years 2013 and 2014”.

(b) EXTENSION OF LOAN GUARANTEES TO ISRAEL.—Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 576) is amended under the heading “LOAN GUARANTEES TO ISRAEL”—

(1) in the matter preceding the first proviso, by striking “September 30, 2011” and inserting “September 30, 2015”; and

(2) in the second proviso, by striking “September 30, 2011” and inserting “September 30, 2015”.

President.  
22 USC 8604.

#### **SEC. 6. REPORTS REQUIRED.**

(a) REPORT ON ISRAEL'S QUALITATIVE MILITARY EDGE (QME).—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of Israel's qualitative military edge in light of current trends and instability in the region.

(2) SUBSTITUTION FOR QUADRENNIAL REPORT.—If submitted within one year of the date that the first quadrennial report required by section 201(c)(2) of the Naval Vessel Transfer Act of 2008 (Public Law 110–429; 22 U.S.C. 2776 note) is due to be submitted, the report required by paragraph (1) may substitute for such quadrennial report.

(b) REPORTS ON OTHER MATTERS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on each of the following matters:

(1) Taking into account the Government of Israel’s urgent requirement for F–35 aircraft, actions to improve the process relating to its purchase of F–35 aircraft, particularly with respect to cost efficiency and timely delivery.

(2) Efforts to expand cooperation between the United States and Israel in homeland security, counter-terrorism, maritime security, energy, cyber-security, and other related areas.

(3) Actions to integrate Israel into the defense of the Eastern Mediterranean.

**SEC. 7. DEFINITIONS.**

22 USC 8605.

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) **QUALITATIVE MILITARY EDGE.**—The term “qualitative military edge” has the meaning given the term in section 36(h)(2) of the Arms Export Control Act (22 U.S.C. 2776(h)(2)).

Approved July 27, 2012.

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**LEGISLATIVE HISTORY—S. 2165 (H.R. 4133):**

SENATE REPORTS: No. 112–179 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 29, considered and passed Senate.

July 17, considered and passed House.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2012):

July 27, Presidential remarks.



Public Law 112–151  
112th Congress

An Act

July 30, 2012  
[H.R. 205]

To amend the Act titled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior, and for other purposes.

Helping Expedite  
and Advance  
Responsible  
Tribal Home  
Ownership Act of  
2012.  
25 USC 415 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012” or the “HEARTH Act of 2012”.

**SEC. 2. APPROVAL OF, AND REGULATIONS RELATED TO, TRIBAL LEASES.**

The first section of the Act titled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955 (25 U.S.C. 415), is amended as follows:

(1) In subsection (d)—

(A) in paragraph (4), by striking “the Navajo Nation” and inserting “an applicable Indian tribe”;

(B) in paragraph (6), by striking “the Navajo Nation” and inserting “an Indian tribe”;

(C) in paragraph (7), by striking “and” after the semicolon at the end;

(D) in paragraph (8)—

(i) by striking “the Navajo Nation”;

(ii) by striking “with Navajo Nation law” and inserting “with applicable tribal law”; and

(iii) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

“(9) the term ‘Indian tribe’ has the meaning given such term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a); and

“(10) the term ‘individually owned allotted land’ means a parcel of land that—

“(A)(i) is located within the jurisdiction of an Indian tribe; or

“(ii) is held in trust or restricted status by the United States for the benefit of an Indian tribe or a member of an Indian tribe; and

“(B) is allotted to a member of an Indian tribe.”.

(2) By adding at the end the following:

“(h) TRIBAL APPROVAL OF LEASES.—

“(1) IN GENERAL.—At the discretion of any Indian tribe, any lease by the Indian tribe for the purposes authorized under subsection (a) (including any amendments to subsection (a)), except a lease for the exploration, development, or extraction of any mineral resources, shall not require the approval of the Secretary, if the lease is executed under the tribal regulations approved by the Secretary under this subsection and the term of the lease does not exceed—

“(A) in the case of a business or agricultural lease, 25 years, except that any such lease may include an option to renew for up to 2 additional terms, each of which may not exceed 25 years; and

“(B) in the case of a lease for public, religious, educational, recreational, or residential purposes, 75 years, if such a term is provided for by the regulations issued by the Indian tribe.

“(2) ALLOTTED LAND.—Paragraph (1) shall not apply to any lease of individually owned Indian allotted land.

“(3) AUTHORITY OF SECRETARY OVER TRIBAL REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall have the authority to approve or disapprove any tribal regulations issued in accordance with paragraph (1).

“(B) CONSIDERATIONS FOR APPROVAL.—The Secretary shall approve any tribal regulation issued in accordance with paragraph (1), if the tribal regulations—

“(i) are consistent with any regulations issued by the Secretary under subsection (a) (including any amendments to the subsection or regulations); and

“(ii) provide for an environmental review process that includes—

“(I) the identification and evaluation of any significant effects of the proposed action on the environment; and

“(II) a process for ensuring that—

“(aa) the public is informed of, and has a reasonable opportunity to comment on, any significant environmental impacts of the proposed action identified by the Indian tribe; and

“(bb) the Indian tribe provides responses to relevant and substantive public comments on any such impacts before the Indian tribe approves the lease.

“(C) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance, upon request of the Indian tribe, for development of a regulatory environmental review process under subparagraph (B)(ii).

“(D) INDIAN SELF-DETERMINATION ACT.—The technical assistance to be provided by the Secretary pursuant to subparagraph (C) may be made available through contracts, grants, or agreements entered into in accordance with, and made available to entities eligible for, such contracts, grants, or agreements under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

Deadline.

“(4) REVIEW PROCESS.—

“(A) IN GENERAL.—Not later than 120 days after the date on which the tribal regulations described in paragraph (1) are submitted to the Secretary, the Secretary shall review and approve or disapprove the regulations.

“(B) WRITTEN DOCUMENTATION.—If the Secretary disapproves the tribal regulations described in paragraph (1), the Secretary shall include written documentation with the disapproval notification that describes the basis for the disapproval.

“(C) EXTENSION.—The deadline described in subparagraph (A) may be extended by the Secretary, after consultation with the Indian tribe.

“(5) FEDERAL ENVIRONMENTAL REVIEW.—Notwithstanding paragraphs (3) and (4), if an Indian tribe carries out a project or activity funded by a Federal agency, the Indian tribe shall have the authority to rely on the environmental review process of the applicable Federal agency rather than any tribal environmental review process under this subsection.

“(6) DOCUMENTATION.—If an Indian tribe executes a lease pursuant to tribal regulations under paragraph (1), the Indian tribe shall provide the Secretary with—

“(A) a copy of the lease, including any amendments or renewals to the lease; and

“(B) in the case of tribal regulations or a lease that allows for lease payments to be made directly to the Indian tribe, documentation of the lease payments that are sufficient to enable the Secretary to discharge the trust responsibility of the United States under paragraph (7).

“(7) TRUST RESPONSIBILITY.—

“(A) IN GENERAL.—The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under paragraph (1).

“(B) AUTHORITY OF SECRETARY.—Pursuant to the authority of the Secretary to fulfill the trust obligation of the United States to the applicable Indian tribe under Federal law (including regulations), the Secretary may, upon reasonable notice from the applicable Indian tribe and at the discretion of the Secretary, enforce the provisions of, or cancel, any lease executed by the Indian tribe under paragraph (1).

Determinations.

“(8) COMPLIANCE.—

“(A) IN GENERAL.—An interested party, after exhausting of any applicable tribal remedies, may submit a petition to the Secretary, at such time and in such form as the Secretary determines to be appropriate, to review the compliance of the applicable Indian tribe with any tribal regulations approved by the Secretary under this subsection.

“(B) VIOLATIONS.—If, after carrying out a review under subparagraph (A), the Secretary determines that the tribal regulations were violated, the Secretary may take any action the Secretary determines to be necessary to remedy the violation, including rescinding the approval of the tribal regulations and reassuming responsibility for the approval of leases of tribal trust lands.

“(C) DOCUMENTATION.—If the Secretary determines that a violation of the tribal regulations has occurred and a remedy is necessary, the Secretary shall—

“(i) make a written determination with respect to the regulations that have been violated;

“(ii) provide the applicable Indian tribe with a written notice of the alleged violation together with such written determination; and

“(iii) prior to the exercise of any remedy, the rescission of the approval of the regulation involved, or the reassumption of lease approval responsibilities, provide the applicable Indian tribe with—

“(I) a hearing that is on the record; and

“(II) a reasonable opportunity to cure the alleged violation.

“(9) SAVINGS CLAUSE.—Nothing in this subsection shall affect subsection (e) or any tribal regulations issued under that subsection.”.

### SEC. 3. LAND TITLE REPORTS.

(a) IN GENERAL.—The Bureau of Indian Affairs shall prepare and submit to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate a report regarding the history and experience of Indian tribes that have chosen to assume responsibility for operating the Indian Land Title and Records Office (referred to in this section as the “LTRO”) functions from the Bureau of Indian Affairs.

(b) CONSULTATION.—In conducting the review under subsection (a), the Bureau of Indian Affairs shall consult with the Department of Housing and Urban Development Office of Native American Programs and the Indian tribes that are managing LTRO functions (referred to in this section as the “managing Indian tribes”).

(c) CONTENTS.—The review under subsection (a) shall include an analysis of the following factors:

(1) Whether and how tribal management of the LTRO functions has expedited the processing and issuance of Indian land title certifications as compared to the period during which the Bureau of Indian Affairs managed the programs.

(2) Whether and how tribal management of the LTRO functions has increased home ownership among the population of the managing Indian tribe.

(3) What internal preparations and processes were required of the managing Indian tribes prior to assuming management of the LTRO functions.

(4) Whether tribal management of the LTRO functions resulted in a transfer of financial resources and manpower from the Bureau of Indian Affairs to the managing Indian tribes and, if so, what transfers were undertaken.

(5) Whether, in appropriate circumstances and with the approval of geographically proximate Indian tribes, the LTRO

functions may be performed by a single Indian tribe or a tribal consortium in a cost effective manner.

Approved July 30, 2012.

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LEGISLATIVE HISTORY—H.R. 205:

HOUSE REPORTS: No. 112–427 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 15, considered and passed House.

July 17, considered and passed Senate.





Public Law 112–152  
112th Congress

An Act

To require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

Aug. 3, 2012  
[H.R. 2527]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Baseball Hall of Fame Commemorative Coin Act”.

National  
Baseball Hall of  
Fame  
Commemorative  
Coin Act.  
31 USC 5112  
note.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) On June 12, 1939, the National Baseball Hall of Fame and Museum opened in Cooperstown, New York. Ty Cobb, Walter Johnson, Christy Mathewson, Babe Ruth, and Honus Wagner comprised the inaugural class of inductees. This class set the standard for all future inductees. Since 1939, just one percent of all Major League Baseball players have earned induction into the National Baseball Hall of Fame.

(2) The National Baseball Hall of Fame and Museum is dedicated to preserving history, honoring excellence, and connecting generations through the rich history of our national pastime. Baseball has mirrored our Nation’s history since the Civil War, and is now an integral part of our Nation’s heritage.

(3) The National Baseball Hall of Fame and Museum chronicles the history of our national pastime and houses the world’s largest collection of baseball artifacts, including more than 38,000 three dimensional artifacts, 3,000,000 documents, 500,000 photographs, and 12,000 hours of recorded media. This collection ensures that baseball history and its unique connection to American history will be preserved and recounted for future generations.

(4) Since its opening in 1939, more than 14,000,000 baseball fans have visited the National Baseball Hall of Fame and Museum to learn about the history of our national pastime and the game’s connection to the American experience.

(5) The National Baseball Hall of Fame and Museum is an educational institution, reaching 10,000,000 Americans annually. Utilizing video conference technology, students and teachers participate in interactive lessons led by educators from the National Baseball Hall of Fame Museum. These award-winning educational programs draw upon the wonders of baseball to reach students in classrooms nationwide. Each educational program uses baseball as a lens for teaching young Americans important lessons on an array of topics, including

mathematics, geography, civil rights, women’s history, economics, industrial technology, arts, and communication.

### SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—In recognition and celebration of the National Baseball Hall of Fame, the Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall mint and issue the following coins:

(1) \$5 GOLD COINS.—Not more than 50,000 \$5 coins, which shall—

- (A) weigh 8.359 grams;
- (B) have diameter of 0.850 inches; and
- (C) contain 90 percent gold and 10 percent alloy.

(2) \$1 SILVER COINS.—Not more than 400,000 \$1 coins, which shall—

- (A) weigh 26.73 grams;
- (B) have a diameter of 1.500 inches; and
- (C) contain 90 percent silver and 10 percent copper.

(3) HALF-DOLLAR CLAD COINS.—Not more than 750,000 half-dollar coins which shall—

- (A) weigh 11.34 grams;
- (B) have a diameter of 1.205 inches; and
- (C) be minted to the specifications for half-dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(d) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent possible without significantly adding to the purchase price of the coins, the \$1 coins and \$5 coins minted under this Act should be produced in a fashion similar to the 2009 International Year of Astronomy coins issued by Monnaie de Paris, the French Mint, so that the reverse of the coin is convex to more closely resemble a baseball and the obverse concave, providing a more dramatic display of the obverse design chosen pursuant to section 4(c).

### SEC. 4. DESIGN OF COINS.

(a) IN GENERAL.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with—

- (A) the National Baseball Hall of Fame;
- (B) the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(b) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

- (1) a designation of the value of the coin;
- (2) an inscription of the year “2014”; and
- (3) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(c) SELECTION AND APPROVAL PROCESS FOR OVERSE DESIGN.—

(1) IN GENERAL.—The Secretary shall hold a competition to determine the design of the common obverse of the coins

minted under this Act, with such design being emblematic of the game of baseball.

(2) **SELECTION AND APPROVAL.**—Proposals for the design of coins minted under this Act may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary. The Secretary shall encourage 3-dimensional models to be submitted as part of the design proposals.

(3) **PROPOSALS.**—As part of the competition described in this subsection, the Secretary may accept proposals from artists, engravers of the United States Mint, and members of the general public.

(4) **COMPENSATION.**—The Secretary shall determine compensation for the winning design under this subsection, which shall be not less than \$5,000. The Secretary shall take into account this compensation amount when determining the sale price described in section 6(a).

(d) **REVERSE DESIGN.**—The design on the common reverse of the coins minted under this Act shall depict a baseball similar to those used by Major League Baseball.

#### **SEC. 5. ISSUANCE OF COINS.**

(a) **QUALITY OF COINS.**—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) **PERIOD FOR ISSUANCE.**—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2014.

#### **SEC. 6. SALE OF COINS.**

(a) **SALE PRICE.**—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, winning design compensation, overhead expenses, marketing, and shipping).

(b) **BULK SALES.**—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) **PREPAID ORDERS.**—

(1) **IN GENERAL.**—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) **DISCOUNT.**—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

#### **SEC. 7. SURCHARGES.**

(a) **IN GENERAL.**—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of \$35 per coin for the \$5 coin.

(2) A surcharge of \$10 per coin for the \$1 coin.

(3) A surcharge of \$5 per coin for the half-dollar coin.

(b) **DISTRIBUTION.**—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the National Baseball Hall of Fame to help finance its operations.

(c) AUDITS.—The National Baseball Hall of Fame shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

#### **SEC. 8. FINANCIAL ASSURANCES.**

The Secretary shall take such actions as may be necessary to ensure that—

(1) minting and issuing coins under this Act will not result in any net cost to the United States Government; and

(2) no funds, including applicable surcharges, are disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, winning design compensation, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

#### **SEC. 9. BUDGET COMPLIANCE.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

Approved August 3, 2012.

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#### **LEGISLATIVE HISTORY—H.R. 2527:**

##### **CONGRESSIONAL RECORD:**

Vol. 157 (2011): Oct. 25, 26, considered and passed House.

Vol. 158 (2012): July 12, considered and passed Senate, amended.

July 19, House concurred in Senate amendment.



Public Law 112–153  
112th Congress

An Act

To amend title 49, United States Code, to provide rights for pilots, and for other purposes.

Aug. 3, 2012  
[S. 1335]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Pilot’s Bill of Rights”.

Pilot’s Bill of Rights.  
49 USC 40101  
note.

**SEC. 2. FEDERAL AVIATION ADMINISTRATION ENFORCEMENT PROCEEDINGS AND ELIMINATION OF DEFERENCE.**

49 USC 44703  
note.

(a) **IN GENERAL.**—Any proceeding conducted under subpart C, D, or F of part 821 of title 49, Code of Federal Regulations, relating to denial, amendment, modification, suspension, or revocation of an airman certificate, shall be conducted, to the extent practicable, in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

(b) **ACCESS TO INFORMATION.**—

(1) **IN GENERAL.**—Except as provided under paragraph (3), the Administrator of the Federal Aviation Administration (referred to in this section as the “Administrator”) shall provide timely, written notification to an individual who is the subject of an investigation relating to the approval, denial, suspension, modification, or revocation of an airman certificate under chapter 447 of title 49, United States Code.

Notification.

(2) **INFORMATION REQUIRED.**—The notification required under paragraph (1) shall inform the individual—

(A) of the nature of the investigation;

(B) that an oral or written response to a Letter of Investigation from the Administrator is not required;

(C) that no action or adverse inference can be taken against the individual for declining to respond to a Letter of Investigation from the Administrator;

(D) that any response to a Letter of Investigation from the Administrator or to an inquiry made by a representative of the Administrator by the individual may be used as evidence against the individual;

(E) that the releasable portions of the Administrator’s investigative report will be available to the individual; and

(F) that the individual is entitled to access or otherwise obtain air traffic data described in paragraph (4).

(3) EXCEPTION.—The Administrator may delay timely notification under paragraph (1) if the Administrator determines that such notification may threaten the integrity of the investigation.

(4) ACCESS TO AIR TRAFFIC DATA.—

(A) FAA AIR TRAFFIC DATA.—The Administrator shall provide an individual described in paragraph (1) with timely access to any air traffic data in the possession of the Federal Aviation Administration that would facilitate the individual's ability to productively participate in a proceeding relating to an investigation described in such paragraph.

(B) AIR TRAFFIC DATA DEFINED.—As used in subparagraph (A), the term “air traffic data” includes—

- (i) relevant air traffic communication tapes;
- (ii) radar information;
- (iii) air traffic controller statements;
- (iv) flight data;
- (v) investigative reports; and

(vi) any other air traffic or flight data in the Federal Aviation Administration's possession that would facilitate the individual's ability to productively participate in the proceeding.

(C) GOVERNMENT CONTRACTOR AIR TRAFFIC DATA.—

(i) IN GENERAL.—Any individual described in paragraph (1) is entitled to obtain any air traffic data that would facilitate the individual's ability to productively participate in a proceeding relating to an investigation described in such paragraph from a government contractor that provides operational services to the Federal Aviation Administration, including control towers and flight service stations.

(ii) REQUIRED INFORMATION FROM INDIVIDUAL.—The individual may obtain the information described in clause (i) by submitting a request to the Administrator that—

(I) describes the facility at which such information is located; and

(II) identifies the date on which such information was generated.

(iii) PROVISION OF INFORMATION TO INDIVIDUAL.—If the Administrator receives a request under this subparagraph, the Administrator shall—

(I) request the contractor to provide the requested information; and

(II) upon receiving such information, transmitting the information to the requesting individual in a timely manner.

(5) TIMING.—Except when the Administrator determines that an emergency exists under section 44709(c)(2) or 46105(c), the Administrator may not proceed against an individual that is the subject of an investigation described in paragraph (1) during the 30-day period beginning on the date on which the air traffic data required under paragraph (4) is made available to the individual.

(c) AMENDMENTS TO TITLE 49.—

(1) AIRMAN CERTIFICATES.—Section 44703(d)(2) of title 49, United States Code, is amended by striking “but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law”.

(2) AMENDMENTS, MODIFICATIONS, SUSPENSIONS, AND REVOCATIONS OF CERTIFICATES.—Section 44709(d)(3) of such title is amended by striking “but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law”.

49 USC 44709.

(3) REVOCATION OF AIRMAN CERTIFICATES FOR CONTROLLED SUBSTANCE VIOLATIONS.—Section 44710(d)(1) of such title is amended by striking “but shall be bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law”.

49 USC 44710.

(d) APPEAL FROM CERTIFICATE ACTIONS.—

(1) IN GENERAL.—Upon a decision by the National Transportation Safety Board upholding an order or a final decision by the Administrator denying an airman certificate under section 44703(d) of title 49, United States Code, or imposing a punitive civil action or an emergency order of revocation under subsections (d) and (e) of section 44709 of such title, an individual substantially affected by an order of the Board may, at the individual’s election, file an appeal in the United States district court in which the individual resides or in which the action in question occurred, or in the United States District Court for the District of Columbia. If the individual substantially affected by an order of the Board elects not to file an appeal in a United States district court, the individual may file an appeal in an appropriate United States court of appeals.

(2) EMERGENCY ORDER PENDING JUDICIAL REVIEW.—Subsequent to a decision by the Board to uphold an Administrator’s emergency order under section 44709(e)(2) of title 49, United States Code, and absent a stay of the enforcement of that order by the Board, the emergency order of amendment, modification, suspension, or revocation of a certificate shall remain in effect, pending the exhaustion of an appeal to a Federal district court as provided in this Act.

(e) STANDARD OF REVIEW.—

(1) IN GENERAL.—In an appeal filed under subsection (d) in a United States district court, the district court shall give full independent review of a denial, suspension, or revocation ordered by the Administrator, including substantive independent and expedited review of any decision by the Administrator to make such order effective immediately.

(2) EVIDENCE.—A United States district court’s review under paragraph (1) shall include in evidence any record of the proceeding before the Administrator and any record of the proceeding before the National Transportation Safety

Board, including hearing testimony, transcripts, exhibits, decisions, and briefs submitted by the parties.

49 USC 44701  
note.

### SEC. 3. NOTICES TO AIRMEN.

#### (a) IN GENERAL.—

(1) DEFINITION.—In this section, the term “NOTAM” means Notices to Airmen.

Deadline.

(2) IMPROVEMENTS.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall begin a Notice to Airmen Improvement Program (in this section referred to as the “NOTAM Improvement Program”)—

(A) to improve the system of providing airmen with pertinent and timely information regarding the national airspace system;

(B) to archive, in a public central location, all NOTAMs, including the original content and form of the notices, the original date of publication, and any amendments to such notices with the date of each amendment; and

(C) to apply filters so that pilots can prioritize critical flight safety information from other airspace system information.

(b) GOALS OF PROGRAM.—The goals of the NOTAM Improvement Program are—

(1) to decrease the overwhelming volume of NOTAMs an airman receives when retrieving airman information prior to a flight in the national airspace system;

(2) make the NOTAMs more specific and relevant to the airman’s route and in a format that is more useable to the airman;

(3) to provide a full set of NOTAM results in addition to specific information requested by airmen;

(4) to provide a document that is easily searchable; and

(5) to provide a filtering mechanism similar to that provided by the Department of Defense Notices to Airmen.

Establishment.

(c) ADVICE FROM PRIVATE SECTOR GROUPS.—The Administrator shall establish a NOTAM Improvement Panel, which shall be comprised of representatives of relevant nonprofit and not-for-profit general aviation pilot groups, to advise the Administrator in carrying out the goals of the NOTAM Improvement Program under this section.

Deadline.

(d) PHASE-IN AND COMPLETION.—The improvements required by this section shall be phased in as quickly as practicable and shall be completed not later than the date that is 1 year after the date of the enactment of this Act.

49 USC 44703  
note.

### SEC. 4. MEDICAL CERTIFICATION.

#### (a) ASSESSMENT.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall initiate an assessment of the Federal Aviation Administration’s medical certification process and the associated medical standards and forms.

(2) REPORT.—The Comptroller General shall submit a report to Congress based on the assessment required under paragraph (1) that examines—

(A) revisions to the medical application form that would provide greater clarity and guidance to applicants;



(B) the alignment of medical qualification policies with present-day qualified medical judgment and practices, as applied to an individual's medically relevant circumstances; and

(C) steps that could be taken to promote the public's understanding of the medical requirements that determine an airman's medical certificate eligibility.

(b) GOALS OF THE FEDERAL AVIATION ADMINISTRATION'S MEDICAL CERTIFICATION PROCESS.—The goals of the Federal Aviation Administration's medical certification process are—

(1) to provide questions in the medical application form that—

(A) are appropriate without being overly broad;

(B) are subject to a minimum amount of misinterpretation and mistaken responses;

(C) allow for consistent treatment and responses during the medical application process; and

(D) avoid unnecessary allegations that an individual has intentionally falsified answers on the form;

(2) to provide questions that elicit information that is relevant to making a determination of an individual's medical qualifications within the standards identified in the Administrator's regulations;

(3) to give medical standards greater meaning by ensuring the information requested aligns with present-day medical judgment and practices; and

(4) to ensure that—

(A) the application of such medical standards provides an appropriate and fair evaluation of an individual's qualifications; and

(B) the individual understands the basis for determining medical qualifications.

(c) ADVICE FROM PRIVATE SECTOR GROUPS.—The Administrator shall establish a panel, which shall be comprised of representatives of relevant nonprofit and not-for-profit general aviation pilot groups, aviation medical examiners, and other qualified medical experts, to advise the Administrator in carrying out the goals of the assessment required under this section. Establishment.

(d) FEDERAL AVIATION ADMINISTRATION RESPONSE.—Not later than 1 year after the issuance of the report by the Comptroller Deadline.

General pursuant to subsection (a)(2), the Administrator shall take appropriate actions to respond to such report.

Approved August 3, 2012.

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LEGISLATIVE HISTORY—S. 1335:

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 29, considered and passed Senate.

July 23, considered and passed House.



Public Law 112–154  
112th Congress

An Act

To amend title 38, United States Code, to furnish hospital care and medical services to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune, to improve the provision of housing assistance to veterans and their families, and for other purposes.

Aug. 6, 2012  
[H.R. 1627]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Honoring  
America’s  
Veterans and  
Caring for Camp  
Lejeune Families  
Act of 2012.  
38 USC 101 note.

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

Sec. 3. Scoring of budgetary effects.

**TITLE I—HEALTH CARE MATTERS**

Sec. 101. Short title.

Sec. 102. Hospital care and medical services for veterans stationed at Camp Lejeune, North Carolina.

Sec. 103. Authority to waive collection of copayments for telehealth and telemedicine visits of veterans.

Sec. 104. Temporary expansion of payments and allowances for beneficiary travel in connection with veterans receiving care from Vet Centers.

Sec. 105. Contracts and agreements for nursing home care.

Sec. 106. Comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents.

Sec. 107. Rehabilitative services for veterans with traumatic brain injury.

Sec. 108. Teleconsultation and telemedicine.

Sec. 109. Use of service dogs on property of the Department of Veterans Affairs.

Sec. 110. Recognition of rural health resource centers in Office of Rural Health.

Sec. 111. Improvements for recovery and collection of amounts for Department of Veterans Affairs Medical Care Collections Fund.

Sec. 112. Extension of authority for copayments.

Sec. 113. Extension of authority for recovery of cost of certain care and services.

**TITLE II—HOUSING MATTERS**

Sec. 201. Short title.

Sec. 202. Temporary expansion of eligibility for specially adapted housing assistance for certain veterans with disabilities causing difficulty with ambulating.

Sec. 203. Expansion of eligibility for specially adapted housing assistance for veterans with vision impairment.

Sec. 204. Revised limitations on assistance furnished for acquisition and adaptation of housing for disabled veterans.

Sec. 205. Improvements to assistance for disabled veterans residing in housing owned by a family member.

Sec. 206. Department of Veterans Affairs housing loan guarantees for surviving spouses of certain totally disabled veterans.

- Sec. 207. Occupancy of property by dependent child of veteran for purposes of meeting occupancy requirement for Department of Veterans Affairs housing loans.
- Sec. 208. Making permanent project for guaranteeing of adjustable rate mortgages.
- Sec. 209. Making permanent project for insuring hybrid adjustable rate mortgages.
- Sec. 210. Waiver of loan fee for individuals with disability ratings issued during pre-discharge programs.
- Sec. 211. Modification of authorities for enhanced-use leases of real property.

#### TITLE III—HOMELESS MATTERS

- Sec. 301. Enhancement of comprehensive service programs.
- Sec. 302. Modification of authority for provision of treatment and rehabilitation to certain veterans to include provision of treatment and rehabilitation to homeless veterans who are not seriously mentally ill.
- Sec. 303. Modification of grant program for homeless veterans with special needs.
- Sec. 304. Collaboration in provision of case management services to homeless veterans in supported housing program.
- Sec. 305. Extensions of previously fully funded authorities affecting homeless veterans.

#### TITLE IV—EDUCATION MATTERS

- Sec. 401. Aggregate amount of educational assistance available to individuals who receive both survivors' and dependents' educational assistance and other veterans and related educational assistance.
- Sec. 402. Annual reports on Post-9/11 Educational Assistance Program and Survivors' and Dependents' Educational Assistance Program.

#### TITLE V—BENEFITS MATTERS

- Sec. 501. Automatic waiver of agency of original jurisdiction review of new evidence.
- Sec. 502. Authority for certain persons to sign claims filed with Secretary of Veterans Affairs on behalf of claimants.
- Sec. 503. Improvement of process for filing jointly for social security and dependency and indemnity compensation.
- Sec. 504. Authorization of use of electronic communication to provide notice to claimants for benefits under laws administered by the Secretary of Veterans Affairs.
- Sec. 505. Duty to assist claimants in obtaining private records.
- Sec. 506. Authority for retroactive effective date for awards of disability compensation in connection with applications that are fully-developed at submittal.
- Sec. 507. Modification of month of death benefit for surviving spouses of veterans who die while entitled to compensation or pension.
- Sec. 508. Increase in rate of pension for disabled veterans married to one another and both of whom require regular aid and attendance.
- Sec. 509. Exclusion of certain reimbursements of expenses from determination of annual income with respect to pensions for veterans and surviving spouses and children of veterans.

#### TITLE VI—MEMORIAL, BURIAL, AND CEMETERY MATTERS

- Sec. 601. Prohibition on disruptions of funerals of members or former members of the Armed Forces.
- Sec. 602. Codification of prohibition against reservation of gravesites at Arlington National Cemetery.
- Sec. 603. Expansion of eligibility for presidential memorial certificates to persons who died in the active military, naval, or air service.
- Sec. 604. Requirements for the placement of monuments in Arlington National Cemetery.

#### TITLE VII—OTHER MATTERS

- Sec. 701. Assistance to veterans affected by natural disasters.
- Sec. 702. Extension of certain expiring provisions of law.
- Sec. 703. Requirement for plan for regular assessment of employees of Veterans Benefits Administration who handle processing of claims for compensation and pension.
- Sec. 704. Modification of provision relating to reimbursement rate for ambulance services.
- Sec. 705. Change in collection and verification of veteran income.
- Sec. 706. Department of Veterans Affairs enforcement penalties for misrepresentation of a business concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans.

- Sec. 707. Quarterly reports to Congress on conferences sponsored by the Department.
- Sec. 708. Publication of data on employment of certain veterans by Federal contractors.
- Sec. 709. VetStar Award Program.
- Sec. 710. Extended period of protections for members of uniformed services relating to mortgages, mortgage foreclosure, and eviction.

## **SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## **SEC. 3. SCORING OF BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

# **TITLE I—HEALTH CARE MATTERS**

Janey Ensminger Act.

## **SEC. 101. SHORT TITLE.**

This title may be cited as the “Janey Ensminger Act”.

38 USC 101 note.

## **SEC. 102. HOSPITAL CARE AND MEDICAL SERVICES FOR VETERANS STATIONED AT CAMP LEJEUNE, NORTH CAROLINA.**

38 USC 1710.

### **(a) HOSPITAL CARE AND MEDICAL SERVICES FOR VETERANS.—**

(1) IN GENERAL.—Paragraph (1) of section 1710(e) is amended by adding at the end the following new subparagraph: “(F) Subject to paragraph (2), a veteran who served on active duty in the Armed Forces at Camp Lejeune, North Carolina, for not fewer than 30 days during the period beginning on January 1, 1957, and ending on December 31, 1987, is eligible for hospital care and medical services under subsection (a)(2)(F) for any of the following illnesses or conditions, notwithstanding that there is insufficient medical evidence to conclude that such illnesses or conditions are attributable to such service:

Time period.

- “(i) Esophageal cancer.
- “(ii) Lung cancer.
- “(iii) Breast cancer.
- “(iv) Bladder cancer.
- “(v) Kidney cancer.
- “(vi) Leukemia.
- “(vii) Multiple myeloma.
- “(viii) Myelodysplastic syndromes.
- “(ix) Renal toxicity.
- “(x) Hepatic steatosis.
- “(xi) Female infertility.
- “(xii) Miscarriage.
- “(xiii) Scleroderma.
- “(xiv) Neurobehavioral effects.
- “(xv) Non-Hodgkin’s lymphoma.”.

(2) LIMITATION.—Paragraph (2)(B) of such section is amended by striking “or (E)” and inserting “(E), or (F)”.

## (b) FAMILY MEMBERS.—

(1) IN GENERAL.—Subchapter VIII of chapter 17 is amended by adding at the end the following new section:

38 USC 1787.

**“§ 1787. Health care of family members of veterans stationed at Camp Lejeune, North Carolina**

“(a) IN GENERAL.—Subject to subsection (b), a family member of a veteran described in subparagraph (F) of section 1710(e)(1) of this title who resided at Camp Lejeune, North Carolina, for not fewer than 30 days during the period described in such subparagraph or who was in utero during such period while the mother of such family member resided at such location shall be eligible for hospital care and medical services furnished by the Secretary for any of the illnesses or conditions described in such subparagraph, notwithstanding that there is insufficient medical evidence to conclude that such illnesses or conditions are attributable to such residence.

“(b) LIMITATIONS.—(1) The Secretary may only furnish hospital care and medical services under subsection (a) to the extent and in the amount provided in advance in appropriations Acts for such purpose.

“(2) Hospital care and medical services may not be furnished under subsection (a) for an illness or condition of a family member that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than the residence of the family member described in that subsection.

“(3) The Secretary may provide reimbursement for hospital care or medical services provided to a family member under this section only after the family member or the provider of such care or services has exhausted without success all claims and remedies reasonably available to the family member or provider against a third party (as defined in section 1725(f) of this title) for payment of such care or services, including with respect to health-plan contracts (as defined in such section).”.

38 USC prec. 1701.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1786 the following new item:

“1787. Health care of family members of veterans stationed at Camp Lejeune, North Carolina.”.

## (c) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than December 31 of each of 2013, 2014, and 2015, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the care and services provided under sections 1710(e)(1)(F) and 1787 of title 38, United States Code (as added by subsections (a) and (b)(1), respectively).

(2) ELEMENTS.—Each report under paragraph (1) shall set forth the following:

Time period.

(A) The number of veterans and family members provided hospital care and medical services under the provisions of law specified in paragraph (1) during the period beginning on October 1, 2012, and ending on the date of such report.

(B) The illnesses, conditions, and disabilities for which care and services have been provided such veterans and

family members under such provisions of law during that period.

(C) The number of veterans and family members who applied for care and services under such provisions of law during that period but were denied, including information on the reasons for such denials.

(D) The number of veterans and family members who applied for care and services under such provisions of law and are awaiting a decision from the Secretary on eligibility for such care and services as of the date of such report.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The provisions of this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) APPLICABILITY.—Subparagraph (F) of section 1710(e)(1) of such title, as added by subsection (a), and section 1787 of title 38, United States Code, as added by subsection (b)(1), shall apply with respect to hospital care and medical services provided on or after the date of the enactment of this Act.

38 USC 1710  
note.

#### SEC. 103. AUTHORITY TO WAIVE COLLECTION OF COPAYMENTS FOR TELEHEALTH AND TELEMEDICINE VISITS OF VETERANS.

(a) IN GENERAL.—Subchapter III of chapter 17 is amended by inserting after section 1722A the following new section:

##### **“§ 1722B. Copayments: waiver of collection of copayments for telehealth and telemedicine visits of veterans**

38 USC 1722B.

“The Secretary may waive the imposition or collection of copayments for telehealth and telemedicine visits of veterans under the laws administered by the Secretary.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1722A the following new item:

38 USC prec.  
1701.

“1722B. Copayments: waiver of collection of copayments for telehealth and telemedicine visits of veterans.”.

#### SEC. 104. TEMPORARY EXPANSION OF PAYMENTS AND ALLOWANCES FOR BENEFICIARY TRAVEL IN CONNECTION WITH VETERANS RECEIVING CARE FROM VET CENTERS.

(a) IN GENERAL.—Beginning one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall commence a three-year initiative to assess the feasibility and advisability of paying under section 111(a) of title 38, United States Code, the actual necessary expenses of travel or allowances for travel from a residence located in an area that is designated by the Secretary as highly rural to the nearest Vet Center and from such Vet Center to such residence.

Effective date.  
Assessment.  
Urban and rural  
areas.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the completion of the initiative, the Secretary shall submit to Congress a report on the findings of the Secretary with respect to the initiative required by subsection (a).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the individuals who benefitted from payment under the initiative.

(B) A description of any impediments to the Secretary in paying expenses or allowances under the initiative.

(C) A description of any impediments encountered by individuals in receiving such payments.

(D) An assessment of the feasibility and advisability of paying such expenses or allowances.

(E) An assessment of any fraudulent receipt of payment under the initiative and the recommendations of the Secretary for legislative or administrative action to reduce such fraud.

(F) Such recommendations for legislative or administrative action as the Secretary considers appropriate with respect to the payment of expenses or allowances as described in subsection (a).

(c) VET CENTER DEFINED.—In this section, the term “Vet Center” means a center for readjustment counseling and related mental health services for veterans under section 1712A of title 38, United States Code.

#### SEC. 105. CONTRACTS AND AGREEMENTS FOR NURSING HOME CARE.

(a) CONTRACTS.—Section 1745(a) is amended—

(1) in paragraph (1), by striking “The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2)” and inserting “The Secretary shall enter into a contract (or agreement under section 1720(c)(1) of this title) with each State home for payment by the Secretary for nursing home care provided in the home”; and

(2) by striking paragraph (2) and inserting the following new paragraph (2):

“(2) Payment under each contract (or agreement) between the Secretary and a State home under paragraph (1) shall be based on a methodology, developed by the Secretary in consultation with the State home, to adequately reimburse the State home for the care provided by the State home under the contract (or agreement).”.

(b) AGREEMENTS.—Section 1720(c)(1)(A) is amended—

(1) in clause (i), by striking “; and” and inserting a semicolon;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new clause:

“(iii) a provider of services eligible to enter into a contract pursuant to section 1745(a) of this title that is not otherwise described in clause (i) or (ii).”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to care provided on or after the date that is 180 days after the date of the enactment of this Act.

(2) MAINTENANCE OF PRIOR METHODOLOGY OF REIMBURSEMENT FOR CERTAIN STATE HOMES.—In the case of a State home that provided nursing home care on the day before the date of the enactment of this Act for which the State home was eligible for pay under section 1745(a)(1) of title 38, United States Code, at the request of any State home, the Secretary shall offer to enter into a contract (or agreement described in such section) with such State home under such section, as amended by subsection (a), for payment for nursing home care provided by such State home under such section that



reflects the overall methodology of reimbursement for such care that was in effect for such State home on the day before the date of the enactment of this Act.

**SEC. 106. COMPREHENSIVE POLICY ON REPORTING AND TRACKING SEXUAL ASSAULT INCIDENTS AND OTHER SAFETY INCIDENTS.**

(a) **POLICY.**—Subchapter I of chapter 17 is amended by adding at the end the following:

**“§ 1709. Comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents** 38 USC 1709.

“(a) **POLICY REQUIRED.**—(1) Not later than September 30, 2012, the Secretary shall develop and implement a centralized and comprehensive policy on the reporting and tracking of sexual assault incidents and other safety incidents that occur at each medical facility of the Department, including— Deadline.

“(A) suspected, alleged, attempted, or confirmed cases of sexual assault, regardless of whether such assaults lead to prosecution or conviction;

“(B) criminal and purposefully unsafe acts;

“(C) alcohol or substance abuse related acts (including by employees of the Department); and

“(D) any kind of event involving alleged or suspected abuse of a patient.

“(2) In developing and implementing a policy under paragraph (1), the Secretary shall consider the effects of such policy on—

“(A) the use by veterans of mental health care and substance abuse treatments; and

“(B) the ability of the Department to refer veterans to such care or treatment.

“(b) **SCOPE.**—The policy required by subsection (a) shall cover each of the following: Guidelines.

“(1) For purposes of reporting and tracking sexual assault incidents and other safety incidents, definitions of the terms—

“(A) ‘safety incident’;

“(B) ‘sexual assault’; and

“(C) ‘sexual assault incident’.

“(2)(A) The development and use of specific risk-assessment tools to examine any risks related to sexual assault that a veteran may pose while being treated at a medical facility of the Department, including clear and consistent guidance on the collection of information related to—

“(i) the legal history of the veteran; and

“(ii) the medical record of the veteran.

“(B) In developing and using tools under subparagraph (A), the Secretary shall consider the effects of using such tools on the use by veterans of health care furnished by the Department.

“(3) The mandatory training of employees of the Department on security issues, including awareness, preparedness, precautions, and police assistance.

“(4) The mandatory implementation, use, and regular testing of appropriate physical security precautions and equipment, including surveillance camera systems, computer-based panic alarm systems, stationary panic alarms, and electronic portable personal panic alarms.

“(5) Clear, consistent, and comprehensive criteria and guidance with respect to an employee of the Department communicating and reporting sexual assault incidents and other safety incidents to—

“(A) supervisory personnel of the employee at—

“(i) a medical facility of the Department;

“(ii) an office of a Veterans Integrated Service Network; and

“(iii) the central office of the Veterans Health Administration; and

“(B) a law enforcement official of the Department.

“(6) Clear and consistent criteria and guidelines with respect to an employee of the Department referring and reporting to the Office of Inspector General of the Department sexual assault incidents and other safety incidents that meet the regulatory criminal threshold prescribed under sections 901 and 902 of this title.

“(7) An accountable oversight system within the Veterans Health Administration that includes—

“(A) systematic information sharing of reported sexual assault incidents and other safety incidents among officials of the Administration who have programmatic responsibility; and

“(B) a centralized reporting, tracking, and monitoring system for such incidents.

“(8) Consistent procedures and systems for law enforcement officials of the Department with respect to investigating, tracking, and closing reported sexual assault incidents and other safety incidents.

“(9) Clear and consistent guidance for the clinical management of the treatment of sexual assaults that are reported more than 72 hours after the assault.

“(c) UPDATES TO POLICY.—The Secretary shall review and revise the policy required by subsection (a) on a periodic basis as the Secretary considers appropriate and in accordance with best practices.

“(d) ANNUAL REPORT.—(1) Not later than 60 days after the date on which the Secretary develops the policy required by subsection (a) and not later than October 1 of each year thereafter, the Secretary shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the implementation of the policy.

“(2) The report required by paragraph (1) shall include—

“(A) the number and type of sexual assault incidents and other safety incidents reported by each medical facility of the Department;

“(B) a detailed description of the implementation of the policy required by subsection (a), including any revisions made to such policy from the previous year; and

“(C) the effectiveness of such policy on improving the safety and security of the medical facilities of the Department, including the performance measures used to evaluate such effectiveness.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1708 the following new item:

38 USC prec.  
1701.

“1709. Comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents.”.

(c) INTERIM REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the development of the policy required by section 1709 of title 38, United States Code, as added by subsection (a).

**SEC. 107. REHABILITATIVE SERVICES FOR VETERANS WITH TRAUMATIC BRAIN INJURY.**

(a) REHABILITATION PLANS AND SERVICES.—Section 1710C is amended—

(1) in subsection (a)(1), by inserting before the semicolon the following: “with the goal of maximizing the individual’s independence”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “(and sustaining improvement in)” after “improving”;

(ii) by inserting “behavioral,” after “cognitive,”;

(B) in paragraph (2), by inserting “rehabilitative services and” before “rehabilitative components”; and

(C) in paragraph (3)—

(i) by striking “treatments” the first place it appears and inserting “services”; and

(ii) by striking “treatments and” the second place it appears; and

(3) by adding at the end the following new subsection:

“(h) REHABILITATIVE SERVICES DEFINED.—For purposes of this section, and sections 1710D and 1710E of this title, the term ‘rehabilitative services’ includes—

“(1) rehabilitative services, as defined in section 1701 of this title;

“(2) treatment and services (which may be of ongoing duration) to sustain, and prevent loss of, functional gains that have been achieved; and

“(3) any other rehabilitative services or supports that may contribute to maximizing an individual’s independence.”.

(b) REHABILITATION SERVICES IN COMPREHENSIVE PROGRAM FOR LONG-TERM REHABILITATION.—Section 1710D(a) is amended—

(1) by inserting “and rehabilitative services (as defined in section 1710C of this title)” after “long-term care”; and

(2) by striking “treatment”.

(c) REHABILITATION SERVICES IN AUTHORITY FOR COOPERATIVE AGREEMENTS FOR USE OF NON-DEPARTMENT FACILITIES FOR REHABILITATION.—Section 1710E(a) is amended by inserting “, including rehabilitative services (as defined in section 1710C of this title),” after “medical services”.

(d) TECHNICAL AMENDMENT.—Section 1710C(c)(2)(S) of title 38, United States Code, is amended by striking “ophthamologist” and inserting “ophthalmologist”.

**SEC. 108. TELECONSULTATION AND TELEMEDICINE.****(a) TELECONSULTATION.—**

(1) **IN GENERAL.**—Subchapter I of chapter 17, as amended by section 106(a), is further amended by adding at the end the following new section:

38 USC 1709A.

**“§ 1709A. Teleconsultation**

“(a) **TELECONSULTATION.**—(1) The Secretary shall carry out an initiative of teleconsultation for the provision of remote mental health and traumatic brain injury assessments in facilities of the Department that are not otherwise able to provide such assessments without contracting with third-party providers or reimbursing providers through a fee basis system.

Standards.

“(2) The Secretary shall, in consultation with appropriate professional societies, promulgate technical and clinical care standards for the use of teleconsultation services within facilities of the Department.

“(3) In carrying out an initiative under paragraph (1), the Secretary shall ensure that facilities of the Department are able to provide a mental health or traumatic brain injury assessment to a veteran through contracting with a third-party provider or reimbursing a provider through a fee basis system when—

“(A) such facilities are not able to provide such assessment to the veteran without—

“(i) such contracting or reimbursement; or

“(ii) teleconsultation; and

“(B) providing such assessment with such contracting or reimbursement is more clinically appropriate for the veteran than providing such assessment with teleconsultation.

“(b) **TELECONSULTATION DEFINED.**—In this section, the term ‘teleconsultation’ means the use by a health care specialist of telecommunications to assist another health care provider in rendering a diagnosis or treatment.”

38 USC prec.  
1701.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1709, as added by section 106(b), the following new item:

“1709A. Teleconsultation.”

38 USC 7406  
note.**(b) TRAINING IN TELEMEDICINE.—**

(1) **IN GENERAL.**—The Secretary of Veterans Affairs shall, to the extent feasible, offer medical residents opportunities in training in telemedicine for medical residency programs. The Secretary shall consult with the Accreditation Council for Graduate Medical Education and with universities with which facilities of the Department have a major affiliation to determine the feasibility and advisability of making telehealth a mandatory component of medical residency programs.

(2) **TELEMEDICINE DEFINED.**—In this subsection, the term “telemedicine” means the use by a health care provider of telecommunications to assist in the diagnosis or treatment of a patient’s medical condition.

38 USC 901.

**SEC. 109. USE OF SERVICE DOGS ON PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS.**

Section 901 is amended by adding at the end the following new subsection:

“(f)(1) The Secretary may not prohibit the use of a covered service dog in any facility or on any property of the Department or in any facility or on any property that receives funding from the Secretary.

“(2) For purposes of this subsection, a covered service dog is a service dog that has been trained by an entity that is accredited by an appropriate accrediting body that evaluates and accredits organizations which train guide or service dogs.”.

**SEC. 110. RECOGNITION OF RURAL HEALTH RESOURCE CENTERS IN OFFICE OF RURAL HEALTH.**

Section 7308 is amended by adding at the end the following new subsection:

“(d) RURAL HEALTH RESOURCE CENTERS.—(1) There are, in the Office, veterans rural health resource centers that serve as satellite offices for the Office.

“(2) The veterans rural health resource centers have purposes as follows:

“(A) To improve the understanding of the Office of the challenges faced by veterans living in rural areas.

“(B) To identify disparities in the availability of health care to veterans living in rural areas.

“(C) To formulate practices or programs to enhance the delivery of health care to veterans living in rural areas.

“(D) To develop special practices and products for the benefit of veterans living in rural areas and for implementation of such practices and products in the Department systemwide.”.

**SEC. 111. IMPROVEMENTS FOR RECOVERY AND COLLECTION OF AMOUNTS FOR DEPARTMENT OF VETERANS AFFAIRS MEDICAL CARE COLLECTIONS FUND.**

38 USC 1729A  
note.

(a) DEVELOPMENT AND IMPLEMENTATION OF PLAN FOR RECOVERY AND COLLECTION.—

Deadlines.

(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall develop and implement a plan to ensure the recovery and collection of amounts under the provisions of law described in section 1729A(b) of title 38, United States Code, for deposit in the Department of Veterans Affairs Medical Care Collections Fund.

(2) ELEMENTS.—The plan required by paragraph (1) shall include the following:

(A) An effective process to identify billable fee claims.

(B) Effective and practicable policies and procedures that ensure recovery and collection of amounts described in section 1729A(b) of such title.

(C) The training of employees of the Department, on or before September 30, 2013, who are responsible for the recovery or collection of such amounts to enable such employees to comply with the process required by subparagraph (A) and the policies and procedures required by subparagraph (B).

(D) Fee revenue goals for the Department.

(E) An effective monitoring system to ensure achievement of goals described in subparagraph (D) and compliance with the policies and procedures described in subparagraph (B).

(b) **MONITORING OF THIRD-PARTY COLLECTIONS.**—The Secretary shall monitor the recovery and collection of amounts from third parties (as defined in section 1729(i) of such title) for deposit in such fund.

**SEC. 112. EXTENSION OF AUTHORITY FOR COPAYMENTS.**

Section 1710(f)(2)(B) is amended by striking “September 30, 2012” and inserting “September 30, 2013”.

**SEC. 113. EXTENSION OF AUTHORITY FOR RECOVERY OF COST OF CERTAIN CARE AND SERVICES.**

Section 1729(a)(2)(E) is amended by striking “October 1, 2012” and inserting “October 1, 2013”.

## TITLE II—HOUSING MATTERS

Andrew Connolly  
Veterans  
Housing Act.  
38 USC 101 note.

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Andrew Connolly Veterans Housing Act”.

**SEC. 202. TEMPORARY EXPANSION OF ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING ASSISTANCE FOR CERTAIN VETERANS WITH DISABILITIES CAUSING DIFFICULTY WITH AMBULATING.**

(a) **IN GENERAL.**—Paragraph (2) of section 2101(a) is amended to read as follows:

Criteria.

“(2)(A) A veteran is described in this paragraph if the veteran—

“(i) is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets any of the criteria described in subparagraph (B); or

“(ii) served in the Armed Forces on or after September 11, 2001, and is entitled to compensation under chapter 11 of this title for a permanent service-connected disability that meets the criterion described in subparagraph (C).

“(B) The criteria described in this subparagraph are as follows:

“(i) The disability is due to the loss, or loss of use, of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

“(ii) The disability is due to—

“(I) blindness in both eyes, having only light perception, plus (ii) loss or loss of use of one lower extremity.

“(iii) The disability is due to the loss or loss of use of one lower extremity together with—

“(I) residuals of organic disease or injury; or

“(II) the loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

“(iv) The disability is due to the loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbows.

Regulations.

“(v) The disability is due to a severe burn injury (as determined pursuant to regulations prescribed by the Secretary).

“(C) The criterion described in this subparagraph is that the disability—

“(i) was incurred on or after September 11, 2001; and

“(ii) is due to the loss or loss of use of one or more lower extremities which so affects the functions of balance or propulsion as to preclude ambulating without the aid of braces, crutches, canes, or a wheelchair.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 2012. 38 USC 2101 note.

(c) **SUNSET.**—Subsection (a) of section 2101 is amended—

(1) in paragraph (1), by striking “to paragraph (3)” and inserting “to paragraphs (3) and (4)”; and

(2) by adding at the end the following new paragraph:

“(4) The Secretary’s authority to furnish assistance under paragraph (1) to a disabled veteran described in paragraph (2)(A)(ii) shall apply only with respect to applications for such assistance approved by the Secretary on or before September 30, 2013.”. Applicability.

**SEC. 203. EXPANSION OF ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING ASSISTANCE FOR VETERANS WITH VISION IMPAIRMENT.**

(a) **IN GENERAL.**—Paragraph (2) of section 2101(b) is amended to read as follows:

“(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a service-connected disability that meets any of the following criteria:

“(A) The disability is due to blindness in both eyes, having central visual acuity of 20/200 or less in the better eye with the use of a standard correcting lens. For the purposes of this subparagraph, an eye with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

“(B) A permanent and total disability that includes the anatomical loss or loss of use of both hands.

“(C) A permanent and total disability that is due to a severe burn injury (as so determined).”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 2012. 38 USC 2101 note.

**SEC. 204. REVISED LIMITATIONS ON ASSISTANCE FURNISHED FOR ACQUISITION AND ADAPTATION OF HOUSING FOR DISABLED VETERANS.**

(a) **IN GENERAL.**—Subsection (d) of section 2102 is amended to read as follows:

“(d)(1) The aggregate amount of assistance available to an individual under section 2101(a) of this title shall be limited to \$63,780.

“(2) The aggregate amount of assistance available to an individual under section 2101(b) of this title shall be limited to \$12,756.

“(3) No veteran may receive more than three grants of assistance under this chapter.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act and shall apply with respect to assistance provided under sections 2101(a), 2101(b), and 2102A of title 38, United States Code, after such date. Applicability. 38 USC 2102 note.

(c) **MAINTENANCE OF HIGHER RATES.**—The amendment made by subsection (a) shall not be construed to decrease the aggregate amount of assistance available to an individual under the sections 38 USC 2102 note.

described in subsection (b), as most recently increased by the Secretary pursuant to section 2102(e) of such title.

**SEC. 205. IMPROVEMENTS TO ASSISTANCE FOR DISABLED VETERANS RESIDING IN HOUSING OWNED BY A FAMILY MEMBER.**

(a) INCREASED ASSISTANCE.—Subsection (b) of section 2102A is amended—

(1) in paragraph (1), by striking “\$14,000” and inserting “\$28,000”; and

(2) in paragraph (2), by striking “\$2,000” and inserting “\$5,000”.

(b) INDEXING OF LEVELS OF ASSISTANCE.—Such subsection is further amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) in the matter before subparagraph (A), as redesignated by paragraph (1), by inserting “(1)” before “The”; and

(3) by adding at the end the following new paragraph (2):

Effective date.

“(2) Effective on October 1 of each year (beginning in 2012), the Secretary shall use the same percentage calculated pursuant to section 2102(e) of this title to increase the amounts described in paragraph (1) of this subsection.”.

(c) EXTENSION OF AUTHORITY FOR ASSISTANCE.—Subsection (e) of such section is amended by striking “December 31, 2012” and inserting “December 31, 2022”.

Applicability.  
38 USC 2102A  
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to assistance furnished in accordance with section 2102A of title 38, United States Code, on or after that date.

**SEC. 206. DEPARTMENT OF VETERANS AFFAIRS HOUSING LOAN GUARANTEES FOR SURVIVING SPOUSES OF CERTAIN TOTALLY DISABLED VETERANS.**

(a) IN GENERAL.—Section 3701(b) is amended by adding at the end the following new paragraph:

Definition.

“(6) The term ‘veteran’ also includes, for purposes of home loans, the surviving spouse of a veteran who died and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability rated totally disabling if—

“(A) the disability was continuously rated totally disabling for a period of 10 or more years immediately preceding death;

“(B) the disability was continuously rated totally disabling for a period of not less than five years from the date of such veteran’s discharge or other release from active duty; or

“(C) the veteran was a former prisoner of war who died after September 30, 1999, and the disability was continuously rated totally disabling for a period of not less than one year immediately preceding death.”.

Applicability.  
38 USC 3701  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to a loan guaranteed after the date of the enactment of this Act.



(c) CLARIFICATION WITH RESPECT TO CERTAIN FEES.—Fees shall be collected under section 3729 of title 38, United States Code, from a person described in paragraph (6) of section 3701(b) of such title, as added by subsection (a) of this section, in the same manner as such fees are collected from a person described in paragraph (2) of section 3701(b) of such title.

38 USC 3701  
note.

**SEC. 207. OCCUPANCY OF PROPERTY BY DEPENDENT CHILD OF VETERAN FOR PURPOSES OF MEETING OCCUPANCY REQUIREMENT FOR DEPARTMENT OF VETERANS AFFAIRS HOUSING LOANS.**

Paragraph (2) of section 3704(c) is amended to read as follows:  
“(2) In any case in which a veteran is in active-duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of this chapter shall be considered to be satisfied if—

“(A) the spouse of the veteran occupies or intends to occupy the property as a home and the spouse makes the certification required by paragraph (1) of this subsection; or

“(B) a dependent child of the veteran occupies or will occupy the property as a home and the veteran’s attorney-in-fact or legal guardian of the dependent child makes the certification required by paragraph (1) of this subsection.”.

**SEC. 208. MAKING PERMANENT PROJECT FOR GUARANTEEING OF ADJUSTABLE RATE MORTGAGES.**

Section 3707(a) is amended by striking “demonstration project under this section during fiscal years 1993 through 2012” and inserting “project under this section”.

**SEC. 209. MAKING PERMANENT PROJECT FOR INSURING HYBRID ADJUSTABLE RATE MORTGAGES.**

Section 3707A(a) is amended by striking “demonstration project under this section during fiscal years 2004 through 2012” and inserting “project under this section”.

**SEC. 210. WAIVER OF LOAN FEE FOR INDIVIDUALS WITH DISABILITY RATINGS ISSUED DURING PRE-DISCHARGE PROGRAMS.**

Paragraph (2) of section 3729(c) is amended to read as follows:  
“(2)(A) A veteran described in subparagraph (B) shall be treated as receiving compensation for purposes of this subsection as of the date of the rating described in such subparagraph without regard to whether an effective date of the award of compensation is established as of that date.

Effective date.

“(B) A veteran described in this subparagraph is a veteran who is rated eligible to receive compensation—

“(i) as the result of a pre-discharge disability examination and rating; or

“(ii) based on a pre-discharge review of existing medical evidence (including service medical and treatment records) that results in the issuance of a memorandum rating.”.

**SEC. 211. MODIFICATION OF AUTHORITIES FOR ENHANCED-USE LEASES OF REAL PROPERTY.**

(a) SUPPORTIVE HOUSING DEFINED.—Section 8161 is amended by adding at the end the following new paragraph:

## Definition.

“(3) The term ‘supportive housing’ means housing that engages tenants in on-site and community-based support services for veterans or their families that are at risk of homelessness or are homeless. Such term may include the following:

- “(A) Transitional housing.
- “(B) Single-room occupancy.
- “(C) Permanent housing.
- “(D) Congregate living housing.
- “(E) Independent living housing.
- “(F) Assisted living housing.
- “(G) Other modalities of housing.”.

## (b) MODIFICATION OF LIMITATIONS ON ENHANCED USE LEASES.—

(1) IN GENERAL.—Paragraph (2) of section 8162(a) is amended to read as follows:

“(2) The Secretary may enter into an enhanced-use lease only for the provision of supportive housing and the lease is not inconsistent with and will not adversely affect the mission of the Department.”.

38 USC 8162  
note.  
Applicability.

## (2) EFFECTIVE DATE.—

(A) IN GENERAL.—Paragraph (2) of section 8162(a) of title 38, United States Code, as amended by paragraph (1), shall take effect on January 1, 2012, and shall apply with respect to enhanced-use leases entered into on or after such date.

(B) PREVIOUS LEASES.—Any enhanced-use lease that the Secretary has entered into prior to the date described in subparagraph (A) shall be subject to the provisions of subchapter V of chapter 81 of such title, as in effect on the day before the date of the enactment of this Act.

## (c) CONSIDERATION FOR AND TERMS OF ENHANCED-USE LEASES.—

(1) IN GENERAL.—Section 8162(b) is amended—

(A) in paragraph (1), by striking “(A) If the Secretary” and all that follows through “under subparagraph (A).” and inserting the following: “If the Secretary has determined that a property should be leased to another party through an enhanced-use lease, the Secretary shall, at the Secretary’s discretion, select the party with whom the lease will be entered into using such selection procedures as the Secretary considers appropriate.”;

(B) by amending paragraph (3) to read as follows:

“(3)(A) For any enhanced-use lease entered into by the Secretary, the lease consideration provided to the Secretary shall consist solely of cash at fair value as determined by the Secretary.

“(B) The Secretary shall receive no other type of consideration for an enhanced-use lease besides cash.

“(C) The Secretary may enter into an enhanced-use lease without receiving consideration.”;

(C) in paragraph (4), by striking “Secretary to” and all that follows through “use minor” and inserting “Secretary to use minor”; and

(D) by adding at the end the following new paragraphs:

“(5) The terms of an enhanced-use lease may not provide for any acquisition, contract, demonstration, exchange, grant, incentive, procurement, sale, other transaction authority, service agreement, use agreement, lease, or lease-back by the Secretary or Federal Government.

“(6) The Secretary may not enter into an enhanced-use lease without certification in advance in writing by the Director of the Office of Management and Budget that such lease complies with the requirements of this subchapter.”.

(2) EFFECTIVE DATE.—Paragraph (3) of section 8162(b), as amended by paragraph (1)(B) of this subsection, shall take effect on January 1, 2012, and shall apply with respect to enhanced-use leases entered into on or after such date.

Applicability.  
38 USC 8162  
note.

(d) PROHIBITED ENHANCED-USE LEASES.—Section 8162(c) is amended—

(1) by striking paragraph (2); and

(2) in paragraph (1), by striking “(1) Subject to paragraph (2), the” and inserting “The”.

(e) DISPOSITION OF LEASED PROPERTY.—Subsection (b) of section 8164 is amended to read as follows:

“(b) A disposition under this section may be made in return for cash at fair value as the Secretary determines is in the best interest of the United States and upon such other terms and conditions as the Secretary considers appropriate.”.

(f) USE OF AMOUNTS RECEIVED FOR DISPOSITION OF LEASED PROPERTY.—Section 8165(a)(2) is amended by striking “in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title” and inserting “into the Department of Veterans Affairs Construction, Major Projects account or Construction, Minor Projects account, as the Secretary considers appropriate”.

(g) CONSTRUCTION STANDARDS.—Section 8166 is amended to read as follows:

**“§ 8166. Construction standards**

“The construction, alteration, repair, remodeling, or improvement of a property that is the subject of an enhanced-use lease shall be carried out so as to comply with all applicable provisions of Federal, State, and local law relating to land use, building standards, permits, and inspections.”.

(h) EXEMPTION FROM STATE AND LOCAL TAXES.—Section 8167 is amended to read as follows:

**“§ 8167. Exemption from State and local taxes**

“(a) IMPROVEMENTS AND OPERATIONS NOT EXEMPTED.—The improvements and operations on land leased by a person with an enhanced-use lease from the Secretary shall be subject to all applicable provisions of Federal, State, or local law relating to taxation, fees, and assessments.

“(b) UNDERLYING FEE TITLE INTEREST EXEMPTED.—The underlying fee title interest of the United States in any land subject to an enhanced-use lease shall not be subject, directly or indirectly, to any provision of State or local law relating to taxation, fees, or assessments.”.

(i) ANNUAL REPORTS.—

(1) IN GENERAL.—Subchapter V of chapter 81 is amended by inserting after section 8167 the following new section:

**“§ 8168. Annual reports**

38 USC 8168.

“(a) REPORT ON ADMINISTRATION OF LEASES.—Not later than 120 days after the date of the enactment of the Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012 and

not less frequently than once each year thereafter, the Secretary shall submit to Congress a report identifying the actions taken by the Secretary to implement and administer enhanced-use leases.

“(b) REPORT ON LEASE CONSIDERATION.—Each year, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, the Secretary shall submit to Congress a detailed report of the consideration received by the Secretary for each enhanced-use lease under this subchapter, along with an overview of how the Secretary is utilizing such consideration to support veterans.”.

38 USC 8168  
note.

(2) ELEMENTS OF INITIAL REPORT.—The first report submitted by the Secretary under section 8168(a) of title 38, United States Code, as added by paragraph (1), shall include a summary of those measures the Secretary is taking to address the following recommendations from the February 9, 2012, audit report of the Department of Veterans Affairs Office of Inspector General on enhanced-use leases under subchapter V of chapter 81 of title 38, United States Code:

(A) Improve standards to ensure complete lease agreements are negotiated in line with strategic goals of the Department of Veterans Affairs.

(B) Institute improved policies and procedures to govern activities such as monitoring enhanced-use lease projects and calculating, classifying, and reporting on enhanced-use lease benefits and expenses.

(C) Recalculate and update enhanced-use lease expenses and benefits reported in the most recent Enhanced-Use Lease Consideration Report of the Department.

(D) Establish improved oversight mechanisms to ensure major enhanced-use lease project decisions are documented and maintained in accordance with policy.

(E) Establish improved criteria to measure timeliness and performance in enhanced-use lease project development and execution.

(F) Establish improved criteria and guidelines for assessing projects to determine whether they are or remain viable candidates for enhanced-use leases.

38 USC prec.  
8101.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8167 the following new item:

“8168. Annual reports.”.

(j) EXPIRATION OF AUTHORITY.—Section 8169 is amended by striking “December 31, 2011” and inserting “December 31, 2023”.

38 USC 8161  
note.

(k) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

## TITLE III—HOMELESS MATTERS

### SEC. 301. ENHANCEMENT OF COMPREHENSIVE SERVICE PROGRAMS.

(a) ENHANCEMENT OF GRANTS.—Section 2011 is amended—

(1) in subsection (b)(1)(A), by striking “expansion, remodeling, or alteration of existing buildings, or acquisition of facilities,” and inserting “new construction of facilities, expansion,

remodeling, or alteration of existing facilities, or acquisition of facilities,”; and

(2) in subsection (c)—

(A) in the first sentence, by striking “A grant” and inserting “(1) A grant”;

(B) in the second sentence of paragraph (1), as designated by subparagraph (A), by striking “The amount” and inserting the following:

“(2) The amount”; and

(C) by adding at the end the following new paragraph:

“(3)(A) The Secretary may not deny an application from an entity that seeks a grant under this section to carry out a project described in subsection (b)(1)(A) solely on the basis that the entity proposes to use funding from other private or public sources, if the entity demonstrates that a private nonprofit organization will provide oversight and site control for the project.

“(B) In this paragraph, the term ‘private nonprofit organization’ means the following:

Definition.

“(i) An incorporated private institution, organization, or foundation—

“(I) that has received, or has temporary clearance to receive, tax-exempt status under paragraph (2), (3), or (19) of section 501(c) of the Internal Revenue Code of 1986;

“(II) for which no part of the net earnings of the institution, organization, or foundation inures to the benefit of any member, founder, or contributor of the institution, organization, or foundation; and

“(III) that the Secretary determines is financially responsible.

“(ii) A for-profit limited partnership or limited liability company, the sole general partner or manager of which is an organization that is described by subclauses (I) through (III) of clause (i).

“(iii) A corporation wholly owned and controlled by an organization that is described by subclauses (I) through (III) of clause (i).”

(b) GRANT AND PER DIEM PAYMENTS.—

(1) STUDY AND DEVELOPMENT OF FISCAL CONTROLS AND PAYMENT METHOD.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall—

38 USC 2011  
note.  
Deadline.

(A) complete a study of all matters relating to the method used by the Secretary to make per diem payments under section 2012(a) of title 38, United States Code, including changes anticipated by the Secretary in the cost of furnishing services to homeless veterans and accounting for costs of providing such services in various geographic areas;

(B) develop more effective and efficient procedures for fiscal control and fund accounting by recipients of grants under sections 2011, 2012, and 2061 of such title; and

(C) develop a more effective and efficient method for adequately reimbursing recipients of grants under section 2011 of such title for services furnished to homeless veterans.

(2) CONSIDERATION.—In developing the method required by paragraph (1)(C), the Secretary may consider payments and

grants received by recipients of grants described in such paragraph from other departments and agencies of Federal and local governments and from private entities.

(3) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on—

(A) the findings of the Secretary with respect to the study required by subparagraph (A) of paragraph (1);

(B) the methods developed under subparagraphs (B) and (C) of such paragraph; and

(C) any recommendations of the Secretary for revising the method described in subparagraph (A) of such paragraph and any legislative action the Secretary considers necessary to implement such method.

**SEC. 302. MODIFICATION OF AUTHORITY FOR PROVISION OF TREATMENT AND REHABILITATION TO CERTAIN VETERANS TO INCLUDE PROVISION OF TREATMENT AND REHABILITATION TO HOMELESS VETERANS WHO ARE NOT SERIOUSLY MENTALLY ILL.**

Section 2031(a) is amended in the matter before paragraph (1) by striking “, including” and inserting “and to”.

**SEC. 303. MODIFICATION OF GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.**

(a) **INCLUSION OF ENTITIES ELIGIBLE FOR COMPREHENSIVE SERVICE PROGRAM GRANTS AND PER DIEM PAYMENTS FOR SERVICES TO HOMELESS VETERANS.**—Subsection (a) of section 2061 is amended—

(1) by striking “to grant and per diem providers” and inserting “to entities eligible for grants and per diem payments under sections 2011 and 2012 of this title”; and

(2) by striking “by those facilities and providers” and inserting “by those facilities and entities”.

(b) **INCLUSION OF MALE HOMELESS VETERANS WITH MINOR DEPENDENTS.**—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking “, including women who have care of minor dependents”;

(2) in paragraph (3), by striking “or”;

(3) in paragraph (4), by striking the period at the end and inserting “; or”; and

(4) by adding at the end the following new paragraph: “(5) individuals who have care of minor dependents.”.

(c) **AUTHORIZATION OF PROVISION OF SERVICES TO DEPENDENTS.**—Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) **PROVISION OF SERVICES TO DEPENDENTS.**—A recipient of a grant under subsection (a) may use amounts under the grant to provide services directly to a dependent of a homeless veteran with special needs who is under the care of such homeless veteran while such homeless veteran receives services from the grant recipient under this section.”.

**SEC. 304. COLLABORATION IN PROVISION OF CASE MANAGEMENT SERVICES TO HOMELESS VETERANS IN SUPPORTED HOUSING PROGRAM.** 38 USC 2041 note.

(a) **IN GENERAL.**—The Secretary of Veterans Affairs shall consider entering into contracts or agreements, under sections 513 and 8153 of title 38, United States Code, with eligible entities to collaborate with the Secretary in the provision of case management services to covered veterans as part of the supported housing program carried out under section 8(o)(19) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(19)) to ensure that the homeless veterans facing the most significant difficulties in obtaining suitable housing receive the assistance they require to obtain such housing. Contracts.

(b) **COVERED VETERANS.**—For purposes of this section, a covered veteran is any veteran who, at the time of receipt of a housing voucher under such section 8(o)(19)—

(1) requires the assistance of a case manager in obtaining suitable housing with such voucher; and

(2) is having difficulty obtaining the amount of such assistance the veteran requires, including because—

(A) the veteran resides in an area that has a shortage of low-income housing and because of such shortage the veteran requires more assistance from a case manager than the Secretary otherwise provides;

(B) the location in which the veteran resides is located at such distance from facilities of the Department of Veterans Affairs as makes the provision of case management services by the Secretary to such veteran impractical; or

(C) the veteran resides in an area where veterans who receive case management services from the Secretary under such section have a significantly lower average rate of successfully obtaining suitable housing than the average rate of successfully obtaining suitable housing for all veterans receiving such services.

(c) **ELIGIBLE ENTITIES.**—For purposes of this section, an eligible entity is any State or local government agency, tribal organization (as such term is defined in section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b)), or nonprofit organization that—

(1) under a contract or agreement described in subsection

(a), agrees—

(A) to ensure access to case management services by covered veterans on an as-needed basis;

(B) to maintain referral networks for covered veterans for purposes of assisting covered veterans in demonstrating eligibility for assistance and additional services under entitlement and assistance programs available for covered veterans, and to otherwise aid covered veterans in obtaining such assistance and services;

(C) to ensure the confidentiality of records maintained by the entity on covered veterans receiving services through the supported housing program described in subsection (a);

Confidentiality.  
Records.

(D) to establish such procedures for fiscal control and fund accounting as the Secretary of Veterans Affairs considers appropriate to ensure proper disbursement and

Procedures.

Deadline.  
Reports.

accounting of funds under a contract or agreement entered into by the entity as described in subsection (a);

(E) to submit to the Secretary each year, in such form and such manner as the Secretary may require, a report on the collaboration undertaken by the entity under a contract or agreement described in such subsection during the most recent fiscal year, including a description of, for the year covered by the report—

(i) the services and assistance provided to covered veterans as part of such collaboration;

(ii) the process by which covered veterans were referred to the entity for such services and assistance;

(iii) the specific goals jointly set by the entity and the Secretary for the provision of such services and assistance and whether the entity achieved such goals; and

(iv) the average length of time taken by a covered veteran who received such services and assistance to successfully obtain suitable housing and the average retention rate of such a veteran in such housing; and

(F) to meet such other requirements as the Secretary considers appropriate for purposes of providing assistance to covered veterans in obtaining suitable housing; and

(2) has demonstrated experience in—

(A) identifying and serving homeless veterans, especially those who have the greatest difficulty obtaining suitable housing;

(B) working collaboratively with the Department of Veterans Affairs or the Department of Housing and Urban Development;

(C) conducting outreach to, and maintaining relationships with, landlords to encourage and facilitate participation by landlords in supported housing programs similar to the supported housing program described in subsection (a);

(D) mediating disputes between landlords and veterans receiving assistance under such supported housing program; and

(E) carrying out such other activities as the Secretary of Veterans Affairs considers appropriate.

(d) CONSULTATION.—In considering entering into contracts or agreements as described in subsection (a), the Secretary of Veterans Affairs shall consult with—

(1) the Secretary of Housing and Urban Development; and

(2) third parties that provide services as part of the Department of Housing and Urban Development continuum of care.

(e) TECHNICAL ASSISTANCE FOR COLLABORATING ENTITIES.—

(1) IN GENERAL.—The Secretary may provide training and technical assistance to entities with whom the Secretary collaborates in the provision of case management services to veterans as part of the supported housing program described in subsection (a).

(2) GRANTS.—The Secretary may provide training and technical assistance under paragraph (1) through the award of grants or contracts to appropriate public and nonprofit private entities.



(3) FUNDING.—From amounts appropriated or otherwise made available to the Secretary in the Medical Services account in a year, \$500,000 shall be available to the Secretary in that year to carry out this subsection.

(f) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than 545 days after the date of the enactment of this Act and not less frequently than once each year thereafter, the Secretary of Veterans Affairs shall submit to Congress a report on the collaboration between the Secretary and eligible entities in the provision of case management services as described in subsection (a) during the most recently completed fiscal year.

(2) ELEMENTS.—Each report required by paragraph (1) shall include, for the period covered by the report, the following:

(A) A discussion of each case in which a contract or agreement described in subsection (a) was considered by the Secretary, including a description of whether or not and why the Secretary chose or did not choose to enter into such contract or agreement.

(B) The number and types of eligible entities with whom the Secretary has entered into a contract or agreement as described in subsection (a).

(C) A description of the geographic regions in which such entities provide case management services as described in such subsection.

(D) A description of the number and types of covered veterans who received case management services from such entities under such contracts or agreements.

(E) An assessment of the performance of each eligible entity with whom the Secretary entered into a contract or agreement as described in subsection (a).

(F) An assessment of the benefits to covered veterans of such contracts and agreements.

(G) A discussion of the benefits of increasing the ratio of case managers to recipients of vouchers under the supported housing program described in such subsection to veterans who reside in rural areas.

(H) Such recommendations for legislative or administrative action as the Secretary considers appropriate for the improvement of collaboration in the provision of case management services under such supported housing program.

**SEC. 305. EXTENSIONS OF PREVIOUSLY FULLY FUNDED AUTHORITIES AFFECTING HOMELESS VETERANS.**

(a) COMPREHENSIVE SERVICE PROGRAMS.—Section 2013 is amended by striking paragraph (5) and inserting the following new paragraphs:

“(5) \$250,000,000 for fiscal year 2013.

“(6) \$150,000,000 for fiscal year 2014 and each subsequent fiscal year.”.

(b) HOMELESS VETERANS REINTEGRATION PROGRAMS.—Section 2021(e)(1)(F) is amended by striking “2012” and inserting “2013”.

(c) FINANCIAL ASSISTANCE FOR SUPPORTIVE SERVICES FOR VERY LOW-INCOME VETERAN FAMILIES IN PERMANENT HOUSING.—Section 2044(e)(1) is amended by adding at the end the following new subparagraph:

“(E) \$300,000,000 for fiscal year 2013.”.

(d) GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.—Section 2061(c)(1) is amended by striking “through 2012” and inserting “through 2013”.

## TITLE IV—EDUCATION MATTERS

### SEC. 401. AGGREGATE AMOUNT OF EDUCATIONAL ASSISTANCE AVAILABLE TO INDIVIDUALS WHO RECEIVE BOTH SURVIVORS’ AND DEPENDENTS’ EDUCATIONAL ASSISTANCE AND OTHER VETERANS AND RELATED EDUCATIONAL ASSISTANCE.

(a) AGGREGATE AMOUNT AVAILABLE.—Section 3695 is amended—

(1) in subsection (a)(4), by striking “35,”; and

(2) by adding at the end the following new subsection:

“(c) The aggregate period for which any person may receive assistance under chapter 35 of this title, on the one hand, and any of the provisions of law referred to in subsection (a), on the other hand, may not exceed 81 months (or the part-time equivalent thereof).”.

Effective date.  
38 USC 3695  
note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect on October 1, 2013, and shall not operate to revive any entitlement to assistance under chapter 35 of title 38, United States Code, or the provisions of law referred to in section 3695(a) of such title, as in effect on the day before such date, that was terminated by reason of the operation of section 3695(a) of such title, as so in effect, before such date.

38 USC 3695  
note.

(c) REVIVAL OF ENTITLEMENT REDUCED BY PRIOR UTILIZATION OF CHAPTER 35 ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual whose period of entitlement to assistance under a provision of law referred to in section 3695(a) of title 38, United States Code (other than chapter 35 of such title), as in effect on September 30, 2013, was reduced under such section 3695(a), as so in effect, by reason of the utilization of entitlement to assistance under chapter 35 of such title before October 1, 2013, the period of entitlement to assistance of such individual under such provision shall be determined without regard to any entitlement so utilized by the individual under chapter 35 of such title.

(2) LIMITATION.—The maximum period of entitlement to assistance of an individual under paragraph (1) may not exceed 81 months.

### SEC. 402. ANNUAL REPORTS ON POST-9/11 EDUCATIONAL ASSISTANCE PROGRAM AND SURVIVORS’ AND DEPENDENTS’ EDUCATIONAL ASSISTANCE PROGRAM.

(a) REPORTS REQUIRED.—

(1) IN GENERAL.—Subchapter III of chapter 33 is amended by adding at the end the following new section:

38 USC 3325.

#### “§ 3325. Reporting requirement

“(a) IN GENERAL.—For each academic year—

“(1) the Secretary of Defense shall submit to Congress a report on the operation of the program provided for in this chapter; and

“(2) the Secretary shall submit to Congress a report on the operation of the program provided for in this chapter and the program provided for under chapter 35 of this title.

“(b) CONTENTS OF SECRETARY OF DEFENSE REPORTS.—The Secretary of Defense shall include in each report submitted under this section—

“(1) information—

“(A) indicating the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education;

“(B) indicating whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service; and

“(C) describing the efforts under section 3323(b) of this title to inform members of the Armed Forces of the active duty service requirements for entitlement to educational assistance under this chapter and the results from such efforts; and

“(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary of Defense considers appropriate.

“(c) CONTENTS OF SECRETARY OF VETERANS AFFAIRS REPORTS.—The Secretary shall include in each report submitted under this section—

“(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter and under chapter 35 of this title;

“(2) appropriate student outcome measures, such as the number of credit hours, certificates, degrees, and other qualifications earned by beneficiaries under this chapter and chapter 35 of this title during the academic year covered by the report; and

“(3) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary considers appropriate.

“(d) TERMINATION.—No report shall be required under this section after January 1, 2021.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3324 the following new item:

38 USC prec.  
3301.

“3325. Reporting requirement.”.

(3) DEADLINE FOR SUBMITTAL OF FIRST REPORT.—The first reports required under section 3325 of title 38, United States Code, as added by paragraph (1), shall be submitted by not later than November 1, 2013.

38 USC 3325  
note.

(b) REPEAL OF REPORT ON ALL VOLUNTEER-FORCE EDUCATIONAL ASSISTANCE PROGRAM.—

38 USC prec.  
3001.

(1) IN GENERAL.—Chapter 30 is amended by striking section 3036.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 3036.

## TITLE V—BENEFITS MATTERS

### SEC. 501. AUTOMATIC WAIVER OF AGENCY OF ORIGINAL JURISDICTION REVIEW OF NEW EVIDENCE.

(a) IN GENERAL.—Section 7105 is amended by adding at the end the following new subsection:

“(e)(1) If, either at the time or after the agency of original jurisdiction receives a substantive appeal, the claimant or the claimant’s representative, if any, submits evidence to either the agency of original jurisdiction or the Board of Veterans’ Appeals for consideration in connection with the issue or issues with which disagreement has been expressed, such evidence shall be subject to initial review by the Board unless the claimant or the claimant’s representative, as the case may be, requests in writing that the agency of original jurisdiction initially review such evidence.

“(2) A request for review of evidence under paragraph (1) shall accompany the submittal of the evidence.”.

Applicability.  
38 USC 7105  
note.

(b) EFFECTIVE DATE.—Subsection (e) of such section, as added by subsection (a), shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to claims for which a substantive appeal is filed on or after the date that is 180 days after the date of the enactment of this Act.

### SEC. 502. AUTHORITY FOR CERTAIN PERSONS TO SIGN CLAIMS FILED WITH SECRETARY OF VETERANS AFFAIRS ON BEHALF OF CLAIMANTS.

(a) IN GENERAL.—Section 5101 is amended—

(1) in subsection (a)—

(A) by striking “A specific” and inserting “(1) A specific”; and

(B) by adding at the end the following new paragraph:

“(2) If an individual has not attained the age of 18 years, is mentally incompetent, or is physically unable to sign a form, a form filed under paragraph (1) for the individual may be signed by a court-appointed representative, a person who is responsible for the care of the individual, including a spouse or other relative, or an attorney in fact or agent authorized to act on behalf of the individual under a durable power of attorney. If the individual is in the care of an institution, the manager or principal officer of the institution may sign the form.”;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting “, signs a form on behalf of an individual to apply for,” after “who applies for”;

(ii) by inserting “, or TIN in the case that the person is not an individual,” after “of such person”; and

(iii) by striking “dependent” and inserting “claimant, dependent,”; and

(B) in paragraph (2), by inserting “or TIN” after “social security number” each place it appears; and

(3) by adding at the end the following new subsection:

“(d) In this section:

“(1) The term ‘mentally incompetent’ with respect to an individual means that the individual lacks the mental capacity—

Definitions.

“(A) to provide substantially accurate information needed to complete a form; or

“(B) to certify that the statements made on a form are true and complete.

“(2) The term ‘TIN’ has the meaning given the term in section 7701(a)(41) of the Internal Revenue Code of 1986.”.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to claims filed on or after the date of the enactment of this Act.

38 USC 5101  
note.

**SEC. 503. IMPROVEMENT OF PROCESS FOR FILING JOINTLY FOR SOCIAL SECURITY AND DEPENDENCY AND INDEMNITY COMPENSATION.**

Section 5105 is amended—

(1) in subsection (a)—

(A) by striking “shall” the first place it appears and inserting “may”; and

(B) by striking “Each such form” and inserting “Such forms”; and

(2) in subsection (b), by striking “on such a form” and inserting “on any document indicating an intent to apply for survivor benefits”.

**SEC. 504. AUTHORIZATION OF USE OF ELECTRONIC COMMUNICATION TO PROVIDE NOTICE TO CLAIMANTS FOR BENEFITS UNDER LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.**

(a) IN GENERAL.—Section 5103 is amended—

(1) in subsection (a)(1)—

(A) by striking “Upon receipt of a complete or substantially complete application, the” and inserting “The”;

(B) by striking “notify” and inserting “provide to”; and

(C) by inserting “by the most effective means available, including electronic communication or notification in writing, notice” before “of any information”; and

(2) in subsection (b), by adding at the end the following

new paragraphs:

“(4) Nothing in this section shall require the Secretary to provide notice for a subsequent claim that is filed while a previous claim is pending if the notice previously provided for such pending claim—

“(A) provides sufficient notice of the information and evidence necessary to substantiate such subsequent claim; and

“(B) was sent within one year of the date on which the subsequent claim was filed.

“(5)(A) This section shall not apply to any claim or issue where the Secretary may award the maximum benefit in accordance with this title based on the evidence of record.

“(B) For purposes of this paragraph, the term ‘maximum benefit’ means the highest evaluation assignable in accordance with the evidence of record, as long as such evidence is adequate for rating

Definition.

purposes and sufficient to grant the earliest possible effective date in accordance with section 5110 of this title.”.

38 USC 5103  
note.

(b) CONSTRUCTION.—Nothing in the amendments made by subsection (a) shall be construed as eliminating any requirement with respect to the contents of a notice under section 5103 of title 38, United States Code, that is required under regulations prescribed pursuant to subsection (a)(2) of such section as of the date of the enactment of this Act.

38 USC 5103  
note.  
Applicability.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply with respect to notification obligations of the Secretary of Veterans Affairs on or after such date.

(2) CONSTRUCTION REGARDING APPLICABILITY.—Nothing in this section or the amendments made by this section shall be construed to require the Secretary to carry out notification procedures in accordance with requirements of section 5103 of title 38, United States Code, as in effect on the day before the effective date established in paragraph (1) on or after such effective date.

#### SEC. 505. DUTY TO ASSIST CLAIMANTS IN OBTAINING PRIVATE RECORDS.

(a) IN GENERAL.—Subsection (b) of section 5103A is amended to read as follows:

“(b) ASSISTANCE IN OBTAINING PRIVATE RECORDS.—(1) As part of the assistance provided under subsection (a), the Secretary shall make reasonable efforts to obtain relevant private records that the claimant adequately identifies to the Secretary.

Notification.

“(2)(A) Whenever the Secretary, after making such reasonable efforts, is unable to obtain all of the relevant records sought, the Secretary shall notify the claimant that the Secretary is unable to obtain records with respect to the claim. Such a notification shall—

“(i) identify the records the Secretary is unable to obtain;

“(ii) briefly explain the efforts that the Secretary made to obtain such records; and

“(iii) explain that the Secretary will decide the claim based on the evidence of record but that this section does not prohibit the submission of records at a later date if such submission is otherwise allowed.

“(B) The Secretary shall make not less than two requests to a custodian of a private record in order for an effort to obtain relevant private records to be treated as reasonable under this section, unless it is made evident by the first request that a second request would be futile in obtaining such records.

“(3)(A) This section shall not apply if the evidence of record allows for the Secretary to award the maximum benefit in accordance with this title based on the evidence of record.

Definition.

“(B) For purposes of this paragraph, the term ‘maximum benefit’ means the highest evaluation assignable in accordance with the evidence of record, as long as such evidence is adequate for rating purposes and sufficient to grant the earliest possible effective date in accordance with section 5110 of this title.

Regulations.

“(4) Under regulations prescribed by the Secretary, the Secretary—

“(A) shall encourage claimants to submit relevant private medical records of the claimant to the Secretary if such submission does not burden the claimant; and

“(B) in obtaining relevant private records under paragraph (1), may require the claimant to authorize the Secretary to obtain such records if such authorization is required to comply with Federal, State, or local law.”.

(b) PUBLIC RECORDS.—Subsection (c) of such section is amended to read as follows:

“(c) OBTAINING RECORDS FOR COMPENSATION CLAIMS.—(1) In the case of a claim for disability compensation, the assistance provided by the Secretary under this section shall include obtaining the following records if relevant to the claim:

“(A) The claimant’s service medical records and, if the claimant has furnished the Secretary information sufficient to locate such records, other relevant records pertaining to the claimant’s active military, naval, or air service that are held or maintained by a governmental entity.

“(B) Records of relevant medical treatment or examination of the claimant at Department health-care facilities or at the expense of the Department, if the claimant furnishes information sufficient to locate those records.

“(C) Any other relevant records held by any Federal department or agency that the claimant adequately identifies and authorizes the Secretary to obtain.

“(2) Whenever the Secretary attempts to obtain records from a Federal department or agency under this subsection, the efforts to obtain those records shall continue until the records are obtained unless it is reasonably certain that such records do not exist or that further efforts to obtain those records would be futile.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply with respect to assistance obligations of the Secretary of Veterans Affairs on or after such date.

(2) CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to require the Secretary to carry out assistance in accordance with requirements of section 5103A of title 38, United States Code, as in effect on the day before the effective date established in paragraph (1) on or after such effective date.

38 USC 5103A  
note.  
Applicability.

**SEC. 506. AUTHORITY FOR RETROACTIVE EFFECTIVE DATE FOR AWARDS OF DISABILITY COMPENSATION IN CONNECTION WITH APPLICATIONS THAT ARE FULLY-DEVELOPED AT SUBMITTAL.**

38 USC 5110.

Section 5110(b) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2)(A) The effective date of an award of disability compensation to a veteran who submits an application therefor that sets forth an original claim that is fully-developed (as determined by the Secretary) as of the date of submittal shall be fixed in accordance

Effective dates.

Definition.

with the facts found, but shall not be earlier than the date that is one year before the date of receipt of the application.

“(B) For purposes of this paragraph, an original claim is an initial claim filed by a veteran for disability compensation.

“(C) This paragraph shall take effect on the date that is one year after the date of the enactment of the Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012 and shall not apply with respect to claims filed after the date that is three years after the date of the enactment of such Act.”.

**SEC. 507. MODIFICATION OF MONTH OF DEATH BENEFIT FOR SURVIVING SPOUSES OF VETERANS WHO DIE WHILE ENTITLED TO COMPENSATION OR PENSION.**

(a) **SURVIVING SPOUSE BENEFIT FOR MONTH OF VETERAN’S DEATH.**—Subsections (a) and (b) of section 5310 are amended to read as follows:

“(a) **IN GENERAL.**—(1) A surviving spouse of a veteran is entitled to a benefit for the month of the veteran’s death if—

“(A) at the time of the veteran’s death, the veteran was receiving compensation or pension under chapter 11 or 15 of this title; or

“(B) the veteran is determined for purposes of section 5121 or 5121A of this title as having been entitled to receive compensation or pension under chapter 11 or 15 of this title for the month of the veteran’s death.

“(2) The amount of the benefit under paragraph (1) is the amount that the veteran would have received under chapter 11 or 15 of this title, as the case may be, for the month of the veteran’s death had the veteran not died.

“(b) **CLAIMS PENDING ADJUDICATION.**—If a claim for entitlement to compensation or additional compensation under chapter 11 of this title or pension or additional pension under chapter 15 of this title is pending at the time of a veteran’s death and the check or other payment issued to the veteran’s surviving spouse under subsection (a) is less than the amount of the benefit the veteran would have been entitled to for the month of death pursuant to the adjudication of the pending claim, an amount equal to the difference between the amount to which the veteran would have been entitled to receive under chapter 11 or 15 of this title for the month of the veteran’s death had the veteran not died and the amount of the check or other payment issued to the surviving spouse shall be treated in the same manner as an accrued benefit under section 5121 of this title.”.

(b) **MONTH OF DEATH BENEFIT EXEMPT FROM DELAYED COMMENCEMENT OF PAYMENT.**—Section 5111(c)(1) is amended by striking “apply to” and all that follows through “death occurred” and inserting the following: “not apply to payments made pursuant to section 5310 of this title”.

Applicability.  
38 USC 5111  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to deaths that occur on or after that date.

**SEC. 508. INCREASE IN RATE OF PENSION FOR DISABLED VETERANS MARRIED TO ONE ANOTHER AND BOTH OF WHOM REQUIRE REGULAR AID AND ATTENDANCE.**

(a) **IN GENERAL.**—Section 1521(f)(2) is amended by striking “\$30,480” and inserting “\$32,433”.



(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 38 USC 1521 note.

**SEC. 509. EXCLUSION OF CERTAIN REIMBURSEMENTS OF EXPENSES FROM DETERMINATION OF ANNUAL INCOME WITH RESPECT TO PENSIONS FOR VETERANS AND SURVIVING SPOUSES AND CHILDREN OF VETERANS.**

(a) **IN GENERAL.**—Paragraph (5) of section 1503(a) of title 38, United States Code, is amended to read as follows:

“(5) payments regarding reimbursements of any kind (including insurance settlement payments) for expenses related to the repayment, replacement, or repair of equipment, vehicles, items, money, or property resulting from—

“(A) any accident (as defined by the Secretary), but the amount excluded under this subclause shall not exceed the greater of the fair market value or reasonable replacement value of the equipment or vehicle involved at the time immediately preceding the accident;

“(B) any theft or loss (as defined by the Secretary), but the amount excluded under this subclause shall not exceed the greater of the fair market value or reasonable replacement value of the item or the amount of the money (including legal tender of the United States or of a foreign country) involved at the time immediately preceding the theft or loss; or

“(C) any casualty loss (as defined by the Secretary), but the amount excluded under this subclause shall not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the casualty loss;”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act. 38 USC 1503 note.

## **TITLE VI—MEMORIAL, BURIAL, AND CEMETERY MATTERS**

**SEC. 601. PROHIBITION ON DISRUPTIONS OF FUNERALS OF MEMBERS OR FORMER MEMBERS OF THE ARMED FORCES.**

(a) **PURPOSE AND AUTHORITY.**—

(1) **PURPOSE.**—The purpose of this section is to provide necessary and proper support for the recruitment and retention of the Armed Forces and militia employed in the service of the United States by protecting the dignity of the service of the members of such Forces and militia, and by protecting the privacy of their immediate family members and other attendees during funeral services for such members.

(2) **CONSTITUTIONAL AUTHORITY.**—Congress finds that this section is a necessary and proper exercise of its powers under the Constitution, article I, section 8, paragraphs 1, 12, 13, 14, 16, and 18, to provide for the common defense, raise and support armies, provide and maintain a navy, make rules for the government and regulation of the land and naval forces, and provide for organizing and governing such part of the militia as may be employed in the service of the United States.

18 USC 1388 note.

(b) AMENDMENT TO TITLE 18.—Section 1388 of title 18, United States Code, is amended to read as follows:

**“§ 1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces**

“(a) PROHIBITION.—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery, it shall be unlawful for any person to engage in an activity during the period beginning 120 minutes before and ending 120 minutes after such funeral, any part of which activity—

“(1)(A) takes place within the boundaries of the location of such funeral or takes place within 300 feet of the point of the intersection between—

“(i) the boundary of the location of such funeral; and

“(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

“(B) includes any individual willfully making or assisting in the making of any noise or diversion—

“(i) that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral; and

“(ii) with the intent of disturbing the peace or good order of such funeral;

“(2)(A) is within 500 feet of the boundary of the location of such funeral; and

“(B) includes any individual—

“(i) willfully and without proper authorization impeding or tending to impede the access to or egress from such location; and

“(ii) with the intent to impede the access to or egress from such location; or

“(3) is on or near the boundary of the residence, home, or domicile of any surviving member of the deceased person’s immediate family and includes any individual willfully making or assisting in the making of any noise or diversion—

“(A) that disturbs or tends to disturb the peace of the persons located at such location; and

“(B) with the intent of disturbing such peace.

“(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title or imprisoned for not more than 1 year, or both.

“(c) CIVIL REMEDIES.—

“(1) DISTRICT COURTS.—The district courts of the United States shall have jurisdiction—

“(A) to prevent and restrain violations of this section; and

“(B) for the adjudication of any claims for relief under this section.

“(2) ATTORNEY GENERAL.—The Attorney General may institute proceedings under this section.

“(3) CLAIMS.—Any person, including a surviving member of the deceased person’s immediate family, who suffers injury as a result of conduct that violates this section may—

“(A) sue therefor in any appropriate United States district court or in any court of competent jurisdiction; and

“(B) recover damages as provided in subsection (d) and the cost of the suit, including reasonable attorneys’ fees.

“(4) ESTOPPEL.—A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by a person or by the United States.

“(d) ACTUAL AND STATUTORY DAMAGES.—

“(1) IN GENERAL.—In addition to any penalty imposed under subsection (b), a violator of this section is liable in an action under subsection (c) for actual or statutory damages as provided in this subsection.

“(2) ACTIONS BY PRIVATE PERSONS.—A person bringing an action under subsection (c)(3) may elect, at any time before final judgment is rendered, to recover the actual damages suffered by him or her as a result of the violation or, instead of actual damages, an award of statutory damages for each violation involved in the action.

“(3) ACTIONS BY ATTORNEY GENERAL.—In any action under subsection (c)(2), the Attorney General is entitled to recover an award of statutory damages for each violation involved in the action notwithstanding any recovery under subsection (c)(3).

“(4) STATUTORY DAMAGES.—A court may award, as the court considers just, statutory damages in a sum of not less than \$25,000 or more than \$50,000 per violation.

“(e) REBUTTABLE PRESUMPTION.—It shall be a rebuttable presumption that the violation was committed willfully for purposes of determining relief under this section if the violator, or a person acting in concert with the violator, did not have reasonable grounds to believe, either from the attention or publicity sought by the violator or other circumstance, that the conduct of such violator or person would not disturb or tend to disturb the peace or good order of such funeral, impede or tend to impede the access to or egress from such funeral, or disturb or tend to disturb the peace of any surviving member of the deceased person’s immediate family who may be found on or near the residence, home, or domicile of the deceased person’s immediate family on the date of the service or ceremony.

“(f) DEFINITIONS.—In this section—

“(1) the term ‘Armed Forces’ has the meaning given the term in section 101 of title 10 and includes members and former members of the National Guard who were employed in the service of the United States; and

“(2) the term ‘immediate family’ means, with respect to a person, the immediate family members of such person, as such term is defined in section 115 of this title.”.

(c) AMENDMENT TO TITLE 38.—

(1) IN GENERAL.—Section 2413 is amended to read as follows:

**“§ 2413. Prohibition on certain demonstrations and disruptions at cemeteries under control of the National Cemetery Administration and at Arlington National Cemetery**

“(a) PROHIBITION.—It shall be unlawful for any person—

“(1) to carry out a demonstration on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery unless the demonstration has been approved by the cemetery superintendent or the director of the property on which the cemetery is located; or

“(2) with respect to such a cemetery, to engage in a demonstration during the period beginning 120 minutes before and ending 120 minutes after a funeral, memorial service, or ceremony is held, any part of which demonstration—

“(A)(i) takes place within the boundaries of such cemetery or takes place within 300 feet of the point of the intersection between—

“(I) the boundary of such cemetery; and

“(II) a road, pathway, or other route of ingress to or egress from such cemetery; and

“(ii) includes any individual willfully making or assisting in the making of any noise or diversion—

“(I) that is not part of such funeral, memorial service, or ceremony and that disturbs or tends to disturb the peace or good order of such funeral, memorial service, or ceremony; and

“(II) with the intent of disturbing the peace or good order of such funeral, memorial service, or ceremony; or

“(B)(i) is within 500 feet of the boundary of such cemetery; and

“(ii) includes any individual—

“(I) willfully and without proper authorization impeding or tending to impede the access to or egress from such cemetery; and

“(II) with the intent to impede the access to or egress from such cemetery.

“(b) PENALTY.—Any person who violates subsection (a) shall be fined under title 18 or imprisoned for not more than one year, or both.

“(c) CIVIL REMEDIES.—(1) The district courts of the United States shall have jurisdiction—

“(A) to prevent and restrain violations of this section; and

“(B) for the adjudication of any claims for relief under this section.

“(2) The Attorney General of the United States may institute proceedings under this section.

“(3) Any person, including a surviving member of the deceased person’s immediate family, who suffers injury as a result of conduct that violates this section may—

“(A) sue therefor in any appropriate United States district court or in any court of competent jurisdiction; and

“(B) recover damages as provided in subsection (d) and the cost of the suit, including reasonable attorneys’ fees.

“(4) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States

under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by a person or by the United States.

“(d) ACTUAL AND STATUTORY DAMAGES.—(1) In addition to any penalty imposed under subsection (b), a violator of this section is liable in an action under subsection (c) for actual or statutory damages as provided in this subsection.

“(2) A person bringing an action under subsection (c)(3) may elect, at any time before final judgment is rendered, to recover the actual damages suffered by him or her as a result of the violation or, instead of actual damages, an award of statutory damages for each violation involved in the action.

“(3) In any action brought under subsection (c)(2), the Attorney General is entitled to recover an award of statutory damages for each violation involved in the action notwithstanding any recovery under subsection (c)(3).

“(4) A court may award, as the court considers just, statutory damages in a sum of not less than \$25,000 or more than \$50,000 per violation.

“(e) REBUTTABLE PRESUMPTION.—It shall be a rebuttable presumption that the violation of subsection (a) was committed willfully for purposes of determining relief under this section if the violator, or a person acting in concert with the violator, did not have reasonable grounds to believe, either from the attention or publicity sought by the violator or other circumstance, that the conduct of such violator or person would not—

“(1) disturb or tend to disturb the peace or good order of such funeral, memorial service, or ceremony; or

“(2) impede or tend to impede the access to or egress from such funeral, memorial service, or ceremony.

“(f) DEFINITIONS.—In this section—

“(1) the term ‘demonstration’ includes—

“(A) any picketing or similar conduct;

“(B) any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony;

“(C) the display of any placard, banner, flag, or similar device, unless such a display is part of a funeral, memorial service, or ceremony; and

“(D) the distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral, memorial service, or ceremony; and

“(2) the term ‘immediate family’ means, with respect to a person, the immediate family members of such person, as such term is defined in section 115 of title 18.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 24 is amended by striking the item relating to section 2413 and inserting the following new item:

38 USC prec.  
2400.

“2413. Prohibition on certain demonstrations and disruptions at cemeteries under control of the National Cemetery Administration and at Arlington National Cemetery.”.

**SEC. 602. CODIFICATION OF PROHIBITION AGAINST RESERVATION OF GRAVESITES AT ARLINGTON NATIONAL CEMETERY.**

(a) IN GENERAL.—Chapter 24 is amended by inserting after section 2410 the following new section:

38 USC 2410A.     **“§ 2410A. Arlington National Cemetery: other administrative matters**

“(a) ONE GRAVESITE.—(1) Not more than one gravesite may be provided at Arlington National Cemetery to a veteran or member of the Armed Forces who is eligible for interment or inurnment at such cemetery.

Waiver authority.     “(2) The Secretary of the Army may waive the prohibition in paragraph (1) as the Secretary of the Army considers appropriate.

“(b) PROHIBITION AGAINST RESERVATION OF GRAVESITES.—(1) A gravesite at Arlington National Cemetery may not be reserved for an individual before the death of such individual.

Waiver authority.     “(2)(A) The President may waive the prohibition in paragraph (1) as the President considers appropriate.

President.     “(B) Upon waiving the prohibition in paragraph (1), the President shall submit notice of such waiver to—

Notification.     “(i) the Committee on Veterans’ Affairs and the Committee on Armed Services of the Senate; and

“(ii) the Committee on Veterans’ Affairs and the Committee on Armed Services of the House of Representatives.”.

38 USC prec.     (b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2410 the following new item:

2400.     “2410A. Arlington National Cemetery: other administrative matters.”.

38 USC 2410A     (c) APPLICABILITY.—

note.     (1) IN GENERAL.—Except as provided in paragraph (2), section 2410A of title 38, United States Code, as added by subsection (a), shall apply with respect to all interments at Arlington National Cemetery after the date of the enactment of this Act.

(2) EXCEPTION.—Subsection (b) of such section, as so added, shall not apply with respect to the interment of an individual for whom a request for a reserved gravesite was approved by the Secretary of the Army before January 1, 1962.

(d) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on reservations made for interment at Arlington National Cemetery.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The number of requests for reservation of a gravesite at Arlington National Cemetery that were submitted to the Secretary of the Army before January 1, 1962.

(B) The number of gravesites at such cemetery that, on the day before the date of the enactment of this Act, were reserved in response to such requests.

(C) The number of such gravesites that, on the day before the date of the enactment of this Act, were unoccupied.

(D) A list of all reservations for gravesites at such cemetery that were extended by individuals responsible for management of such cemetery in response to requests for such reservations made on or after January 1, 1962.

(E) A description of the measures that the Secretary is taking to improve the accountability and transparency

of the management of gravesite reservations at Arlington National Cemetery.

(F) Such recommendations as the Secretary may have for legislative action as the Secretary considers necessary to improve such accountability and transparency.

**SEC. 603. EXPANSION OF ELIGIBILITY FOR PRESIDENTIAL MEMORIAL CERTIFICATES TO PERSONS WHO DIED IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE.**

Section 112(a) is amended—

(1) by inserting “and persons who died in the active military, naval, or air service,” after “under honorable conditions,”; and

(2) by striking “veteran’s” and inserting “deceased individual’s”.

**SEC. 604. REQUIREMENTS FOR THE PLACEMENT OF MONUMENTS IN ARLINGTON NATIONAL CEMETERY.**

Section 2409(b) is amended—

(1) by striking “Under” and inserting “(1) Under”;

(2) by inserting after “Secretary of the Army” the following: “and subject to paragraph (2)”;

(3) by adding at the end the following new paragraphs:

“(2)(A) Except for a monument containing or marking interred remains, no monument (or similar structure, as determined by the Secretary of the Army in regulations) may be placed in Arlington National Cemetery except pursuant to the provisions of this subsection.

“(B) A monument may be placed in Arlington National Cemetery if the monument commemorates—

“(i) the service in the Armed Forces of the individual, or group of individuals, whose memory is to be honored by the monument; or

“(ii) a particular military event.

“(C) No monument may be placed in Arlington National Cemetery until the end of the 25-year period beginning—

Time period.

“(i) in the case of the commemoration of service under subparagraph (B)(i), on the last day of the period of service so commemorated; and

“(ii) in the case of the commemoration of a particular military event under subparagraph (B)(ii), on the last day of the period of the event.

“(D) A monument may be placed only in those sections of Arlington National Cemetery designated by the Secretary of the Army for such placement and only on land the Secretary determines is not suitable for burial.

“(E) A monument may only be placed in Arlington National Cemetery if an appropriate nongovernmental entity has agreed to act as a sponsoring organization to coordinate the placement of the monument and—

“(i) the construction and placement of the monument are paid for only using funds from private sources;

“(ii) the Secretary of the Army consults with the Commission of Fine Arts and the Advisory Committee on Arlington National Cemetery before approving the design of the monument; and

Consultation.

“(iii) the sponsoring organization provides for an independent study on the availability and suitability of alternative

Study.

	locations for the proposed monument outside of Arlington National Cemetery.
Waiver authority.	“(3)(A) The Secretary of the Army may waive the requirement under paragraph (2)(C) in a case in which the monument would commemorate a group of individuals who the Secretary determines—
Time period.	“(i) has made valuable contributions to the Armed Forces that have been ongoing and perpetual for longer than 25 years and are expected to continue on indefinitely; and “(ii) has provided service that is of such a character that the failure to place a monument to the group in Arlington National Cemetery would present a manifest injustice.
Notification.	“(B) If the Secretary waives such requirement under subparagraph (A), the Secretary shall—
Web posting.	“(i) make available on an Internet website notification of the waiver and the rationale for the waiver; and “(ii) submit to the Committee on Veterans’ Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans’ Affairs and the Committee on Armed Services of the House of Representatives written notice of the waiver and the rationale for the waiver.
Notification.	“(4) The Secretary of the Army shall provide notice to the Committee on Veterans’ Affairs and the Committee on Armed Services of the Senate and the Committee on Veterans’ Affairs and the Committee on Armed Services of the House of Representatives of any monument proposed to be placed in Arlington National Cemetery. During the 60-day period beginning on the date on which such notice is received, Congress may pass a joint resolution of disapproval of the placement of the monument. The proposed monument may not be placed in Arlington National Cemetery until the later of— “(A) if Congress does not pass a joint resolution of disapproval of the placement of the monument, the date that is 60 days after the date on which notice is received under this paragraph; or “(B) if Congress passes a joint resolution of disapproval of the placement of the monument, and the President signs a veto of such resolution, the earlier of— “(i) the date on which either House of Congress votes and fails to override the veto of the President; or “(ii) the date that is 30 session days after the date on which Congress received the veto and objections of the President.”.
Time period.	
Effective date.	
Placement date.	

## TITLE VII—OTHER MATTERS

### SEC. 701. ASSISTANCE TO VETERANS AFFECTED BY NATURAL DISASTERS.

(a) ADDITIONAL GRANTS FOR DISABLED VETERANS FOR SPECIALLY ADAPTED HOUSING.—

(1) IN GENERAL.—Chapter 21 is amended by adding at the end the following new section:



**“§ 2109. Specially adapted housing destroyed or damaged by natural disasters** 38 USC 2109.

“(a) IN GENERAL.—Notwithstanding the provisions of section 2102 and 2102A of this title, the Secretary may provide assistance to a veteran whose home was previously adapted with assistance of a grant under this chapter in the event the adapted home which was being used and occupied by the veteran was destroyed or substantially damaged in a natural or other disaster, as determined by the Secretary.

“(b) USE OF FUNDS.—Subject to subsection (c), assistance provided under subsection (a) shall—

“(1) be available to acquire a suitable housing unit with special fixtures or moveable facilities made necessary by the veteran’s disability, and necessary land therefor;

“(2) be available to a veteran to the same extent as if the veteran had not previously received assistance under this chapter; and

“(3) not be deducted from the maximum uses or from the maximum amount of assistance available under this chapter.

“(c) LIMITATIONS.—The amount of the assistance provided under subsection (a) may not exceed the lesser of—

“(1) the reasonable cost, as determined by the Secretary, of repairing or replacing the damaged or destroyed home in excess of the available insurance coverage on such home; or

“(2) the maximum amount of assistance to which the veteran would have been entitled under sections 2101(a), 2101(b), and 2102A of this title had the veteran not obtained previous assistance under this chapter.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2108 the following new item:

38 USC prec.  
2101.

“2109. Specially adapted housing destroyed or damaged by natural disasters.”.

(b) EXTENSION OF SUBSISTENCE ALLOWANCE FOR VETERANS COMPLETING VOCATIONAL REHABILITATION PROGRAM.—Section 3108(a)(2) is amended—

(1) by inserting “(A)” before “In”; and

(2) by adding at the end the following new subparagraph:

“(B) In any case in which the Secretary determines that a veteran described in subparagraph (A) has been displaced as the result of a natural or other disaster while being paid a subsistence allowance under that subparagraph, as determined by the Secretary, the Secretary may extend the payment of a subsistence allowance under such subparagraph for up to an additional two months while the veteran is satisfactorily following a program of employment services described in such subparagraph.”.

(c) WAIVER OF LIMITATION ON PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.—Section 3120(e) is amended—

(1) by inserting “(1)” before “Programs”; and

(2) by adding at the end the following new paragraph:

“(2) The limitation in paragraph (1) shall not apply in any case in which the Secretary determines that a veteran described in subsection (b) has been displaced as the result of, or has otherwise been adversely affected in the areas covered by, a natural or other disaster, as determined by the Secretary.”.

(d) COVENANTS AND LIENS CREATED BY PUBLIC ENTITIES IN RESPONSE TO DISASTER-RELIEF ASSISTANCE.—Paragraph (3) of section 3703(d) is amended to read as follows:

Determinations.

“(3)(A) Any real estate housing loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan is so secured, the Secretary may either disregard or allow for subordination to a superior lien created by a duly recorded covenant running with the realty in favor of either of the following:

President.

“(i) A public entity that has provided or will provide assistance in response to a major disaster as determined by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(ii) A private entity to secure an obligation to such entity for the homeowner’s share of the costs of the management, operation, or maintenance of property, services, or programs within and for the benefit of the development or community in which the veteran’s realty is located, if the Secretary determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant.

Effective date.

“(B) With respect to any superior lien described in subparagraph (A) created after June 6, 1969, the Secretary’s determination under clause (ii) of such subparagraph shall have been made prior to the recordation of the covenant.”

(e) AUTOMOBILES AND OTHER CONVEYANCES FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES.—Section 3903(a) is amended—

(1) by striking “No” and inserting “(1) Except as provided in paragraph (2), no”; and

(2) by adding at the end the following new paragraph:

“(2) The Secretary may provide or assist in providing an eligible person with a second automobile or other conveyance under this chapter if—

“(A) the Secretary receives satisfactory evidence that the automobile or other conveyance previously purchased with assistance under this chapter was destroyed—

“(i) as a result of a natural or other disaster, as determined by the Secretary; and

“(ii) through no fault of the eligible person; and

“(B) the eligible person does not otherwise receive from a property insurer compensation for the loss.”

38 USC 2109  
note.

(f) ANNUAL REPORT.—

(1) IN GENERAL.—Each year, the Secretary of Veterans Affairs shall submit to Congress a report on the assistance provided or action taken by the Secretary in the last fiscal year pursuant to the authorities added by the amendments made by this section.

(2) ELEMENTS.—Each report submitted under paragraph (1) shall include the following for the fiscal year covered by the report:

(A) A description of each natural disaster for which assistance was provided or action was taken as described in paragraph (1).

(B) The number of cases or individuals, as the case may be, in which or to whom the Secretary provided assistance or took action as described in paragraph (1).

(C) For each such case or individual, a description of the type or amount of assistance or action taken, as the case may be.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is one year after the date of the enactment of this Act. 38 USC 2109 note.

**SEC. 702. EXTENSION OF CERTAIN EXPIRING PROVISIONS OF LAW.**

(a) POOL OF MORTGAGE LOANS.—Section 3720(h)(2) is amended by striking “December 31, 2011” and inserting “December 31, 2016”.

(b) LOAN FEES.—Section 3729(b)(2) is amended—

(1) in subparagraph (A)—

(A) in clause (iii), by striking “October 1, 2016” and inserting “October 1, 2017”; and

(B) in clause (iv), by striking “October 1, 2016” and inserting “October 1, 2017”;

(2) in subparagraph (B)—

(A) in clause (i), by striking “October 1, 2016” and inserting “October 1, 2017”; and

(B) in clause (ii), by striking “October 1, 2016” and inserting “October 1, 2017”;

(3) in subparagraph (C)—

(A) in clause (i), by striking “October 1, 2016” and inserting “October 1, 2017”; and

(B) in clause (ii), by striking “October 1, 2016” and inserting “October 1, 2017”; and

(4) in subparagraph (D)—

(A) in clause (i), by striking “October 1, 2016” and inserting “October 1, 2017”; and

(B) in clause (ii), by striking “October 1, 2016” and inserting “October 1, 2017”.

(c) TEMPORARY ADJUSTMENT OF MAXIMUM HOME LOAN GUARANTY AMOUNT.—Section 501 of the Veterans’ Benefits Improvement Act of 2008 (Public Law 110–389; 122 Stat. 4175; 38 U.S.C. 3703 note) is amended by striking “December 31, 2011” and inserting “December 31, 2014”.

**SEC. 703. REQUIREMENT FOR PLAN FOR REGULAR ASSESSMENT OF EMPLOYEES OF VETERANS BENEFITS ADMINISTRATION WHO HANDLE PROCESSING OF CLAIMS FOR COMPENSATION AND PENSION.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a plan that describes how the Secretary will— Deadline.

(1) regularly assess the skills and competencies of appropriate employees and managers of the Veterans Benefits Administration who are responsible for processing claims for compensation and pension benefits administered by the Secretary;

(2) provide training to those employees whose skills and competencies are assessed as unsatisfactory by the regular assessment described in paragraph (1), to remediate deficiencies in such skills and competencies;

(3) reassess the skills and competencies of employees who receive training as described in paragraph (2); and

(4) take appropriate personnel action if, following training and reassessment as described in paragraphs (2) and (3), respectively, skills and competencies remain unsatisfactory.

**SEC. 704. MODIFICATION OF PROVISION RELATING TO REIMBURSEMENT RATE FOR AMBULANCE SERVICES.**

Section 111(b)(3)(C) is amended by striking “under subparagraph (B)” and inserting “to or from a Department facility”.

**SEC. 705. CHANGE IN COLLECTION AND VERIFICATION OF VETERAN INCOME.**

Section 1722(f)(1) is amended by striking “the previous year” and inserting “the most recent year for which information is available”.

**SEC. 706. DEPARTMENT OF VETERANS AFFAIRS ENFORCEMENT PENALTIES FOR MISREPRESENTATION OF A BUSINESS CONCERN AS A SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY VETERANS OR AS A SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.**

Subsection (g) of section 8127 is amended—

(1) by striking “Any business” and inserting “(1) Any business”;

(2) in paragraph (1), as so designated—

(A) by inserting “willfully and intentionally” before “misrepresented”; and

(B) by striking “a reasonable period of time, as determined by the Secretary” and inserting “a period of not less than five years”; and

(3) by adding at the end the following new paragraphs:

“(2) In the case of a debarment under paragraph (1), the Secretary shall commence debarment action against the business concern by not later than 30 days after determining that the concern willfully and intentionally misrepresented the status of the concern as described in paragraph (1) and shall complete debarment actions against such concern by not later than 90 days after such determination.

“(3) The debarment of a business concern under paragraph (1) includes the debarment of all principals in the business concern for a period of not less than five years.”.

**SEC. 707. QUARTERLY REPORTS TO CONGRESS ON CONFERENCES SPONSORED BY THE DEPARTMENT.**

(a) IN GENERAL.—Subchapter I of chapter 5 is amended by adding at the end the following new section:

**“§ 517. Quarterly reports to Congress on conferences sponsored by the Department**

“(a) QUARTERLY REPORTS REQUIRED.—Not later than 30 days after the end of each fiscal quarter, the Secretary shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on covered conferences.

“(b) MATTERS INCLUDED.—Each report under subsection (a) shall include the following:

“(1) An accounting of the final costs to the Department of each covered conference occurring during the fiscal quarter

Debarment.  
Deadlines.

Time period.

38 USC 517.

preceding the date on which the report is submitted, including the costs related to—

- “(A) transportation and parking;
- “(B) per diem payments;
- “(C) lodging;
- “(D) rental of halls, auditoriums, or other spaces;
- “(E) rental of equipment;
- “(F) refreshments;
- “(G) entertainment;
- “(H) contractors; and
- “(I) brochures or other printed media.

“(2) The total estimated costs to the Department for covered conferences occurring during the fiscal quarter in which the report is submitted.

“(c) COVERED CONFERENCE DEFINED.—In this section, the term ‘covered conference’ means a conference, meeting, or other similar forum that is sponsored or co-sponsored by the Department and is—

- “(1) attended by 50 or more individuals, including one or more employees of the Department; or
- “(2) estimated to cost the Department at least \$20,000.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 516 the following:

38 USC prec.  
501.

“517. Quarterly reports to Congress on conferences sponsored by the Department.”.

(c) EFFECTIVE DATE.—Section 517 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2012, and shall apply with respect to the first quarter of fiscal year 2013 and each quarter thereafter.

Applicability.  
38 USC 517 note.

#### **SEC. 708. PUBLICATION OF DATA ON EMPLOYMENT OF CERTAIN VETERANS BY FEDERAL CONTRACTORS.**

Section 4212(d) is amended by adding at the end the following new paragraph:

“(3) The Secretary of Labor shall establish and maintain an Internet website on which the Secretary of Labor shall publicly disclose the information reported to the Secretary of Labor by contractors under paragraph (1).”.

Web site.  
Public  
information.

#### **SEC. 709. VETSTAR AWARD PROGRAM.**

(a) IN GENERAL.—Section 532 is amended—

(1) by striking “The Secretary may” and inserting “ (a) ADVERTISING IN NATIONAL MEDIA.—The Secretary may”; and

(2) by adding at the end the following new subsection:

“(b) VETSTAR AWARD PROGRAM.—(1) The Secretary shall establish an award program, to be known as the ‘VetStar Award Program’, to recognize annually businesses for their contributions to veterans’ employment.

“(2) The Secretary shall establish a process for the administration of the award program, including criteria for—

Process.

“(A) categories and sectors of businesses eligible for recognition each year; and

“(B) objective measures to be used in selecting businesses to receive the award.”.

(b) CLERICAL AMENDMENTS.—

(1) **SECTION HEADING.**—The heading of such section is amended by adding at the end the following: “; **VetStar Award Program**”.

38 USC prec.  
501.

(2) **TABLE OF SECTIONS.**—The table of sections at the beginning of chapter 5 is amended by striking the item relating to section 532 and inserting the following new item:

“532. Authority to advertise in national media; VetStar Award Program.”.

**SEC. 710. EXTENDED PERIOD OF PROTECTIONS FOR MEMBERS OF UNIFORMED SERVICES RELATING TO MORTGAGES, MORTGAGE FORECLOSURE, AND EVICTION.**

(a) **STAY OF PROCEEDINGS AND PERIOD OF ADJUSTMENT OF OBLIGATIONS RELATING TO REAL OR PERSONAL PROPERTY.**—Section 303(b) of the Servicemembers Civil Relief Act (50 U.S.C. App. 533(b)) is amended by striking “within 9 months” and inserting “within one year”.

(b) **PERIOD OF RELIEF FROM SALE, FORECLOSURE, OR SEIZURE.**—Section 303(c) of such Act (50 U.S.C. App. 533(c)) is amended by striking “within 9 months” and inserting “within one year”.

50 USC app. 533  
note.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

50 USC app. 533  
note.

(d) **EXTENSION OF SUNSET.**—

(1) **IN GENERAL.**—The amendments made by subsections (a) and (b) shall expire on December 31, 2014.

(2) **CONFORMING AMENDMENT.**—Subsection (c) of section 2203 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289; 50 U.S.C. App. 533 note) is amended to read as follows:

50 USC app. 533  
note.

“(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.”.

(3) **REVIVAL.**—Effective January 1, 2015, the provisions of subsections (b) and (c) of section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533), as in effect on July 29, 2008, are hereby revived.

Time periods.

(e) **REPORT.**—

(1) **IN GENERAL.**—Not later than 540 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the protections provided under section 303 of such Act (50 U.S.C. App. 533) during the five-year period ending on the date of the enactment of this Act.

(2) **ELEMENTS.**—The report required by paragraph (1) shall include, for the period described in such paragraph, the following:

(A) An assessment of the effects of such section on the long-term financial well-being of servicemembers and their families.

(B) The number of servicemembers who faced foreclosure during a 90-day period, 270-day period, or 365-day period beginning on the date on which the servicemembers completed a period of military service.

(C) The number of servicemembers who applied for a stay or adjustment under subsection (b) of such section.

(D) A description and assessment of the effect of applying for a stay or adjustment under such subsection

on the financial well-being of the servicemembers who applied for such a stay or adjustment.

(E) An assessment of the Secretary of Defense’s partnerships with public and private sector entities and recommendations on how the Secretary should modify such partnerships to improve financial education and counseling for servicemembers in order to assist them in achieving long-term financial stability.

(3) PERIOD OF MILITARY SERVICE AND SERVICEMEMBER DEFINED.—In this subsection, the terms “period of military service” and “servicemember” have the meanings given such terms in section 101 of such Act (50 U.S.C. App. 511).

Approved August 6, 2012.

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LEGISLATIVE HISTORY—H.R. 1627:

HOUSE REPORTS: No. 112–84, Pt. 1 (Comm. on Veterans’ Affairs).

CONGRESSIONAL RECORD:

Vol. 157 (2011): May 23, considered and passed House.

Vol. 158 (2012): July 18, considered and passed Senate, amended.

July 31, House concurred in Senate amendments.



Public Law 112–155  
112th Congress

An Act

Aug. 7, 2012  
[H.R. 5872]

To require the President to provide a report detailing the sequester required by the Budget Control Act of 2011 on January 2, 2013.

Sequestration  
Transparency Act  
of 2012.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Sequestration Transparency Act of 2012”.

**SEC. 2. SEQUESTER PREVIEW.**

Deadlines.

(a) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the President shall submit to Congress a detailed report on the sequestration required to be ordered by paragraphs (7)(A) and (8) of section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a) for fiscal year 2013 on January 2, 2013.

(b) **CONTENTS OF REPORT.**—The report required by subsection (a) shall include—

(1) for discretionary appropriations—

(A) an estimate for each category of the sequestration percentages and amounts necessary to achieve the required reduction; and

(B)(i) for accounts that are funded pursuant to an enacted regular appropriation bill for fiscal year 2013, an identification of each account to be sequestered and estimates of the level of sequestrable budgetary resources and resulting reductions at the program, project, and activity level based upon the enacted level of appropriations; and

(ii) for accounts that have not been funded pursuant to an enacted regular appropriation bill for fiscal year 2013, an identification of each account to be sequestered and estimates pursuant to a continuing resolution at a rate of operations as provided in the applicable appropriation Act for fiscal year 2012 of the level of sequestrable budgetary resources and resulting reductions at the program, project, and activity level;

(2) for direct spending—

(A) an estimate for the defense and nondefense functions based on current law of the sequestration percentages and amount necessary to achieve the required reduction; and

(B) an identification of the reductions required for each nonexempt direct spending account at the program, project, and activity level;



(3) an identification of all exempt discretionary accounts and of all exempt direct spending accounts; and

(4) any other data and explanations that enhance public understanding of the sequester and actions to be taken under it.

(c) AGENCY ASSISTANCE.—(1) Upon the request of the Director of the Office of Management and Budget (in assisting the President in the preparation of the report under subsection (a)), the head of each agency, after consultation with the chairs and ranking members of the Committees on Appropriations of the House of Representatives and the Senate, shall promptly provide to the Director information at the program, project, and activity level necessary for the Director to prepare the report under subsection (a).

(2) As used in this subsection, the term “agency” means any executive agency as defined in section 105 of title 5, United States Code. Definition.

Approved August 7, 2012.

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LEGISLATIVE HISTORY—H.R. 5872:

HOUSE REPORTS: No. 112–577 (Comm. on the Budget).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 18, considered and passed House.

July 25, considered and passed Senate.



Public Law 112–156  
112th Congress

An Act

Aug. 10, 2012  
[H.R. 1369]

To designate the facility of the United States Postal Service located at 1021 Pennsylvania Avenue in Hartshorne, Oklahoma, as the “Warren Lindley Post Office”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WARREN LINDLEY POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1021 Pennsylvania Avenue in Hartshorne, Oklahoma, as the “Warren Lindley Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Warren Lindley Post Office”.

Approved August 10, 2012.

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LEGISLATIVE HISTORY—H.R. 1369:

CONGRESSIONAL RECORD, Vol. 158 (2012):  
July 23, considered and passed House.  
Aug. 1, considered and passed Senate.



Public Law 112–157  
112th Congress

An Act

To amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that tribe.

Aug. 10, 2012  
[H.R. 1560]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BLOOD QUANTUM REQUIREMENT DETERMINED BY TRIBE.**

Section 108(a)(2) of the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. 1300g–7(a)(2)) is amended to read as follows:

“(2) any person of Tigua Ysleta del Sur Pueblo Indian blood enrolled by the tribe.”.

Approved August 10, 2012.

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**LEGISLATIVE HISTORY—H.R. 1560:**

HOUSE REPORTS: No. 112–222 (Comm. on Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Dec. 5, 7, considered and passed House.

Vol. 158 (2012): Aug. 1, considered and passed Senate.



Public Law 112–158  
112th Congress

An Act

Aug. 10, 2012  
[H.R. 1905]

Iran Threat  
Reduction and  
Syria Human  
Rights Act of  
2012.  
22 USC 8701  
note.

To strengthen Iran sanctions laws for the purpose of compelling Iran to abandon its pursuit of nuclear weapons and other threatening activities, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Iran Threat Reduction and Syria Human Rights Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

**TITLE I—EXPANSION OF MULTILATERAL SANCTIONS REGIME WITH RESPECT TO IRAN**

Sec. 101. Sense of Congress on enforcement of multilateral sanctions regime and expansion and implementation of sanctions laws.  
Sec. 102. Diplomatic efforts to expand multilateral sanctions regime.

**TITLE II—EXPANSION OF SANCTIONS RELATING TO THE ENERGY SECTOR OF IRAN AND PROLIFERATION OF WEAPONS OF MASS DESTRUCTION BY IRAN**

**Subtitle A—Expansion of the Iran Sanctions Act of 1996**

Sec. 201. Expansion of sanctions with respect to the energy sector of Iran.  
Sec. 202. Imposition of sanctions with respect to transportation of crude oil from Iran and evasion of sanctions by shipping companies.  
Sec. 203. Expansion of sanctions with respect to development by Iran of weapons of mass destruction.  
Sec. 204. Expansion of sanctions available under the Iran Sanctions Act of 1996.  
Sec. 205. Modification of waiver standard under the Iran Sanctions Act of 1996.  
Sec. 206. Briefings on implementation of the Iran Sanctions Act of 1996.  
Sec. 207. Expansion of definitions under the Iran Sanctions Act of 1996.  
Sec. 208. Sense of Congress on energy sector of Iran.

**Subtitle B—Additional Measures Relating to Sanctions Against Iran**

Sec. 211. Imposition of sanctions with respect to the provision of vessels or shipping services to transport certain goods related to proliferation or terrorism activities to Iran.  
Sec. 212. Imposition of sanctions with respect to provision of underwriting services or insurance or reinsurance for the National Iranian Oil Company or the National Iranian Tanker Company.  
Sec. 213. Imposition of sanctions with respect to purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt.  
Sec. 214. Imposition of sanctions with respect to subsidiaries and agents of persons sanctioned by United Nations Security Council resolutions.  
Sec. 215. Imposition of sanctions with respect to transactions with persons sanctioned for certain activities relating to terrorism or proliferation of weapons of mass destruction.

- Sec. 216. Expansion of, and reports on, mandatory sanctions with respect to financial institutions that engage in certain activities relating to Iran.
- Sec. 217. Continuation in effect of sanctions with respect to the Government of Iran, the Central Bank of Iran, and sanctions evaders.
- Sec. 218. Liability of parent companies for violations of sanctions by foreign subsidiaries.
- Sec. 219. Disclosures to the Securities and Exchange Commission relating to sanctionable activities.
- Sec. 220. Reports on, and authorization of imposition of sanctions with respect to, the provision of specialized financial messaging services to the Central Bank of Iran and other sanctioned Iranian financial institutions.
- Sec. 221. Identification of, and immigration restrictions on, senior officials of the Government of Iran and their family members.
- Sec. 222. Sense of Congress and rule of construction relating to certain authorities of State and local governments.
- Sec. 223. Government Accountability Office report on foreign entities that invest in the energy sector of Iran or export refined petroleum products to Iran.
- Sec. 224. Reporting on the importation to and exportation from Iran of crude oil and refined petroleum products.

### TITLE III—SANCTIONS WITH RESPECT TO IRAN’S REVOLUTIONARY GUARD CORPS

#### Subtitle A—Identification of, and Sanctions With Respect to, Officials, Agents, Affiliates, and Supporters of Iran’s Revolutionary Guard Corps and Other Sanctioned Persons

- Sec. 301. Identification of, and imposition of sanctions with respect to, officials, agents, and affiliates of Iran’s Revolutionary Guard Corps.
- Sec. 302. Identification of, and imposition of sanctions with respect to, persons that support or conduct certain transactions with Iran’s Revolutionary Guard Corps or other sanctioned persons.
- Sec. 303. Identification of, and imposition of measures with respect to, foreign government agencies carrying out activities or transactions with certain Iran-affiliated persons.
- Sec. 304. Rule of construction.

#### Subtitle B—Additional Measures Relating to Iran’s Revolutionary Guard Corps

- Sec. 311. Expansion of procurement prohibition to foreign persons that engage in certain transactions with Iran’s Revolutionary Guard Corps.
- Sec. 312. Determinations of whether the National Iranian Oil Company and the National Iranian Tanker Company are agents or affiliates of Iran’s Revolutionary Guard Corps.

### TITLE IV—MEASURES RELATING TO HUMAN RIGHTS ABUSES IN IRAN

#### Subtitle A—Expansion of Sanctions Relating to Human Rights Abuses in Iran

- Sec. 401. Imposition of sanctions on certain persons responsible for or complicit in human rights abuses committed against citizens of Iran or their family members after the June 12, 2009, elections in Iran.
- Sec. 402. Imposition of sanctions with respect to the transfer of goods or technologies to Iran that are likely to be used to commit human rights abuses.
- Sec. 403. Imposition of sanctions with respect to persons who engage in censorship or other related activities against citizens of Iran.

#### Subtitle B—Additional Measures to Promote Human Rights

- Sec. 411. Codification of sanctions with respect to grave human rights abuses by the governments of Iran and Syria using information technology.
- Sec. 412. Clarification of sensitive technologies for purposes of procurement ban under Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.
- Sec. 413. Expedited consideration of requests for authorization of certain human rights-, humanitarian-, and democracy-related activities with respect to Iran.
- Sec. 414. Comprehensive strategy to promote Internet freedom and access to information in Iran.
- Sec. 415. Statement of policy on political prisoners.

### TITLE V—MISCELLANEOUS

- Sec. 501. Exclusion of citizens of Iran seeking education relating to the nuclear and energy sectors of Iran.

- Sec. 502. Interests in certain financial assets of Iran.
- Sec. 503. Technical correction to section 1245 of the National Defense Authorization Act for Fiscal Year 2012.
- Sec. 504. Expansion of sanctions under section 1245 of the National Defense Authorization Act for Fiscal Year 2012.
- Sec. 505. Reports on natural gas exports from Iran.
- Sec. 506. Report on membership of Iran in international organizations.
- Sec. 507. Sense of Congress on exportation of goods, services, and technologies for aircraft produced in the United States.

#### TITLE VI—GENERAL PROVISIONS

- Sec. 601. Implementation; penalties.
- Sec. 602. Applicability to certain intelligence activities.
- Sec. 603. Applicability to certain natural gas projects.
- Sec. 604. Rule of construction with respect to use of force against Iran and Syria.
- Sec. 605. Termination.

#### TITLE VII—SANCTIONS WITH RESPECT TO HUMAN RIGHTS ABUSES IN SYRIA

- Sec. 701. Short title.
- Sec. 702. Imposition of sanctions with respect to certain persons who are responsible for or complicit in human rights abuses committed against citizens of Syria or their family members.
- Sec. 703. Imposition of sanctions with respect to the transfer of goods or technologies to Syria that are likely to be used to commit human rights abuses.
- Sec. 704. Imposition of sanctions with respect to persons who engage in censorship or other forms of repression in Syria.
- Sec. 705. Waiver.
- Sec. 706. Termination.

22 USC 8701.

#### **SEC. 2. DEFINITIONS.**

Except as otherwise specifically provided, in this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” has the meaning given that term in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(2) **FINANCIAL TRANSACTION.**—The term “financial transaction” means any transfer of value involving a financial institution, including the transfer of forwards, futures, options, swaps, or precious metals, including gold, silver, platinum, and palladium.

(3) **KNOWINGLY.**—The term “knowingly” has the meaning given that term in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(4) **UNITED STATES PERSON.**—The term “United States person” has the meaning given that term in section 101 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8511).

## **TITLE I—EXPANSION OF MULTILATERAL SANCTIONS REGIME WITH RESPECT TO IRAN**

22 USC 8711.

#### **SEC. 101. SENSE OF CONGRESS ON ENFORCEMENT OF MULTILATERAL SANCTIONS REGIME AND EXPANSION AND IMPLEMENTATION OF SANCTIONS LAWS.**

It is the sense of Congress that the goal of compelling Iran to abandon efforts to acquire a nuclear weapons capability and other threatening activities can be effectively achieved through a comprehensive policy that includes economic sanctions, diplomacy,

and military planning, capabilities and options, and that this objective is consistent with the one stated by President Barack Obama in the 2012 State of the Union Address: “Let there be no doubt: America is determined to prevent Iran from getting a nuclear weapon, and I will take no options off the table to achieve that goal”. Among the economic measures to be taken are—

(1) prompt enforcement of the current multilateral sanctions regime with respect to Iran;

(2) full, timely, and vigorous implementation of all sanctions enacted into law, including sanctions imposed or expanded by this Act or amendments made by this Act, through—

(A) intensified monitoring by the President and the designees of the President, including the Secretary of the Treasury, the Secretary of State, and senior officials in the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), as appropriate;

(B) more extensive use of extraordinary authorities provided for under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and other sanctions laws;

(C) reallocation of resources to provide the personnel necessary, within the Department of the Treasury, the Department of State, and the Department of Commerce, and, where appropriate, the intelligence community, to apply and enforce sanctions; and

(D) expanded cooperation with international sanctions enforcement efforts;

(3) urgent consideration of the expansion of existing sanctions with respect to such areas as—

(A) the provision of energy-related services to Iran;

(B) the provision of insurance and reinsurance services to Iran;

(C) the provision of shipping services to Iran; and

(D) those Iranian financial institutions not yet designated for the imposition of sanctions that may be acting as intermediaries for Iranian financial institutions that are designated for the imposition of sanctions; and

(4) a focus on countering Iran’s efforts to evade sanctions, including—

(A) the activities of telecommunications, Internet, and satellite service providers, in and outside of Iran, to ensure that such providers are not participating in or facilitating, directly or indirectly, the evasion of the sanctions regime with respect to Iran or violations of the human rights of the people of Iran;

(B) the activities of financial institutions or other businesses or government agencies, in or outside of Iran, not yet designated for the imposition of sanctions; and

(C) urgent and ongoing evaluation of Iran’s energy, national security, financial, and telecommunications sectors, to gauge the effects of, and possible defects in, particular sanctions, with prompt efforts to correct any gaps in the existing sanctions regime with respect to Iran.

22 USC 8712.

**SEC. 102. DIPLOMATIC EFFORTS TO EXPAND MULTILATERAL SANCTIONS REGIME.**

(a) **MULTILATERAL NEGOTIATIONS.**—Congress urges the President to intensify diplomatic efforts, both in appropriate international fora such as the United Nations and bilaterally with allies of the United States, for the purpose of—

(1) expanding the United Nations Security Council sanctions regime to include—

(A) a prohibition on the issuance of visas to any official of the Government of Iran who is involved in—

(i) human rights violations in or outside of Iran;

(ii) the development of a nuclear weapons program and a ballistic missile capability in Iran; or

(iii) support by the Government of Iran for terrorist organizations, including Hamas and Hezbollah; and

(B) a requirement that each member country of the United Nations—

(i) prohibit the Islamic Republic of Iran Shipping Lines from landing at seaports, and cargo flights of Iran Air from landing at airports, in that country because of the role of those organizations in proliferation and illegal arms sales; and

(ii) apply the prohibitions described in clause (i) to other Iranian entities designated for the imposition of sanctions on or after the date of the enactment of this Act;

(2) expanding the range of sanctions imposed with respect to Iran by allies of the United States;

(3) expanding efforts to limit the development of petroleum resources and the importation of refined petroleum products by Iran;

(4) developing additional initiatives to—

(A) increase the production of crude oil in countries other than Iran; and

(B) assist countries that purchase or otherwise obtain crude oil or petroleum products from Iran to eliminate their dependence on crude oil and petroleum products from Iran; and

(5) eliminating the revenue generated by the Government of Iran from the sale of petrochemical products produced in Iran to other countries.

President.

(b) **REPORTS TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report on the extent to which diplomatic efforts described in subsection (a) have been successful that includes—

(1) an identification of the countries that have agreed to impose sanctions or take other measures to further the policy set forth in subsection (a);

(2) the extent of the implementation and enforcement of those sanctions or other measures by those countries;

(3) the criteria the President uses to determine whether a country has significantly reduced its crude oil purchases from Iran pursuant to section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012, as amended by section 504, including considerations of reductions both in terms of volume and price;



(4) an identification of the countries that have not agreed to impose such sanctions or measures, including such countries granted exceptions for significant reductions in crude oil purchases pursuant to such section 1245(d)(4)(D);

(5) recommendations for additional measures that the United States could take to further diplomatic efforts described in subsection (a); and

(6) the disposition of any decision with respect to sanctions imposed with respect to Iran by the World Trade Organization or its predecessor organization.

## **TITLE II—EXPANSION OF SANCTIONS RELATING TO THE ENERGY SECTOR OF IRAN AND PROLIFERATION OF WEAPONS OF MASS DESTRUCTION BY IRAN**

President.  
Determinations.

### **Subtitle A—Expansion of the Iran Sanctions Act of 1996**

#### **SEC. 201. EXPANSION OF SANCTIONS WITH RESPECT TO THE ENERGY SECTOR OF IRAN.**

50 USC 1701  
note.

Section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended—

(1) in the subsection heading, by striking “WITH RESPECT TO” and all that follows through “TO IRAN” and inserting “RELATING TO THE ENERGY SECTOR OF IRAN”;

(2) in paragraph (1)(A)—

(A) by striking “3 or more” and inserting “5 or more”; and

(B) by striking “the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010” and inserting “the Iran Threat Reduction and Syria Human Rights Act of 2012”;

(3) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “3 or more” and inserting “5 or more”; and

(ii) by striking “the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010” and inserting “the Iran Threat Reduction and Syria Human Rights Act of 2012”; and

(B) in subparagraph (B), by inserting before the period at the end the following: “or directly associated infrastructure, including construction of port facilities, railways, and roads, the primary use of which is to support the delivery of refined petroleum products”;

(4) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking “3 or more” and inserting “5 or more”; and

(ii) by striking “the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010” and

inserting “the Iran Threat Reduction and Syria Human Rights Act of 2012”; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking “; or” and inserting a semicolon;

(ii) in clause (iii), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(iv) bartering or contracting by which goods are exchanged for goods, including the insurance or reinsurance of such exchanges; or

“(v) purchasing, subscribing to, or facilitating the issuance of sovereign debt of the Government of Iran, including governmental bonds, issued on or after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012.”; and

(5) by adding at the end the following:

“(4) JOINT VENTURES WITH IRAN RELATING TO DEVELOPING PETROLEUM RESOURCES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) or subsection (f), the President shall impose 5 or more of the sanctions described in section 6(a) with respect to a person if the President determines that the person knowingly participates, on or after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, in a joint venture with respect to the development of petroleum resources outside of Iran if—

“(i) the joint venture is established on or after January 1, 2002; and

“(ii)(I) the Government of Iran is a substantial partner or investor in the joint venture; or

“(II) Iran could, through a direct operational role in the joint venture or by other means, receive technological knowledge or equipment not previously available to Iran that could directly and significantly contribute to the enhancement of Iran’s ability to develop petroleum resources in Iran.

“(B) APPLICABILITY.—Subparagraph (A) shall not apply with respect to participation in a joint venture established on or after January 1, 2002, and before the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, if the person participating in the joint venture terminates that participation not later than the date that is 180 days after such date of enactment.

“(5) SUPPORT FOR THE DEVELOPMENT OF PETROLEUM RESOURCES AND REFINED PETROLEUM PRODUCTS IN IRAN.—

“(A) IN GENERAL.—Except as provided in subsection (f), the President shall impose 5 or more of the sanctions described in section 6(a) with respect to a person if the President determines that the person knowingly, on or after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, sells, leases, or provides to Iran goods, services, technology, or support described in subparagraph (B)—

“(i) any of which has a fair market value of \$1,000,000 or more; or

Deadline.

“(ii) that, during a 12-month period, have an aggregate fair market value of \$5,000,000 or more. Time period.

“(B) GOODS, SERVICES, TECHNOLOGY, OR SUPPORT DESCRIBED.—Goods, services, technology, or support described in this subparagraph are goods, services, technology, or support that could directly and significantly contribute to the maintenance or enhancement of Iran’s—

“(i) ability to develop petroleum resources located in Iran; or

“(ii) domestic production of refined petroleum products, including any direct and significant assistance with respect to the construction, modernization, or repair of petroleum refineries or directly associated infrastructure, including construction of port facilities, railways, and roads, the primary use of which is to support the delivery of refined petroleum products.

“(6) DEVELOPMENT AND PURCHASE OF PETROCHEMICAL PRODUCTS FROM IRAN.—

“(A) IN GENERAL.—Except as provided in subsection (f), the President shall impose 5 or more of the sanctions described in section 6(a) with respect to a person if the President determines that the person knowingly, on or after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, sells, leases, or provides to Iran goods, services, technology, or support described in subparagraph (B)—

“(i) any of which has a fair market value of \$250,000 or more; or

“(ii) that, during a 12-month period, have an aggregate fair market value of \$1,000,000 or more. Time period.

“(B) GOODS, SERVICES, TECHNOLOGY, OR SUPPORT DESCRIBED.—Goods, services, technology, or support described in this subparagraph are goods, services, technology, or support that could directly and significantly contribute to the maintenance or expansion of Iran’s domestic production of petrochemical products.”.

**SEC. 202. IMPOSITION OF SANCTIONS WITH RESPECT TO TRANSPORTATION OF CRUDE OIL FROM IRAN AND EVASION OF SANCTIONS BY SHIPPING COMPANIES.**

(a) IN GENERAL.—Section 5(a) of the Iran Sanctions Act of 1996, as amended by section 201, is further amended by adding at the end the following:

“(7) TRANSPORTATION OF CRUDE OIL FROM IRAN.—

“(A) IN GENERAL.—Except as provided in subsection (f), the President shall impose 5 or more of the sanctions described in section 6(a) with respect to a person if the President determines that—

“(i) the person is a controlling beneficial owner of, or otherwise owns, operates, or controls, or insures, a vessel that, on or after the date that is 90 days after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, was used to transport crude oil from Iran to another country; and

“(ii)(I) in the case of a person that is a controlling beneficial owner of the vessel, the person had actual knowledge the vessel was so used; or

“(II) in the case of a person that otherwise owns, operates, or controls, or insures, the vessel, the person knew or should have known the vessel was so used.”

“(B) APPLICABILITY OF SANCTIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), subparagraph (A) shall apply with respect to the transportation of crude oil from Iran only if a determination of the President under section 1245(d)(4)(B) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(4)(B)) that there is a sufficient supply of petroleum and petroleum products produced in countries other than Iran to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran is in effect at the time of the transportation of the crude oil.

“(ii) EXCEPTION FOR CERTAIN COUNTRIES.—Subparagraph (A) shall not apply with respect to the transportation of crude oil from Iran to a country to which the exception under paragraph (4)(D) of section 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)) to the imposition of sanctions under paragraph (1) of that section applies at the time of the transportation of the crude oil.

“(8) CONCEALING IRANIAN ORIGIN OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS.—

Time period.

“(A) IN GENERAL.—Except as provided in subsection (f), the President shall impose 5 or more of the sanctions described in section 6(a) with respect to a person if the President determines that the person is a controlling beneficial owner, or otherwise owns, operates, or controls, a vessel that, on or after the date that is 90 days after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, is used, with actual knowledge in the case of a person that is a controlling beneficial owner or knowingly in the case of a person that otherwise owns, operates, or controls the vessel, in a manner that conceals the Iranian origin of crude oil or refined petroleum products transported on the vessel, including by—

“(i) permitting the operator of the vessel to suspend the operation of the vessel’s satellite tracking device; or

“(ii) obscuring or concealing the ownership, operation, or control of the vessel by—

“(I) the Government of Iran;

“(II) the National Iranian Tanker Company or the Islamic Republic of Iran Shipping Lines; or

“(III) any other entity determined by the President to be owned or controlled by the Government of Iran or an entity specified in subclause (II).

“(B) ADDITIONAL SANCTION.—Subject to such regulations as the President may prescribe and in addition to

the sanctions imposed under subparagraph (A), the President may prohibit a vessel owned, operated, or controlled by a person, including a controlling beneficial owner, with respect to which the President has imposed sanctions under that subparagraph and that was used for the activity for which the President imposed those sanctions from landing at a port in the United States for a period of not more than 2 years after the date on which the President imposed those sanctions.

“(C) VESSELS IDENTIFIED BY THE OFFICE OF FOREIGN ASSETS CONTROL.—For purposes of subparagraph (A)(ii), a person shall be deemed to have actual knowledge that a vessel is owned, operated, or controlled by the Government of Iran or an entity specified in subclause (II) or (III) of subparagraph (A)(ii) if the International Maritime Organization vessel registration identification for the vessel is—

“(i) included on a list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury for activities with respect to Iran; and

“(ii) identified by the Office of Foreign Assets Control as a vessel in which the Government of Iran or any entity specified in subclause (II) or (III) of subparagraph (A)(ii) has an interest.

“(D) DEFINITION OF IRANIAN ORIGIN.—For purposes of subparagraph (A), the term ‘Iranian origin’ means—

“(i) with respect to crude oil, that the crude oil was extracted in Iran; and

“(ii) with respect to a refined petroleum product, that the refined petroleum product was produced or refined in Iran.

“(9) EXCEPTION FOR PROVISION OF UNDERWRITING SERVICES AND INSURANCE AND REINSURANCE.—The President may not impose sanctions under paragraph (7) or (8) with respect to a person that provides underwriting services or insurance or reinsurance if the President determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not provide underwriting services or insurance or reinsurance for the transportation of crude oil or refined petroleum products from Iran in a manner for which sanctions may be imposed under either such paragraph.”.

(b) REGULATIONS AND GUIDELINES.—Not later than 90 days after the date of the enactment of this Act, the President shall prescribe such regulations or guidelines as are necessary to implement paragraphs (7), (8), and (9) of section 5(a) of the Iran Sanctions Act of 1996, as added by this section, including such regulations or guidelines as are necessary to implement subparagraph (B) of such paragraph (8).

Deadline.  
50 USC 1701  
note.

#### **SEC. 203. EXPANSION OF SANCTIONS WITH RESPECT TO DEVELOPMENT BY IRAN OF WEAPONS OF MASS DESTRUCTION.**

(a) IN GENERAL.—Section 5(b) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended—

- (1) by redesignating paragraph (2) as paragraph (3); and
- (2) by striking paragraph (1) and inserting the following:

“(1) EXPORTS, TRANSFERS, AND TRANSSHIPMENTS.—Except as provided in subsection (f), the President shall impose 5 or more of the sanctions described in section 6(a) with respect to a person if the President determines that the person—

“(A) on or after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, exported or transferred, or permitted or otherwise facilitated the transshipment of, any goods, services, technology, or other items to any other person; and

“(B) knew or should have known that—

“(i) the export, transfer, or transshipment of the goods, services, technology, or other items would likely result in another person exporting, transferring, transshipping, or otherwise providing the goods, services, technology, or other items to Iran; and

“(ii) the export, transfer, transshipment, or other provision of the goods, services, technology, or other items to Iran would contribute materially to the ability of Iran to—

“(I) acquire or develop chemical, biological, or nuclear weapons or related technologies; or

“(II) acquire or develop destabilizing numbers and types of advanced conventional weapons.

“(2) JOINT VENTURES RELATING TO THE MINING, PRODUCTION, OR TRANSPORTATION OF URANIUM.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) or subsection (f), the President shall impose 5 or more of the sanctions described in section 6(a) with respect to a person if the President determines that the person knowingly participated, on or after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, in a joint venture that involves any activity relating to the mining, production, or transportation of uranium—

“(i)(I) established on or after February 2, 2012;

and

“(II) with—

“(aa) the Government of Iran;

“(bb) an entity incorporated in Iran or subject to the jurisdiction of the Government of Iran; or

“(cc) a person acting on behalf of or at the direction of, or owned or controlled by, the Government of Iran or an entity described in item (bb);

or

“(ii)(I) established before February 2, 2012;

“(II) with the Government of Iran, an entity described in item (bb) of clause (i)(II), or a person described in item (cc) of that clause; and

“(III) through which—

“(aa) uranium is transferred directly to Iran or indirectly to Iran through a third country;

“(bb) the Government of Iran receives significant revenue; or

“(cc) Iran could, through a direct operational role or by other means, receive technological knowledge or equipment not previously available to Iran that could contribute materially to the

ability of Iran to develop nuclear weapons or related technologies.

“(B) APPLICABILITY OF SANCTIONS.—Subparagraph (A) shall not apply with respect to participation in a joint venture established before the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012 if the person participating in the joint venture terminates that participation not later than the date that is 180 days after such date of enactment.”. Deadline.

(b) CONFORMING AMENDMENTS.—The Iran Sanctions Act of 1996, as amended by this section and sections 201 and 202, is further amended—

(1) in section 5—

(A) in paragraph (3) of subsection (b), as redesignated by subsection (a)(1) of this section—

(i) by striking “paragraph (1)” each place it appears and inserting “paragraph (1) or (2)”; and

(ii) in subparagraph (F)—

(I) by striking “that paragraph” and inserting “paragraph (1) or (2), as the case may be”; and

(II) by striking “the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010” and inserting “the Iran Threat Reduction and Syria Human Rights Act of 2012”;

(B) in subsection (c)—

(i) in the matter preceding paragraph (1), by striking “subsections (a) and (b)(1)” and inserting “subsection (a) and paragraphs (1) and (2) of subsection (b)”; and

(ii) in paragraph (1), by striking “subsection (a) or (b)(1)” and inserting “subsection (a) or paragraph (1) or (2) of subsection (b)”; and

(C) in subsection (f)—

(i) in the matter preceding paragraph (1), by striking “subsection (a) or (b)(1)” and inserting “subsection (a) or paragraph (1) or (2) of subsection (b)”; and

(ii) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(2) in section 9, by striking “section 5(a) or 5(b)(1)” each place it appears and inserting “subsection (a) or paragraph (1) or (2) of subsection (b) of section 5”.

**SEC. 204. EXPANSION OF SANCTIONS AVAILABLE UNDER THE IRAN SANCTIONS ACT OF 1996.**

(a) IN GENERAL.—Section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended—

(1) by redesignating paragraph (9) as paragraph (12); and

(2) by inserting after paragraph (8) the following:

“(9) BAN ON INVESTMENT IN EQUITY OR DEBT OF SANCTIONED PERSON.—The President may, pursuant to such regulations or guidelines as the President may prescribe, prohibit any United States person from investing in or purchasing significant amounts of equity or debt instruments of a sanctioned person.

“(10) EXCLUSION OF CORPORATE OFFICERS.—The President may direct the Secretary of State to deny a visa to, and the Secretary of Homeland Security to exclude from the United

States, any alien that the President determines is a corporate officer or principal of, or a shareholder with a controlling interest in, a sanctioned person.

“(11) SANCTIONS ON PRINCIPAL EXECUTIVE OFFICERS.—The President may impose on the principal executive officer or officers of any sanctioned person, or on persons performing similar functions and with similar authorities as such officer or officers, any of the sanctions under this subsection.”.

Applicability.  
50 USC 1701  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply with respect to activities described in subsections (a) and (b) of section 5 of the Iran Sanctions Act of 1996, as amended by this title, commenced on or after such date of enactment.

**SEC. 205. MODIFICATION OF WAIVER STANDARD UNDER THE IRAN SANCTIONS ACT OF 1996.**

Section 9(c) of the Iran Sanctions Act of 1996, as amended by section 203, is further amended by striking paragraph (1) and inserting the following:

Reports.

“(1) AUTHORITY.—

“(A) SANCTIONS RELATING TO THE ENERGY SECTOR OF IRAN.—The President may waive, on a case-by-case basis and for a period of not more than one year, the requirement in section 5(a) to impose a sanction or sanctions on a person described in section 5(c), and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 30 days or more after the President determines and so reports to the appropriate congressional committees that it is essential to the national security interests of the United States to exercise such waiver authority.

“(B) SANCTIONS RELATING TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—The President may waive, on a case-by-case basis and for a period of not more than one year, the requirement in paragraph (1) or (2) of section 5(b) to impose a sanction or sanctions on a person described in section 5(c), and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 30 days or more after the President determines and so reports to the appropriate congressional committees that it is vital to the national security interests of the United States to exercise such waiver authority.

“(C) RENEWAL OF WAIVERS.—The President may renew, on a case-by-case basis, a waiver with respect to a person under subparagraph (A) or (B) for additional one-year periods if, not later than 30 days before the waiver expires, the President makes the determination and submits to the appropriate congressional committees the report described in subparagraph (A) or (B), as applicable.”.

**SEC. 206. BRIEFINGS ON IMPLEMENTATION OF THE IRAN SANCTIONS ACT OF 1996.**

Section 4 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended by adding at the end the following:

Deadlines.

“(f) BRIEFINGS ON IMPLEMENTATION.—Not later than 90 days after the date of the enactment of the Iran Threat Reduction and



Syria Human Rights Act of 2012, and every 120 days thereafter, the President, acting through the Secretary of State, shall provide to the appropriate congressional committees a comprehensive briefing on efforts to implement this Act.”.

**SEC. 207. EXPANSION OF DEFINITIONS UNDER THE IRAN SANCTIONS ACT OF 1996.**

(a) IN GENERAL.—Section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended—

(1) by redesignating paragraphs (17) and (18) as paragraphs (20) and (21), respectively;

(2) by redesignating paragraphs (15) and (16) as paragraphs (17) and (18), respectively;

(3) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively;

(4) by inserting after paragraph (3) the following:

“(4) CREDIBLE INFORMATION.—The term ‘credible information’, with respect to a person—

“(A) includes—

“(i) a public announcement by the person that the person has engaged in an activity described in subsection (a) or (b) of section 5; and

“(ii) information set forth in a report to stockholders of the person indicating that the person has engaged in such an activity; and

“(B) may include, in the discretion of the President—

“(i) an announcement by the Government of Iran that the person has engaged in such an activity; or

“(ii) information indicating that the person has engaged in such an activity that is set forth in—

“(I) a report of the Government Accountability Office, the Energy Information Administration, or the Congressional Research Service; or

“(II) a report or publication of a similarly reputable governmental organization or trade or industry organization.”;

(5) by inserting after paragraph (15), as redesignated by paragraph (3), the following:

“(16) PETROCHEMICAL PRODUCT.—The term ‘petrochemical product’ includes any aromatic, olefin, or synthesis gas, and any derivative of such a gas, including ethylene, propylene, butadiene, benzene, toluene, xylene, ammonia, methanol, and urea.”; and

(6) by inserting after paragraph (18), as redesignated by paragraph (2), the following:

“(19) SERVICES.—The term ‘services’ includes software, hardware, financial, professional consulting, engineering, and specialized energy information services, energy-related technical assistance, and maintenance and repairs.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply with respect to activities described in subsections (a) and (b) of section 5 of the Iran Sanctions Act of 1996, as amended by this title, commenced on or after such date of enactment.

**SEC. 208. SENSE OF CONGRESS ON ENERGY SECTOR OF IRAN.**

It is the sense of Congress that—

(1) the energy sector of Iran remains a zone of proliferation concern since the Government of Iran continues to divert substantial revenues derived from sales of petroleum resources to finance its illicit nuclear and missile activities; and

(2) the President should apply the full range of sanctions under the Iran Sanctions Act of 1996, as amended by this Act, to address the threat posed by the Government of Iran.

## **Subtitle B—Additional Measures Relating to Sanctions Against Iran**

22 USC 8721.

### **SEC. 211. IMPOSITION OF SANCTIONS WITH RESPECT TO THE PROVISION OF VESSELS OR SHIPPING SERVICES TO TRANSPORT CERTAIN GOODS RELATED TO PROLIFERATION OR TERRORISM ACTIVITIES TO IRAN.**

(a) **IN GENERAL.**—Except as provided in subsection (c), if the President determines that a person, on or after the date of the enactment of this Act, knowingly sells, leases, or provides a vessel or provides insurance or reinsurance or any other shipping service for the transportation to or from Iran of goods that could materially contribute to the activities of the Government of Iran with respect to the proliferation of weapons of mass destruction or support for acts of international terrorism, the President shall, pursuant to Executive Order No. 13382 (70 Fed. Reg. 38567; relating to blocking of property of weapons of mass destruction proliferators and their supporters) or Executive Order No. 13224 (66 Fed. Reg. 49079; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism), or otherwise pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of the persons specified in subsection (b) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(b) **PERSONS SPECIFIED.**—The persons specified in this subsection are—

(1) the person that sold, leased, or provided a vessel or provided insurance or reinsurance or another shipping service described in subsection (a); and

(2) any person that—

(A) is a successor entity to the person referred to in paragraph (1);

(B) owns or controls the person referred to in paragraph (1), if the person that owns or controls the person referred to in paragraph (1) had actual knowledge or should have known that the person referred to in paragraph (1) sold, leased, or provided the vessel or provided the insurance or reinsurance or other shipping service; or

(C) is owned or controlled by, or under common ownership or control with, the person referred to in paragraph (1), if the person owned or controlled by, or under common ownership or control with (as the case may be), the person referred to in paragraph (1) knowingly engaged in the sale, lease, or provision of the vessel or the provision of the insurance or reinsurance or other shipping service.

(c) **WAIVER.**—The President may waive the requirement to impose sanctions with respect to a person under subsection (a) on or after the date that is 30 days after the President—

Time period.  
Reports.

(1) determines that such a waiver is vital to the national security interests of the United States; and

(2) submits to the appropriate congressional committees a report that contains the reasons for that determination.

(d) **REPORT REQUIRED.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of the Treasury, in coordination with the Secretary of State, shall submit to the appropriate congressional committees a report identifying operators of vessels and other persons that conduct or facilitate significant financial transactions with persons that manage ports in Iran that have been designated for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(2) **FORM OF REPORT.**—A report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(e) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to limit the authority of the President to designate persons for the imposition of sanctions pursuant to Executive Order No. 13382 (70 Fed. Reg. 38567; relating to the blocking of property of weapons of mass destruction proliferators and their supporters) or Executive Order No. 13224 (66 Fed. Reg. 49079; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism), or otherwise pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

**SEC. 212. IMPOSITION OF SANCTIONS WITH RESPECT TO PROVISION OF UNDERWRITING SERVICES OR INSURANCE OR REINSURANCE FOR THE NATIONAL IRANIAN OIL COMPANY OR THE NATIONAL IRANIAN TANKER COMPANY.**

22 USC 8722.

(a) **IN GENERAL.**—Except as provided in subsection (b), not later than 60 days after the date of the enactment of this Act, the President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996, as amended by section 204, with respect to a person if the President determines that the person knowingly, on or after such date of enactment, provides underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, or a successor entity to either such company.

Deadline.

(b) **EXCEPTIONS.**—

(1) **UNDERWRITERS AND INSURANCE PROVIDERS EXERCISING DUE DILIGENCE.**—The President is authorized not to impose sanctions under subsection (a) with respect to a person that provides underwriting services or insurance or reinsurance if the President determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not provide underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, or a successor entity to either such company.

(2) **FOOD; MEDICINE; HUMANITARIAN ASSISTANCE.**—The President may not impose sanctions under subsection (a) for the provision of underwriting services or insurance or reinsurance for any activity relating solely to—

(A) the provision of agricultural commodities, food, medicine, or medical devices to Iran; or

(B) the provision of humanitarian assistance to the people of Iran.

(3) **TERMINATION PERIOD.**—The President is authorized not to impose sanctions under subsection (a) with respect to a person if the President receives reliable assurances that the person will terminate the provision of underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, and any successor entity to either such company, not later than the date that is 120 days after the date of the enactment of this Act.

(c) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL COMMODITY.**—The term “agricultural commodity” has the meaning given that term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) **MEDICAL DEVICE.**—The term “medical device” has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(3) **MEDICINE.**—The term “medicine” has the meaning given the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(d) **APPLICATION OF PROVISIONS OF IRAN SANCTIONS ACT OF 1996.**—The following provisions of the Iran Sanctions Act of 1996, as amended by this Act, apply with respect to the imposition of sanctions under subsection (a) to the same extent that such provisions apply with respect to the imposition of sanctions under section 5(a) of the Iran Sanctions Act of 1996:

(1) Subsection (c) of section 4.

(2) Subsections (c), (d), and (f) of section 5.

(3) Section 8.

(4) Section 9.

(5) Section 11.

(6) Section 12.

(7) Subsection (b) of section 13.

(8) Section 14.

(e) **RULE OF CONSTRUCTION AND IMPLEMENTATION.**—Nothing in this section shall be construed to limit the authority of the President to impose sanctions pursuant to the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note), the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.), the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a), or any other provision of this Act.

22 USC 8723.

**SEC. 213. IMPOSITION OF SANCTIONS WITH RESPECT TO PURCHASE, SUBSCRIPTION TO, OR FACILITATION OF THE ISSUANCE OF IRANIAN SOVEREIGN DEBT.**

(a) **IN GENERAL.**—The President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996, as amended by section 204, with respect to a person if the President determines that the person knowingly, on or after

the date of the enactment of this Act, purchases, subscribes to, or facilitates the issuance of—

(1) sovereign debt of the Government of Iran issued on or after such date of enactment, including governmental bonds; or

(2) debt of any entity owned or controlled by the Government of Iran issued on or after such date of enactment, including bonds.

(b) APPLICATION OF PROVISIONS OF IRAN SANCTIONS ACT OF 1996.—The following provisions of the Iran Sanctions Act of 1996, as amended by this Act, apply with respect to the imposition of sanctions under subsection (a) to the same extent that such provisions apply with respect to the imposition of sanctions under section 5(a) of the Iran Sanctions Act of 1996:

(1) Subsection (c) of section 4.

(2) Subsections (c), (d), and (f) of section 5.

(3) Section 8.

(4) Section 9.

(5) Section 11.

(6) Section 12.

(7) Subsection (b) of section 13.

(8) Section 14.

**SEC. 214. IMPOSITION OF SANCTIONS WITH RESPECT TO SUBSIDIARIES AND AGENTS OF PERSONS SANCTIONED BY UNITED NATIONS SECURITY COUNCIL RESOLUTIONS.**

(a) IN GENERAL.—Section 104(c)(2)(B) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(B)) is amended—

(1) by striking “of a person subject” and inserting the following: “of—

“(i) a person subject”;

(2) in clause (i), as designated by paragraph (1), by striking the semicolon and inserting “; or”; and

(3) by adding at the end the following:

“(ii) a person acting on behalf of or at the direction of, or owned or controlled by, a person described in clause (i);”.

(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall make such revisions to the regulations prescribed under section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) as are necessary to carry out the amendments made by subsection (a).

Deadline.  
22 USC 8513  
note.

**SEC. 215. IMPOSITION OF SANCTIONS WITH RESPECT TO TRANSACTIONS WITH PERSONS SANCTIONED FOR CERTAIN ACTIVITIES RELATING TO TERRORISM OR PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.**

(a) IN GENERAL.—Section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)) is amended in the matter preceding subclause (I) by striking “financial institution” and inserting “person”.

(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall make such revisions to the regulations prescribed under section 104 of the Comprehensive Iran Sanctions, Accountability, and

Deadline.  
22 USC 8513  
note.

Divestment Act of 2010 (22 U.S.C. 8513) as are necessary to carry out the amendment made by subsection (a).

**SEC. 216. EXPANSION OF, AND REPORTS ON, MANDATORY SANCTIONS WITH RESPECT TO FINANCIAL INSTITUTIONS THAT ENGAGE IN CERTAIN ACTIVITIES RELATING TO IRAN.**

(a) **IN GENERAL.**—The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.) is amended by inserting after section 104 the following:

22 USC 8513b.

**“SEC. 104A. EXPANSION OF, AND REPORTS ON, MANDATORY SANCTIONS WITH RESPECT TO FINANCIAL INSTITUTIONS THAT ENGAGE IN CERTAIN ACTIVITIES.**

Regulations.  
Applicability.

“(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, the Secretary of the Treasury shall revise the regulations prescribed under section 104(c)(1) to apply to a foreign financial institution described in subsection (b) to the same extent and in the same manner as those regulations apply to a foreign financial institution that the Secretary of the Treasury finds knowingly engages in an activity described in section 104(c)(2).

“(b) **FOREIGN FINANCIAL INSTITUTIONS DESCRIBED.**—A foreign financial institution described in this subsection is a foreign financial institution, including an Iranian financial institution, that the Secretary of the Treasury finds—

“(1) knowingly facilitates, or participates or assists in, an activity described in section 104(c)(2), including by acting on behalf of, at the direction of, or as an intermediary for, or otherwise assisting, another person with respect to the activity;

“(2) attempts or conspires to facilitate or participate in such an activity; or

“(3) is owned or controlled by a foreign financial institution that the Secretary finds knowingly engages in such an activity.

“(c) **REPORTS REQUIRED.**—

“(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, and every 180 days thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that contains a detailed description of—

“(A) the effect of the regulations prescribed under section 104(c)(1) on the financial system and economy of Iran and capital flows to and from Iran; and

“(B) the ways in which funds move into and out of financial institutions described in section 104(c)(2)(E)(ii), with specific attention to the use of other Iranian financial institutions and other foreign financial institutions to receive and transfer funds for financial institutions described in that section.

“(2) **FORM OF REPORT.**—Each report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

“(d) **DEFINITIONS.**—In this section:

“(1) **FINANCIAL INSTITUTION.**—The term ‘financial institution’ means a financial institution specified in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (M), (N), (R), or (Y) of section 5312(a)(2) of title 31, United States Code.

“(2) FOREIGN FINANCIAL INSTITUTION.—The term ‘foreign financial institution’ has the meaning of that term as determined by the Secretary of the Treasury pursuant to section 104(i).

“(3) IRANIAN FINANCIAL INSTITUTION.—The term ‘Iranian financial institution’ means—

“(A) a financial institution organized under the laws of Iran or any jurisdiction within Iran, including a foreign branch of such an institution;

“(B) a financial institution located in Iran;

“(C) a financial institution, wherever located, owned or controlled by the Government of Iran; and

“(D) a financial institution, wherever located, owned or controlled by a financial institution described in subparagraph (A), (B), or (C).”.

(b) CLERICAL AMENDMENT.—The table of contents for the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 is amended by inserting after the item relating to section 104 the following:

“Sec. 104A. Expansion of, and reports on, mandatory sanctions with respect to financial institutions that engage in certain activities.”.

**SEC. 217. CONTINUATION IN EFFECT OF SANCTIONS WITH RESPECT TO THE GOVERNMENT OF IRAN, THE CENTRAL BANK OF IRAN, AND SANCTIONS EVADERS.**

22 USC 8724.

(a) SANCTIONS RELATING TO BLOCKING OF PROPERTY OF THE GOVERNMENT OF IRAN AND IRANIAN FINANCIAL INSTITUTIONS.—United States sanctions with respect to Iran provided for in Executive Order No. 13599 (77 Fed. Reg. 6659), as in effect on the day before the date of the enactment of this Act, shall remain in effect until the date that is 90 days after the date on which the President submits to the appropriate congressional committees the certification described in subsection (d).

Deadline.

(b) SANCTIONS RELATING TO FOREIGN SANCTIONS EVADERS.—United States sanctions with respect to Iran provided for in Executive Order No. 13608 (77 Fed. Reg. 26409), as in effect on the day before the date of the enactment of this Act, shall remain in effect until the date that is 30 days after the date on which the President submits to the appropriate congressional committees the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)).

Certification.

(c) CONTINUATION OF SANCTIONS WITH RESPECT TO THE CENTRAL BANK OF IRAN.—In addition to the sanctions referred to in subsection (a), the President shall continue to apply to the Central Bank of Iran sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), including blocking of property and restrictions or prohibitions on financial transactions and the exportation of property, until the date that is 90 days after the date on which the President submits to Congress the certification described in subsection (d).

Deadline.

(d) CERTIFICATION DESCRIBED.—

(1) IN GENERAL.—The certification described in this subsection is the certification of the President to Congress that the Central Bank of Iran is not—

(A) providing financial services in support of, or otherwise facilitating, the ability of Iran to—

- (i) acquire or develop chemical, biological, or nuclear weapons, or related technologies;
- (ii) construct, equip, operate, or maintain nuclear facilities that could aid Iran’s effort to acquire a nuclear capability; or
- (iii) acquire or develop ballistic missiles, cruise missiles, or destabilizing types and amounts of conventional weapons; or
- (B) facilitating transactions or providing financial services for—
  - (i) Iran’s Revolutionary Guard Corps; or
  - (ii) financial institutions the property or interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) in connection with—
    - (I) Iran’s proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction; or
    - (II) Iran’s support for international terrorism.

(2) SUBMISSION TO CONGRESS.—

(A) IN GENERAL.—The President shall submit the certification described in paragraph (1) to the appropriate congressional committees in writing and shall include a justification for the certification.

(B) FORM OF CERTIFICATION.—The certification described in paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the President pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.).

22 USC 8725.

**SEC. 218. LIABILITY OF PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY FOREIGN SUBSIDIARIES.**

(a) DEFINITIONS.—In this section:

(1) ENTITY.—The term “entity” means a partnership, association, trust, joint venture, corporation, or other organization.

(2) OWN OR CONTROL.—The term “own or control” means, with respect to an entity—

(A) to hold more than 50 percent of the equity interest by vote or value in the entity;

(B) to hold a majority of seats on the board of directors of the entity; or

(C) to otherwise control the actions, policies, or personnel decisions of the entity.

Deadline.

(b) PROHIBITION.—Not later than 60 days after the date of the enactment of this Act, the President shall prohibit an entity owned or controlled by a United States person and established or maintained outside the United States from knowingly engaging in any transaction directly or indirectly with the Government of Iran or any person subject to the jurisdiction of the Government of Iran that would be prohibited by an order or regulation issued pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) if the transaction were engaged in by a United States person or in the United States.



(c) **CIVIL PENALTY.**—The civil penalties provided for in section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1705(b)) shall apply to a United States person to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act if an entity owned or controlled by the United States person and established or maintained outside the United States violates, attempts to violate, conspires to violate, or causes a violation of any order or regulation issued to implement subsection (b).

Applicability.

(d) **APPLICABILITY.**—Subsection (c) shall not apply with respect to a transaction described in subsection (b) by an entity owned or controlled by a United States person and established or maintained outside the United States if the United States person divests or terminates its business with the entity not later than the date that is 180 days after the date of the enactment of this Act.

**SEC. 219. DISCLOSURES TO THE SECURITIES AND EXCHANGE COMMISSION RELATING TO SANCTIONABLE ACTIVITIES.**

(a) **IN GENERAL.**—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

“(r) **DISCLOSURE OF CERTAIN ACTIVITIES RELATING TO IRAN.**—

“(1) **IN GENERAL.**—Each issuer required to file an annual or quarterly report under subsection (a) shall disclose in that report the information required by paragraph (2) if, during the period covered by the report, the issuer or any affiliate of the issuer—

“(A) knowingly engaged in an activity described in subsection (a) or (b) of section 5 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note);

“(B) knowingly engaged in an activity described in subsection (c)(2) of section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) or a transaction described in subsection (d)(1) of that section;

“(C) knowingly engaged in an activity described in section 105A(b)(2) of that Act; or

“(D) knowingly conducted any transaction or dealing with—

“(i) any person the property and interests in property of which are blocked pursuant to Executive Order No. 13224 (66 Fed. Reg. 49079; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism);

“(ii) any person the property and interests in property of which are blocked pursuant to Executive Order No. 13382 (70 Fed. Reg. 38567; relating to blocking of property of weapons of mass destruction proliferators and their supporters); or

“(iii) any person or entity identified under section 560.304 of title 31, Code of Federal Regulations (relating to the definition of the Government of Iran) without the specific authorization of a Federal department or agency.

“(2) **INFORMATION REQUIRED.**—If an issuer or an affiliate of the issuer has engaged in any activity described in paragraph

(1), the issuer shall disclose a detailed description of each such activity, including—

“(A) the nature and extent of the activity;

“(B) the gross revenues and net profits, if any, attributable to the activity; and

“(C) whether the issuer or the affiliate of the issuer (as the case may be) intends to continue the activity.

“(3) NOTICE OF DISCLOSURES.—If an issuer reports under paragraph (1) that the issuer or an affiliate of the issuer has knowingly engaged in any activity described in that paragraph, the issuer shall separately file with the Commission, concurrently with the annual or quarterly report under subsection (a), a notice that the disclosure of that activity has been included in that annual or quarterly report that identifies the issuer and contains the information required by paragraph (2).

“(4) PUBLIC DISCLOSURE OF INFORMATION.—Upon receiving a notice under paragraph (3) that an annual or quarterly report includes a disclosure of an activity described in paragraph (1), the Commission shall promptly—

“(A) transmit the report to—

“(i) the President;

“(ii) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives; and

“(iii) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

Web posting.

“(B) make the information provided in the disclosure and the notice available to the public by posting the information on the Internet website of the Commission.

“(5) INVESTIGATIONS.—Upon receiving a report under paragraph (4) that includes a disclosure of an activity described in paragraph (1) (other than an activity described in subparagraph (D)(iii) of that paragraph), the President shall—

“(A) initiate an investigation into the possible imposition of sanctions under the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note), section 104 or 105A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, an Executive order specified in clause (i) or (ii) of paragraph (1)(D), or any other provision of law relating to the imposition of sanctions with respect to Iran, as applicable; and

Deadline.

“(B) not later than 180 days after initiating such an investigation, make a determination with respect to whether sanctions should be imposed with respect to the issuer or the affiliate of the issuer (as the case may be).

“(6) SUNSET.—The provisions of this subsection shall terminate on the date that is 30 days after the date on which the President makes the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)).”.

15 USC 78m  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to reports required to be filed with the Securities and Exchange Commission after the date that is 180 days after the date of the enactment of this Act.

**SEC. 220. REPORTS ON, AND AUTHORIZATION OF IMPOSITION OF SANCTIONS WITH RESPECT TO, THE PROVISION OF SPECIALIZED FINANCIAL MESSAGING SERVICES TO THE CENTRAL BANK OF IRAN AND OTHER SANCTIONED IRANIAN FINANCIAL INSTITUTIONS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that— 22 USC 8726.

(1) providers of specialized financial messaging services are a critical link to the international financial system;

(2) the European Union is to be commended for strengthening the multilateral sanctions regime against Iran by deciding that specialized financial messaging services may not be provided to the Central Bank of Iran and other sanctioned Iranian financial institutions by persons subject to the jurisdiction of the European Union; and

(3) the loss of access by sanctioned Iranian financial institutions to specialized financial messaging services must be maintained.

(b) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that contains—

(A) a list of all persons that the Secretary has identified that directly provide specialized financial messaging services to, or enable or facilitate direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution described in section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)); and

(B) a detailed assessment of the status of efforts by the Secretary to end the direct provision of such messaging services to, and the enabling or facilitation of direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution described in that section.

(2) ENABLING OR FACILITATION OF ACCESS TO SPECIALIZED FINANCIAL MESSAGING SERVICES THROUGH INTERMEDIARY FINANCIAL INSTITUTIONS.—For purposes of paragraph (1) and subsection (c), enabling or facilitating direct or indirect access to specialized financial messaging services for the Central Bank of Iran or a financial institution described in section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)) includes doing so by serving as an intermediary financial institution with access to such messaging services.

(3) FORM OF REPORT.—A report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(c) AUTHORIZATION OF IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), if, on or after the date that is 90 days after the date of the enactment of this Act, a person continues to knowingly and directly provide specialized financial messaging services to, or knowingly enable or facilitate direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution described in paragraph (2)(E)(ii) of section 104(c) of the Comprehensive Iran Sanctions, Accountability, and

Divestment Act of 2010 (22 U.S.C. 8513(c)), the President may impose sanctions pursuant to that section or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to the person.

(2) EXCEPTION.—The President may not impose sanctions pursuant to paragraph (1) with respect to a person for directly providing specialized financial messaging services to, or enabling or facilitating direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution described in section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)) if—

(A) the person is subject to a sanctions regime under its governing foreign law that requires it to eliminate the knowing provision of such messaging services to, and the knowing enabling and facilitation of direct or indirect access to such messaging services for—

(i) the Central Bank of Iran; and

(ii) a group of Iranian financial institutions identified under such governing foreign law for purposes of that sanctions regime if the President determines that—

(I) the group is substantially similar to the group of financial institutions described in section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)); and

(II) the differences between those groups of financial institutions do not adversely affect the national interest of the United States; and

(B) the person has, pursuant to that sanctions regime, terminated the knowing provision of such messaging services to, and the knowing enabling and facilitation of direct or indirect access to such messaging services for, the Central Bank of Iran and each Iranian financial institution identified under such governing foreign law for purposes of that sanctions regime.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the President pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.).

22 USC 8727.

**SEC. 221. IDENTIFICATION OF, AND IMMIGRATION RESTRICTIONS ON, SENIOR OFFICIALS OF THE GOVERNMENT OF IRAN AND THEIR FAMILY MEMBERS.**

Deadline.  
Publication.  
Lists.

(a) IDENTIFICATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall publish a list of each individual the President determines is—

(1) a senior official of the Government of Iran described in subsection (b) that is involved in Iran's—

(A) illicit nuclear activities or proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(B) support for international terrorism; or

(C) commission of serious human rights abuses against citizens of Iran or their family members; or  
(2) a family member of such an official.

(b) SENIOR OFFICIALS OF THE GOVERNMENT OF IRAN DESCRIBED.—A senior official of the Government of Iran described in this subsection is any senior official of that Government, including—

- (1) the Supreme Leader of Iran;
- (2) the President of Iran;
- (3) a member of the Cabinet of the Government of Iran;
- (4) a member of the Assembly of Experts;
- (5) a senior member of the Intelligence Ministry of Iran;

or

(6) a senior member of Iran’s Revolutionary Guard Corps, including a senior member of a paramilitary organization such as Ansar-e-Hezbollah or Basij-e Motaz’afin.

(c) EXCLUSION FROM UNITED STATES.—Except as provided in subsection (d), the Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who is on the list required by subsection (a).

(d) EXCEPTION TO COMPLY WITH UNITED NATIONS HEADQUARTERS AGREEMENT.—Subsection (c) shall not apply to an individual if admitting the individual to the United States is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, and other applicable international obligations.

(e) WAIVER.—The President may waive the application of subsection (a) or (c) with respect to an individual if the President—

(1) determines that such a waiver is essential to the national interests of the United States; and

(2) not less than 7 days before the waiver takes effect, notifies Congress of the waiver and the reason for the waiver.

Deadline.  
Notification.

**SEC. 222. SENSE OF CONGRESS AND RULE OF CONSTRUCTION RELATING TO CERTAIN AUTHORITIES OF STATE AND LOCAL GOVERNMENTS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should support actions by States or local governments that are within their authority, including determining how investment assets are valued for purposes of safety and soundness of financial institutions and insurers, that are consistent with and in furtherance of the purposes of this Act and other Acts that are amended by this Act.

(b) RULE OF CONSTRUCTION.—Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8532) is amended by adding at the end the following:

“(j) RULE OF CONSTRUCTION.—Nothing in this Act or any other provision of law authorizing sanctions with respect to Iran shall be construed to abridge the authority of a State to issue and enforce rules governing the safety, soundness, and solvency of a financial institution subject to its jurisdiction or the business of insurance pursuant to the Act of March 9, 1945 (15 U.S.C. 1011 et seq.) (commonly known as the ‘McCarran-Ferguson Act’).”.

**SEC. 223. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON FOREIGN ENTITIES THAT INVEST IN THE ENERGY SECTOR OF IRAN OR EXPORT REFINED PETROLEUM PRODUCTS TO IRAN.**

(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report—

(A) listing all foreign investors in the energy sector of Iran during the period specified in paragraph (2), including—

(i) entities that exported gasoline and other refined petroleum products to Iran;

(ii) entities involved in providing refined petroleum products to Iran, including—

(I) entities that provided ships to transport refined petroleum products to Iran; and

(II) entities that provided insurance or reinsurance for shipments of refined petroleum products to Iran; and

(iii) entities involved in commercial transactions of any kind, including joint ventures anywhere in the world, with Iranian energy companies; and

(B) identifying the countries in which gasoline and other refined petroleum products exported to Iran during the period specified in paragraph (2) were produced or refined.

(2) PERIOD SPECIFIED.—The period specified in this paragraph is the period beginning on January 1, 2009, and ending on the date that is 150 days after the date of the enactment of this Act.

Time period.

(b) UPDATED REPORT.—Not later than one year after submitting the report required by subsection (a), the Comptroller General of the United States shall submit to the appropriate congressional committees a report containing the matters required in the report under subsection (a)(1) for the one-year period beginning on the date that is 30 days before the date on which the preceding report was required to be submitted by this section.

**SEC. 224. REPORTING ON THE IMPORTATION TO AND EXPORTATION FROM IRAN OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS.**

Section 110(b) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8518(b)) is amended by striking “a report containing the matters” and all that follows through the period at the end and inserting the following: “a report, covering the 180-day period beginning on the date that is 30 days before the date on which the preceding report was required to be submitted by this section, that—

“(1) contains the matters required in the report under subsection (a)(1); and

“(2) identifies—

“(A) the volume of crude oil and refined petroleum products imported to and exported from Iran (including through swaps and similar arrangements);

“(B) the persons selling and transporting crude oil and refined petroleum products described in subparagraph (A), the countries with primary jurisdiction over those persons, and the countries in which those products were refined;

“(C) the sources of financing for imports to Iran of crude oil and refined petroleum products described in subparagraph (A); and

“(D) the involvement of foreign persons in efforts to assist Iran in—

“(i) developing upstream oil and gas production capacity;

“(ii) importing advanced technology to upgrade existing Iranian refineries;

“(iii) converting existing chemical plants to petroleum refineries; or

“(iv) maintaining, upgrading, or expanding existing refineries or constructing new refineries.”.

### **TITLE III—SANCTIONS WITH RESPECT TO IRAN’S REVOLUTIONARY GUARD CORPS**

President.  
Determinations.

#### **Subtitle A—Identification of, and Sanctions With Respect to, Officials, Agents, Affiliates, and Supporters of Iran’s Revolutionary Guard Corps and Other Sanctioned Persons**

##### **SEC. 301. IDENTIFICATION OF, AND IMPOSITION OF SANCTIONS WITH RESPECT TO, OFFICIALS, AGENTS, AND AFFILIATES OF IRAN’S REVOLUTIONARY GUARD CORPS.**

22 USC 8741.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and as appropriate thereafter, the President shall—

Deadline.

(1) identify foreign persons that are officials, agents, or affiliates of Iran’s Revolutionary Guard Corps; and

(2) for each foreign person identified under paragraph (1) that is not already designated for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)—

(A) designate that foreign person for the imposition of sanctions pursuant to that Act; and

(B) block and prohibit all transactions in all property and interests in property of that foreign person if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(b) PRIORITY FOR INVESTIGATION.—In identifying foreign persons pursuant to subsection (a)(1) as officials, agents, or affiliates of Iran’s Revolutionary Guard Corps, the President shall give priority to investigating—

(1) foreign persons or entities identified under section 560.304 of title 31, Code of Federal Regulations (relating to the definition of the Government of Iran); and

(2) foreign persons for which there is a reasonable basis to find that the person has conducted or attempted to conduct one or more sensitive transactions or activities described in subsection (c).

(c) SENSITIVE TRANSACTIONS AND ACTIVITIES DESCRIBED.—A sensitive transaction or activity described in this subsection is—

(1) a financial transaction or series of transactions valued at more than \$1,000,000 in the aggregate in any 12-month period involving a non-Iranian financial institution;

(2) a transaction to facilitate the manufacture, importation, exportation, or transfer of items needed for the development by Iran of nuclear, chemical, biological, or advanced conventional weapons, including ballistic missiles;

(3) a transaction relating to the manufacture, procurement, or sale of goods, services, and technology relating to Iran's energy sector, including a transaction relating to the development of the energy resources of Iran, the exportation of petroleum products from Iran, the importation of refined petroleum to Iran, or the development of refining capacity available to Iran;

(4) a transaction relating to the manufacture, procurement, or sale of goods, services, and technology relating to Iran's petrochemical sector; or

(5) a transaction relating to the procurement of sensitive technologies (as defined in section 106(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8515(c))).

(d) EXCLUSION FROM UNITED STATES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who, on or after the date of the enactment of this Act, is a foreign person designated pursuant to subsection (a) for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(2) REGULATORY EXCEPTIONS TO COMPLY WITH INTERNATIONAL OBLIGATIONS.—The requirement to deny visas to and exclude aliens from the United States pursuant to paragraph (1) shall be subject to such regulations as the President may prescribe, including regulatory exceptions to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, and other applicable international obligations.

(e) WAIVER OF IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—The President may waive the application of subsection (a) or (d) with respect to a foreign person if the President—

(A) determines that it is vital to the national security interests of the United States to do so; and

(B) submits to the appropriate congressional committees a report that—



(i) identifies the foreign person with respect to which the waiver applies; and

(ii) sets forth the reasons for the determination.

(2) FORM OF REPORT.—A report submitted under paragraph (1)(B) shall be submitted in unclassified form but may contain a classified annex.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to remove any sanction of the United States in force with respect to Iran’s Revolutionary Guard Corps as of the date of the enactment of this Act.

**SEC. 302. IDENTIFICATION OF, AND IMPOSITION OF SANCTIONS WITH RESPECT TO, PERSONS THAT SUPPORT OR CONDUCT CERTAIN TRANSACTIONS WITH IRAN’S REVOLUTIONARY GUARD CORPS OR OTHER SANCTIONED PERSONS.** 22 USC 8742.

(a) IDENTIFICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report identifying foreign persons that the President determines, on or after the date of the enactment of this Act, knowingly— Deadlines.

(A) materially assist, sponsor, or provide financial, material, or technological support for, or goods or services in support of, Iran’s Revolutionary Guard Corps or any of its officials, agents, or affiliates the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

(B) engage in a significant transaction or transactions with Iran’s Revolutionary Guard Corps or any of its officials, agents, or affiliates—

(i) the property and interests in property of which are blocked pursuant to that Act; or

(ii) that are identified under section 301(a)(1) or pursuant to paragraph (4)(A) of section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by section 312; or

(C) engage in a significant transaction or transactions with—

(i) a person subject to financial sanctions pursuant to United Nations Security Council Resolution 1737 (2006), 1747 (2007), 1803 (2008), or 1929 (2010), or any other resolution that is adopted by the Security Council and imposes sanctions with respect to Iran or modifies such sanctions; or

(ii) a person acting on behalf of or at the direction of, or owned or controlled by, a person described in clause (i).

(2) FORM OF REPORT.—A report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(3) BARTER TRANSACTIONS.—For purposes of paragraph (1), the term “transaction” includes a barter transaction.

(b) IMPOSITION OF SANCTIONS.—If the President determines under subsection (a)(1) that a foreign person has knowingly engaged in an activity described in that subsection, the President—

(1) shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996, as amended by section 204; and

(2) may impose additional sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to the person.

(c) TERMINATION.—The President may terminate a sanction imposed with respect to a foreign person pursuant to subsection (b) if the President determines that the person—

(1) no longer engages in the activity for which the sanction was imposed; and

(2) has provided assurances to the President that the person will not engage in any activity described in subsection (a)(1) in the future.

(d) WAIVER OF IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—The President may waive the imposition of sanctions under subsection (b) with respect to a foreign person if the President—

(A)(i) determines that the person has ceased the activity for which sanctions would otherwise be imposed and has taken measures to prevent a recurrence of the activity; or

(ii) determines that it is essential to the national security interests of the United States to do so; and

(B) submits to the appropriate congressional committees a report that—

(i) identifies the foreign person with respect to which the waiver applies;

(ii) describes the activity that would otherwise subject the foreign person to the imposition of sanctions under subsection (b); and

(iii) sets forth the reasons for the determination.

(2) FORM OF REPORT.—A report submitted under paragraph (1)(B) shall be submitted in unclassified form but may contain a classified annex.

(e) WAIVER OF IDENTIFICATIONS AND DESIGNATIONS.—Notwithstanding any other provision of this subtitle and subject to paragraph (2), the President shall not be required to make any identification of a foreign person under subsection (a) or any identification or designation of a foreign person under section 301(a) if the President—

(1) determines that doing so would cause damage to the national security of the United States; and

(2) notifies the appropriate congressional committees of the exercise of the authority provided under this subsection.

(f) APPLICATION OF PROVISIONS OF IRAN SANCTIONS ACT OF 1996.—The following provisions of the Iran Sanctions Act of 1996, as amended by this Act, apply with respect to the imposition under subsection (b)(1) of sanctions relating to activities described in subsection (a)(1) to the same extent that such provisions apply with respect to the imposition of sanctions under section 5(a) of the Iran Sanctions Act of 1996:

(1) Subsections (c) and (e) of section 4.

(2) Subsections (c), (d), and (f) of section 5.

(3) Section 8.

(4) Section 9.

(5) Section 11.

Reports.

Notification.

- (6) Section 12.
- (7) Subsection (b) of section 13.
- (8) Section 14.

**SEC. 303. IDENTIFICATION OF, AND IMPOSITION OF MEASURES WITH RESPECT TO, FOREIGN GOVERNMENT AGENCIES CARRYING OUT ACTIVITIES OR TRANSACTIONS WITH CERTAIN IRAN-AFFILIATED PERSONS.** 22 USC 8743.

(a) IDENTIFICATION.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report that identifies each agency of the government of a foreign country (other than Iran) that the President determines knowingly and materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, or knowingly and materially engaged in a significant transaction with, any person described in paragraph (2). Deadlines.  
Reports.

(2) PERSON DESCRIBED.—A person described in this paragraph is—

(A) a foreign person that is an official, agent, or affiliate of Iran’s Revolutionary Guard Corps that is designated for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

(B) a foreign person that is designated and subject to financial sanctions pursuant to—

(i) the Annex of United Nations Security Council Resolution 1737 (2006);

(ii) Annex I of United Nations Security Council Resolution 1747 (2007);

(iii) Annex I, II, or III of United Nations Security Council Resolution 1803 (2008);

(iv) Annex I, II, or III of United Nations Security Council Resolution 1929 (2010); or

(v) any subsequent and related United Nations Security Council resolution, or any annex thereto, that imposes new sanctions with respect to Iran or modifies existing sanctions with respect to Iran; or

(C) a foreign person that the agency knows is acting on behalf of or at the direction of, or owned or controlled by, a person described in subparagraph (A) or (B).

(3) FORM OF REPORT.—Each report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(b) IMPOSITION OF MEASURES.—

(1) IN GENERAL.—The President may impose any of the following measures with respect to an agency identified pursuant to subsection (a) if the President determines that the assistance, exports, or other support to be prohibited by reason of the imposition of the measures have contributed and would otherwise directly or indirectly contribute to the agency’s capability to continue the activities or transactions for which the agency has been identified pursuant to subsection (a):

(A) No assistance may be provided to the agency under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et

seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) other than humanitarian assistance or the provision of food or other agricultural commodities.

(B) No sales of any defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.) may be made to the agency.

(C) No licenses for export of any item on the United States Munitions List that include the agency as a party to the license may be granted.

(D) No exports may be permitted to the agency of any goods or technologies controlled for national security reasons under the Export Administration Regulations, except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

(E) The United States shall oppose any loan or financial or technical assistance to the agency by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(F) The United States shall deny to the agency any credit or financial assistance by any department, agency, or instrumentality of the United States Government, except that this paragraph shall not apply—

(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities);

(ii) to the provision of medicines, medical equipment, and humanitarian assistance; or

(iii) to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodities.

(G) Additional restrictions as may be imposed pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to impose measures with respect to programs under section 1501 of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2632 note) and programs under the Atomic Energy Defense Act (50 U.S.C. 2501 et seq.).

(c) **TERMINATION.**—The President may terminate any measures imposed with respect to an agency pursuant to subsection (b) if the President determines and notifies the appropriate congressional committees that—

(1)(A) a person described in subparagraph (A) or (B) of subsection (a)(2) with respect to which the agency is carrying out activities or transactions is no longer designated pursuant to subparagraph (A) or (B) of subsection (a)(2); or

(B) any person described in subparagraph (C) of subsection (a)(2) with respect to which the agency is carrying out activities or transactions is no longer acting on behalf of or at the direction of, or owned or controlled by, any person described in subparagraph (A) or (B) of subsection (a)(2);

Notification.

(2) the agency is no longer carrying out activities or transactions for which the measures were imposed and has provided assurances to the United States Government that the agency will not carry out the activities or transactions in the future; or

(3) it is essential to the national security interest of the United States to terminate such measures.

(d) **WAIVER.**—If the President does not impose one or more measures described in subsection (b) with respect to an agency identified in the report required by subsection (a), the President shall include in the subsequent report an explanation as to why the President did not impose such measures.

(e) **DEFINITION.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Appropriations, the Committee on Armed Services, the Committee on Financial Services, the Committee on Ways and Means, and the Permanent Select Committee on Intelligence of the House of Representatives.

(f) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act and apply with respect to activities and transactions described in subsection (a) that are carried out on or after the later of—

Applicability.

(1) the date that is 45 days after such date of enactment; or

(2) the date that is 45 days after a person is designated as described in subparagraph (A) or (B) of subsection (a)(2).

**SEC. 304. RULE OF CONSTRUCTION.**

22 USC 8744.

Nothing in this subtitle shall be construed to limit the authority of the President to designate foreign persons for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

## **Subtitle B—Additional Measures Relating to Iran’s Revolutionary Guard Corps**

**SEC. 311. EXPANSION OF PROCUREMENT PROHIBITION TO FOREIGN PERSONS THAT ENGAGE IN CERTAIN TRANSACTIONS WITH IRAN’S REVOLUTIONARY GUARD CORPS.**

(a) **IN GENERAL.**—Section 6(b)(1) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended—

(1) by striking “Not later than 90 days” and inserting the following:

“(A) CERTIFICATIONS RELATING TO ACTIVITIES DESCRIBED IN SECTION 5.—Not later than 90 days”; and

(2) by adding at the end the following:

“(B) CERTIFICATIONS RELATING TO TRANSACTIONS WITH IRAN’S REVOLUTIONARY GUARD CORPS.—Not later than 120 days after the date of the enactment of the Iran Threat

Deadline.

Reduction and Syria Human Rights Act of 2012, the Federal Acquisition Regulation shall be revised to require a certification from each person that is a prospective contractor that the person, and any person owned or controlled by the person, does not knowingly engage in a significant transaction or transactions with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6(b) of the Iran Sanctions Act of 1996, as amended by subsection (a), is further amended—

(A) in subparagraph (A) of paragraph (1), as designated by subsection (a)(1), by striking “issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)”;

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking “the revision” and inserting “the applicable revision”; and

(II) by striking “not more than 3 years” and inserting “not less than 2 years”; and

(ii) in subparagraph (B), by striking “issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)”;

(C) in paragraph (5), by striking “in the national interest” and inserting “essential to the national security interests”;

(D) by striking paragraph (6) and inserting the following:

“(6) DEFINITIONS.—In this subsection:

“(A) EXECUTIVE AGENCY.—The term ‘executive agency’ has the meaning given that term in section 133 of title 41, United States Code.

“(B) FEDERAL ACQUISITION REGULATION.—The term ‘Federal Acquisition Regulation’ means the regulation issued pursuant to section 1303(a)(1) of title 41, United States Code.”; and

(E) in paragraph (7)—

(i) by striking “The revisions to the Federal Acquisition Regulation required under paragraph (1)” and inserting the following:

“(A) CERTIFICATIONS RELATING TO ACTIVITIES DESCRIBED IN SECTION 5.—The revisions to the Federal Acquisition Regulation required under paragraph (1)(A)”;

and

(ii) by adding at the end the following:

“(B) CERTIFICATIONS RELATING TO TRANSACTIONS WITH IRAN’S REVOLUTIONARY GUARD CORPS.—The revisions to the Federal Acquisition Regulation required under paragraph (1)(B) shall apply with respect to contracts for which solicitations are issued on or after the date that is 120 days after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012.”.

(2) Section 101(3) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8511(3))

Applicability.  
Effective date.

is amended by striking “section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)” and inserting “section 133 of title 41, United States Code”.

**SEC. 312. DETERMINATIONS OF WHETHER THE NATIONAL IRANIAN OIL COMPANY AND THE NATIONAL IRANIAN TANKER COMPANY ARE AGENTS OR AFFILIATES OF IRAN’S REVOLUTIONARY GUARD CORPS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the National Iranian Oil Company and the National Iranian Tanker Company are not only owned and controlled by the Government of Iran but that those companies provide significant support to Iran’s Revolutionary Guard Corps and its affiliates.

(b) DETERMINATIONS.—Section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)) is amended by adding at the end the following:

“(4) DETERMINATIONS REGARDING NIOC AND NITC.—

“(A) DETERMINATIONS.—For purposes of paragraph (2)(E), the Secretary of the Treasury shall, not later than 45 days after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012—

Deadline.

“(i) determine whether the NIOC or the NITC is an agent or affiliate of Iran’s Revolutionary Guard Corps; and

“(ii) submit to the appropriate congressional committees a report on the determinations made under clause (i), together with the reasons for those determinations.

“(B) FORM OF REPORT.—A report submitted under subparagraph (A)(ii) shall be submitted in unclassified form but may contain a classified annex.

“(C) APPLICABILITY WITH RESPECT TO PETROLEUM TRANSACTIONS.—

“(i) APPLICATION OF SANCTIONS.—Except as provided in clause (ii), if the Secretary of the Treasury determines that the NIOC or the NITC is a person described in clause (i) or (ii) of paragraph (2)(E), the regulations prescribed under paragraph (1) shall apply with respect to a significant transaction or transactions or significant financial services knowingly facilitated or provided by a foreign financial institution for the NIOC or the NITC, as applicable, for the purchase of petroleum or petroleum products from Iran, only if a determination of the President under section 1245(d)(4)(B) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(4)(B)) that there is a sufficient supply of petroleum and petroleum products produced in countries other than Iran to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran is in effect at the time of the transaction or the provision of the service.

“(ii) EXCEPTION FOR CERTAIN COUNTRIES.—If the Secretary of the Treasury determines that the NIOC or the NITC is a person described in clause (i) or (ii) of paragraph (2)(E), the regulations prescribed under paragraph (1) shall not apply to a significant

transaction or transactions or significant financial services knowingly facilitated or provided by a foreign financial institution for the NIOC or the NITC, as applicable, for the purchase of petroleum or petroleum products from Iran if an exception under paragraph (4)(D) of section 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)) applies to the country with primary jurisdiction over the foreign financial institution at the time of the transaction or the provision of the service.

“(iii) RULE OF CONSTRUCTION.—The exceptions in clauses (i) and (ii) shall not be construed to limit the authority of the Secretary of the Treasury to impose sanctions pursuant to the regulations prescribed under paragraph (1) for an activity described in paragraph (2) to the extent the activity would meet the criteria described in that paragraph in the absence of the involvement of the NIOC or the NITC.

“(D) DEFINITIONS.—In this paragraph:

“(i) NIOC.—The term ‘NIOC’ means the National Iranian Oil Company.

“(ii) NITC.—The term ‘NITC’ means the National Iranian Tanker Company.”.

(c) CONFORMING AMENDMENTS.—

(1) WAIVER.—Section 104(f) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(f)) is amended by inserting “or section 104A” after “subsection (c)”.

(2) CLASSIFIED INFORMATION.—Section 104(g) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(g)) is amended by striking “subsection (c)(1)” and inserting “paragraph (1) or (4) of subsection (c) or section 104A” both places it appears.

(d) APPLICABILITY.—

(1) IN GENERAL.—If an exception to sanctions described in clause (i) or (ii) of paragraph (4)(C) of section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by subsection (b), applies to a person that engages in a transaction described in paragraph (2) at the time of the transaction, the President is authorized not to impose sanctions with respect to the transaction under—

(A) section 302(b)(1);

(B) section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by section 216; or

(C) any other applicable provision of law authorizing the imposition of sanctions with respect to Iran.

(2) TRANSACTION DESCRIBED.—A transaction described in this paragraph is a transaction—

(A) solely for the purchase of petroleum or petroleum products from Iran; and

(B) for which sanctions may be imposed solely as a result of the involvement of the National Iranian Oil Company or the National Iranian Tanker Company in the transaction under—

(i) section 302(b)(1);



(ii) section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by section 216; or

(iii) any other applicable provision of law authorizing the imposition of sanctions with respect to Iran.

## **TITLE IV—MEASURES RELATING TO HUMAN RIGHTS ABUSES IN IRAN**

### **Subtitle A—Expansion of Sanctions Relating to Human Rights Abuses in Iran**

#### **SEC. 401. IMPOSITION OF SANCTIONS ON CERTAIN PERSONS RESPONSIBLE FOR OR COMPLICIT IN HUMAN RIGHTS ABUSES COMMITTED AGAINST CITIZENS OF IRAN OR THEIR FAMILY MEMBERS AFTER THE JUNE 12, 2009, ELECTIONS IN IRAN.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Supreme Leader of Iran, the President of Iran, senior members of the Intelligence Ministry of Iran, senior members of Iran's Revolutionary Guard Corps, Ansar-e-Hezbollah and Basij-e-Mostaz'afin, and the Ministers of Defense, Interior, Justice, and Telecommunications are ultimately responsible for ordering, controlling, or otherwise directing a pattern and practice of serious human rights abuses against the Iranian people, and thus the President should include such persons on the list of persons who are responsible for or complicit in committing serious human rights abuses and subject to sanctions pursuant to section 105 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8514).

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a detailed report with respect to whether each person described in subsection (a) is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing the commission of serious human rights abuses against citizens of Iran or their family members on or after June 12, 2009, regardless of whether such abuses occurred in Iran. For any such person who is not included in such report, the Secretary of State should describe in the report the reasons why the person was not included, including information on whether sufficient credible evidence of responsibility for such abuses was found.

(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(3) DEFINITION.—In this subsection, the term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives.

President.

**SEC. 402. IMPOSITION OF SANCTIONS WITH RESPECT TO THE TRANSFER OF GOODS OR TECHNOLOGIES TO IRAN THAT ARE LIKELY TO BE USED TO COMMIT HUMAN RIGHTS ABUSES.**

(a) IN GENERAL.—The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.) is amended by inserting after section 105 the following:

22 USC 8514a.

**“SEC. 105A. IMPOSITION OF SANCTIONS WITH RESPECT TO THE TRANSFER OF GOODS OR TECHNOLOGIES TO IRAN THAT ARE LIKELY TO BE USED TO COMMIT HUMAN RIGHTS ABUSES.**

“(a) IN GENERAL.—The President shall impose sanctions in accordance with subsection (c) with respect to each person on the list required by subsection (b).

“(b) LIST.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, the President shall submit to the appropriate congressional committees a list of persons that the President determines have knowingly engaged in an activity described in paragraph (2) on or after such date of enactment.

“(2) ACTIVITY DESCRIBED.—

“(A) IN GENERAL.—A person engages in an activity described in this paragraph if the person—

“(i) transfers, or facilitates the transfer of, goods or technologies described in subparagraph (C) to Iran, any entity organized under the laws of Iran or otherwise subject to the jurisdiction of the Government of Iran, or any national of Iran, for use in or with respect to Iran; or

“(ii) provides services (including services relating to hardware, software, and specialized information, and professional consulting, engineering, and support services) with respect to goods or technologies described in subparagraph (C) after such goods or technologies are transferred to Iran.

“(B) APPLICABILITY TO CONTRACTS AND OTHER AGREEMENTS.—A person engages in an activity described in subparagraph (A) without regard to whether the activity is carried out pursuant to a contract or other agreement entered into before, on, or after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012.

“(C) GOODS OR TECHNOLOGIES DESCRIBED.—Goods or technologies described in this subparagraph are goods or technologies that the President determines are likely to be used by the Government of Iran or any of its agencies or instrumentalities (or by any other person on behalf of the Government of Iran or any of such agencies or instrumentalities) to commit serious human rights abuses against the people of Iran, including—

“(i) firearms or ammunition (as those terms are defined in section 921 of title 18, United States Code), rubber bullets, police batons, pepper or chemical sprays, stun grenades, electroshock weapons, tear gas, water cannons, or surveillance technology; or

“(ii) sensitive technology (as defined in section 106(c)).

“(3) SPECIAL RULE TO ALLOW FOR TERMINATION OF SANCTIONABLE ACTIVITY.—The President shall not be required to include a person on the list required by paragraph (1) if the President certifies in writing to the appropriate congressional committees that—

“(A) the person is no longer engaging in, or has taken significant verifiable steps toward stopping, the activity described in paragraph (2) for which the President would otherwise have included the person on the list; and

“(B) the President has received reliable assurances that the person will not knowingly engage in any activity described in paragraph (2) in the future.

“(4) UPDATES OF LIST.—The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

“(A) each time the President is required to submit an updated list to those committees under section 105(b)(2)(A); and

“(B) as new information becomes available.

“(5) FORM OF REPORT; PUBLIC AVAILABILITY.—

“(A) FORM.—The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

“(B) PUBLIC AVAILABILITY.—The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

“(c) APPLICATION OF SANCTIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), the President shall impose sanctions described in section 105(c) with respect to a person on the list required by subsection (b).

“(2) TRANSFERS TO IRAN’S REVOLUTIONARY GUARD CORPS.—In the case of a person on the list required by subsection (b) for transferring, or facilitating the transfer of, goods or technologies described in subsection (b)(2)(C) to Iran’s Revolutionary Guard Corps, or providing services with respect to such goods or technologies after such goods or technologies are transferred to Iran’s Revolutionary Guard Corps, the President shall—

“(A) impose sanctions described in section 105(c) with respect to the person; and

“(B) impose such other sanctions from among the sanctions described in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) as the President determines appropriate.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Comprehensive Iran Sanctions, Accountability, and Divestment Act of

2010 is amended by inserting after the item relating to section 105 the following:

“Sec. 105A. Imposition of sanctions with respect to the transfer of goods or technologies to Iran that are likely to be used to commit human rights abuses.”.

President.

**SEC. 403. IMPOSITION OF SANCTIONS WITH RESPECT TO PERSONS WHO ENGAGE IN CENSORSHIP OR OTHER RELATED ACTIVITIES AGAINST CITIZENS OF IRAN.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) satellite service providers and other entities that have direct contractual arrangements to provide satellite services to the Government of Iran or entities owned or controlled by that Government should cease providing broadcast services to that Government and those entities unless that Government ceases activities intended to jam or restrict satellite signals; and

(2) the United States should address the illegal jamming of satellite signals by the Government of Iran through the voice and vote of the United States in the United Nations International Telecommunications Union.

(b) IMPOSITION OF SANCTIONS.—The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.), as amended by section 402, is further amended by inserting after section 105A the following:

22 USC 8514b.

**“SEC. 105B. IMPOSITION OF SANCTIONS WITH RESPECT TO PERSONS WHO ENGAGE IN CENSORSHIP OR OTHER RELATED ACTIVITIES AGAINST CITIZENS OF IRAN.**

“(a) IN GENERAL.—The President shall impose sanctions described in section 105(c) with respect to each person on the list required by subsection (b).

“(b) LIST OF PERSONS WHO ENGAGE IN CENSORSHIP.—

Deadline.  
Determination.

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of the Iran Threat Reduction and Syria Human Rights Act of 2012, the President shall submit to the appropriate congressional committees a list of persons that the President determines have, on or after June 12, 2009, engaged in censorship or other activities with respect to Iran that—

“(A) prohibit, limit, or penalize the exercise of freedom of expression or assembly by citizens of Iran; or

“(B) limit access to print or broadcast media, including the facilitation or support of intentional frequency manipulation by the Government of Iran or an entity owned or controlled by that Government that would jam or restrict an international signal.

“(2) UPDATES OF LIST.—The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

“(A) each time the President is required to submit an updated list to those committees under section 105(b)(2)(A); and

“(B) as new information becomes available.

“(3) FORM OF REPORT; PUBLIC AVAILABILITY.—

“(A) FORM.—The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

“(B) PUBLIC AVAILABILITY.—The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.”.

Web posting.

(c) CLERICAL AMENDMENT.—The table of contents for the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as amended by section 402, is further amended by inserting after the item relating to section 105A the following:

“Sec. 105B. Imposition of sanctions with respect to persons who engage in censorship or other related activities against citizens of Iran.”.

(d) CONFORMING AMENDMENTS.—Section 401(b)(1) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(b)(1)) is amended—

- (1) by inserting “, 105A(a), or 105B(a)” after “105(a)”; and
- (2) by inserting “, 105A(b), or 105B(b)” after “105(b)”.

## Subtitle B—Additional Measures to Promote Human Rights

### SEC. 411. CODIFICATION OF SANCTIONS WITH RESPECT TO GRAVE HUMAN RIGHTS ABUSES BY THE GOVERNMENTS OF IRAN AND SYRIA USING INFORMATION TECHNOLOGY.

22 USC 8751.

United States sanctions with respect to Iran and Syria provided for in Executive Order No. 13606 (77 Fed. Reg. 24571), as in effect on the day before the date of the enactment of this Act, shall remain in effect—

Deadlines.

(1) with respect to Iran, until the date that is 30 days after the date on which the President submits to Congress the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)); and

President.  
Certification.

(2) with respect to Syria, until the date on which the provisions of and sanctions imposed pursuant to title VII terminate pursuant to section 706.

### SEC. 412. CLARIFICATION OF SENSITIVE TECHNOLOGIES FOR PURPOSES OF PROCUREMENT BAN UNDER COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2010.

22 USC 8752.

The Secretary of State shall—

(1) not later than 90 days after the date of the enactment of this Act, issue guidelines to further describe the technologies that may be considered “sensitive technology” for purposes of section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8515), with special attention to new forms of sophisticated jamming, monitoring, and surveillance technology relating to mobile telecommunications and the Internet, and publish those guidelines in the Federal Register;

Deadline.  
Guidelines.  
Federal Register,  
publication.

(2) determine the types of technologies that enable any indigenous capabilities that Iran has to disrupt and monitor

Determination.

	information and communications in that country, and consider adding descriptions of those items to the guidelines; and
Review.	(3) periodically review, but in no case less than once each year, the guidelines and, if necessary, amend the guidelines on the basis of technological developments and new information regarding transfers of technologies to Iran and the development of Iran's indigenous capabilities to disrupt and monitor information and communications in Iran.
22 USC 8753.	<b>SEC. 413. EXPEDITED CONSIDERATION OF REQUESTS FOR AUTHORIZATION OF CERTAIN HUMAN RIGHTS-, HUMANITARIAN-, AND DEMOCRACY-RELATED ACTIVITIES WITH RESPECT TO IRAN.</b>
Process.	(a) REQUIREMENT.—The Office of Foreign Assets Control, in consultation with the Department of State, shall establish an expedited process for the consideration of complete requests for authorization to engage in human rights-, humanitarian-, or democracy-related activities relating to Iran that are submitted by— <ol style="list-style-type: none"> <li>(1) entities receiving funds from the Department of State to engage in the proposed activity;</li> <li>(2) the Broadcasting Board of Governors; and</li> <li>(3) other appropriate agencies of the United States Government.</li> </ol>
Disclosure. Records.	(b) PROCEDURES.—Requests for authorization under subsection (a) shall be submitted to the Office of Foreign Assets Control in conformance with the Office's regulations, including section 501.801 of title 31, Code of Federal Regulations (commonly known as the Reporting, Procedures and Penalties Regulations). Applicants shall fully disclose the parties to the transactions as well as describe the activities to be undertaken. License applications involving the exportation or reexportation of goods, technology, or software to Iran shall include a copy of an official Commodity Classification issued by the Department of Commerce, Bureau of Industry and Security, as part of the license application.
Deadline.	(c) FOREIGN POLICY REVIEW.—The Department of State shall complete a foreign policy review of a request for authorization under subsection (a) not later than 30 days after the request is referred to the Department by the Office of Foreign Assets Control.
Deadline.	(d) LICENSE DETERMINATIONS.—License determinations for complete requests for authorization under subsection (a) shall be made not later than 90 days after receipt by the Office of Foreign Assets Control, with the following exceptions: <ol style="list-style-type: none"> <li>(1) Any requests involving the exportation or reexportation to Iran of goods, technology, or software listed on the Commerce Control List maintained pursuant to part 774 of title 15, Code of Federal Regulations, shall be processed in a manner consistent with the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484) and other applicable provisions of law.</li> <li>(2) Any other requests presenting unusual or extraordinary circumstances.</li> </ol>
	(e) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as are appropriate to carry out this section.
22 USC 8754.	<b>SEC. 414. COMPREHENSIVE STRATEGY TO PROMOTE INTERNET FREEDOM AND ACCESS TO INFORMATION IN IRAN.</b>
Deadline.	Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary

of the Treasury and the heads of other Federal agencies, as appropriate, shall submit to the appropriate congressional committees a comprehensive strategy to—

- (1) assist the people of Iran to produce, access, and share information freely and safely via the Internet, including in Farsi and regional languages;
- (2) support the development of counter-censorship technologies that enable the citizens of Iran to undertake Internet activities without interference from the Government of Iran;
- (3) increase the capabilities and availability of secure mobile and other communications through connective technology among human rights and democracy activists in Iran;
- (4) provide resources for digital safety training for media and academic and civil society organizations in Iran;
- (5) provide accurate and substantive Internet content in local languages in Iran;
- (6) increase emergency resources for the most vulnerable human rights advocates seeking to organize, share information, and support human rights in Iran;
- (7) expand surrogate radio, television, live stream, and social network communications inside Iran, including—
  - (A) by expanding Voice of America’s Persian News Network and Radio Free Europe/Radio Liberty’s Radio Farda to provide hourly live news update programming and breaking news coverage capability 24 hours a day and 7 days a week; and
  - (B) by assisting telecommunications and software companies that are United States persons to comply with the export licensing requirements of the United States for the purpose of expanding such communications inside Iran;
- (8) expand activities to safely assist and train human rights, civil society, and democracy activists in Iran to operate effectively and securely;
- (9) identify and utilize all available resources to overcome attempts by the Government of Iran to jam or otherwise deny international satellite broadcasting signals;
- (10) expand worldwide United States embassy and consulate programming for and outreach to Iranian dissident communities;
- (11) expand access to proxy servers for democracy activists in Iran; and
- (12) discourage telecommunications and software companies from facilitating Internet censorship by the Government of Iran.

**SEC. 415. STATEMENT OF POLICY ON POLITICAL PRISONERS.**

22 USC 8755.

It shall be the policy of the United States—

- (1) to support efforts to research and identify prisoners of conscience and cases of human rights abuses in Iran;
- (2) to offer refugee status or political asylum in the United States to political dissidents in Iran if requested and consistent with the laws and national security interests of the United States;
- (3) to offer to assist, through the United Nations High Commissioner for Refugees, with the relocation of such political prisoners to other countries if requested, as appropriate and

with appropriate consideration for the national security interests of the United States; and

(4) to publicly call for the release of Iranian dissidents by name and raise awareness with respect to individual cases of Iranian dissidents and prisoners of conscience, as appropriate and if requested by the dissidents or prisoners themselves or their families.

## TITLE V—MISCELLANEOUS

22 USC 8771.

### **SEC. 501. EXCLUSION OF CITIZENS OF IRAN SEEKING EDUCATION RELATING TO THE NUCLEAR AND ENERGY SECTORS OF IRAN.**

Determination.

(a) **IN GENERAL.**—The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who is a citizen of Iran that the Secretary of State determines seeks to enter the United States to participate in coursework at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to prepare the alien for a career in the energy sector of Iran or in nuclear science or nuclear engineering or a related field in Iran.

(b) **APPLICABILITY.**—Subsection (a) applies with respect to visa applications filed on or after the date of the enactment of this Act.

22 USC 8772.

### **SEC. 502. INTERESTS IN CERTAIN FINANCIAL ASSETS OF IRAN.**

(a) **INTERESTS IN BLOCKED ASSETS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), notwithstanding any other provision of law, including any provision of law relating to sovereign immunity, and preempting any inconsistent provision of State law, a financial asset that is—

(A) held in the United States for a foreign securities intermediary doing business in the United States;

(B) a blocked asset (whether or not subsequently unblocked) that is property described in subsection (b); and

(C) equal in value to a financial asset of Iran, including an asset of the central bank or monetary authority of the Government of Iran or any agency or instrumentality of that Government, that such foreign securities intermediary or a related intermediary holds abroad, shall be subject to execution or attachment in aid of execution in order to satisfy any judgment to the extent of any compensatory damages awarded against Iran for damages for personal injury or death caused by an act of torture, extrajudicial killing, aircraft sabotage, or hostage-taking, or the provision of material support or resources for such an act.

(2) **COURT DETERMINATION REQUIRED.**—In order to ensure that Iran is held accountable for paying the judgments described in paragraph (1) and in furtherance of the broader goals of this Act to sanction Iran, prior to an award turning over any asset pursuant to execution or attachment in aid of execution with respect to any judgments against Iran described in paragraph (1), the court shall determine whether Iran holds equitable title to, or the beneficial interest in, the



assets described in subsection (b) and that no other person possesses a constitutionally protected interest in the assets described in subsection (b) under the Fifth Amendment to the Constitution of the United States. To the extent the court determines that a person other than Iran holds—

(A) equitable title to, or a beneficial interest in, the assets described in subsection (b) (excluding a custodial interest of a foreign securities intermediary or a related intermediary that holds the assets abroad for the benefit of Iran); or

(B) a constitutionally protected interest in the assets described in subsection (b),

such assets shall be available only for execution or attachment in aid of execution to the extent of Iran's equitable title or beneficial interest therein and to the extent such execution or attachment does not infringe upon such constitutionally protected interest.

(b) **FINANCIAL ASSETS DESCRIBED.**—The financial assets described in this section are the financial assets that are identified in and the subject of proceedings in the United States District Court for the Southern District of New York in *Peterson et al. v. Islamic Republic of Iran et al.*, Case No. 10 Civ. 4518 (BSJ) (GWG), that were restrained by restraining notices and levies secured by the plaintiffs in those proceedings, as modified by court order dated June 27, 2008, and extended by court orders dated June 23, 2009, May 10, 2010, and June 11, 2010, so long as such assets remain restrained by court order.

(c) **RULES OF CONSTRUCTION.**—Nothing in this section shall be construed—

(1) to affect the availability, or lack thereof, of a right to satisfy a judgment in any other action against a terrorist party in any proceedings other than proceedings referred to in subsection (b); or

(2) to apply to assets other than the assets described in subsection (b), or to preempt State law, including the Uniform Commercial Code, except as expressly provided in subsection (a)(1).

(d) **DEFINITIONS.**—In this section:

(1) **BLOCKED ASSET.**—The term “blocked asset”—

(A) means any asset seized or frozen by the United States under section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) or under section 202 or 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701 and 1702); and

(B) does not include property that—

(i) is subject to a license issued by the United States Government for final payment, transfer, or disposition by or to a person subject to the jurisdiction of the United States in connection with a transaction for which the issuance of the license has been specifically required by a provision of law other than the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.); or

(ii) is property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, or that enjoys equivalent privileges

and immunities under the laws of the United States, and is being used exclusively for diplomatic or consular purposes.

(2) **FINANCIAL ASSET; SECURITIES INTERMEDIARY.**—The terms “financial asset” and “securities intermediary” have the meanings given those terms in the Uniform Commercial Code, but the former includes cash.

(3) **IRAN.**—The term “Iran” means the Government of Iran, including the central bank or monetary authority of that Government and any agency or instrumentality of that Government.

(4) **PERSON.**—

(A) **IN GENERAL.**—The term “person” means an individual or entity.

(B) **ENTITY.**—The term “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

(5) **TERRORIST PARTY.**—The term “terrorist party” has the meaning given that term in section 201(d) of the Terrorism Risk Insurance Act of 2002 (28 U.S.C. 1610 note).

(6) **UNITED STATES.**—The term “United States” includes all territory and waters, continental, or insular, subject to the jurisdiction of the United States.

(e) **TECHNICAL CHANGES TO THE FOREIGN SOVEREIGN IMMUNITIES ACT.**—

(1) **TITLE 28, UNITED STATES CODE.**—Section 1610 of title 28, United States Code, is amended—

(A) in subsection (a)(7), by inserting after “section 1605A” the following: “or section 1605(a)(7) (as such section was in effect on January 27, 2008)”; and

(B) in subsection (b)—

(i) in paragraph (2)—

(I) by striking “(5), 1605(b), or 1605A” and inserting “(5) or 1605(b)”; and

(II) by striking the period at the end and inserting “, or”; and

(ii) by adding after paragraph (2) the following: “(3) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605A of this chapter or section 1605(a)(7) of this chapter (as such section was in effect on January 27, 2008), regardless of whether the property is or was involved in the act upon which the claim is based.”

(2) **TERRORISM RISK INSURANCE ACT OF 2002.**—Section 201(a) of the Terrorism Risk Insurance Act of 2002 (28 U.S.C. 1610 note) is amended by striking “section 1605(a)(7)” and inserting “section 1605A or 1605(a)(7) (as such section was in effect on January 27, 2008)”.

**SEC. 503. TECHNICAL CORRECTIONS TO SECTION 1245 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012.**

(a) **EXCEPTION FOR SALES OF AGRICULTURAL COMMODITIES.**—

(1) **IN GENERAL.**—Section 1245(d)(2) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(2)) is amended—

(A) in the paragraph heading, by inserting “AGRICULTURAL COMMODITIES,” after “SALES OF”; and

(B) in the text, by inserting “agricultural commodities,” after “sale of”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1298). 22 USC 8513a note.

(b) REPORT OF ENERGY INFORMATION ADMINISTRATION.—

(1) IN GENERAL.—Section 1245(d)(4)(A) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(4)(A)) is amended—

(A) by striking “60 days after the date of the enactment of this Act, and every 60 days thereafter” and inserting “October 25, 2012, and the last Thursday of every other month thereafter”; and

(B) by striking “60-day period” and inserting “2-month period”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on September 1, 2012. 22 USC 8513a note.

**SEC. 504. EXPANSION OF SANCTIONS UNDER SECTION 1245 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012.**

(a) IN GENERAL.—Section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a), as amended by section 503, is further amended—

(1) in subsection (d)—

(A) in paragraph (3), by striking “a foreign financial institution owned or controlled by the government of a foreign country, including”; and

(B) in paragraph (4)(D)—

(i) by striking “Sanctions imposed” and inserting the following:

“(i) IN GENERAL.—Sanctions imposed”;

(ii) in clause (i), as designated by clause (i) of this subparagraph—

(I) by striking “a foreign financial institution” and inserting “a financial transaction described in clause (ii) conducted or facilitated by a foreign financial institution”;

(II) by striking “institution has significantly” and inserting “institution—

“(I) has significantly reduced”;

(III) by striking the period at the end and inserting “; or”; and

(IV) by adding at the end the following:

“(II) in the case of a country that has previously received an exception under this subparagraph, has, after receiving the exception, reduced its crude oil purchases from Iran to zero.”; and

(iii) by adding at the end the following:

“(ii) FINANCIAL TRANSACTIONS DESCRIBED.—A financial transaction conducted or facilitated by a foreign financial institution is described in this clause if—

“(I) the financial transaction is only for trade in goods or services between the country with primary jurisdiction over the foreign financial institution and Iran; and

“(II) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.”;

(2) in subsection (h)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

Definition.

“(3) **SIGNIFICANT REDUCTIONS.**—The terms ‘reduce significantly’, ‘significant reduction’, and ‘significantly reduced’, with respect to purchases from Iran of petroleum and petroleum products, include a reduction in such purchases in terms of price or volume toward a complete cessation of such purchases.”; and

(3) by adding at the end the following:

“(i) **TERMINATION.**—The provisions of this section shall terminate on the date that is 30 days after the date on which the President submits to Congress the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)).”.

Applicability.  
22 USC 8513a  
note.

(b) **EFFECTIVE DATE.**—The amendments made by paragraphs (1) and (2) of subsection (a) shall apply with respect to financial transactions conducted or facilitated on or after the date that is 180 days after the date of the enactment of this Act.

#### **SEC. 505. REPORTS ON NATURAL GAS EXPORTS FROM IRAN.**

(a) **REPORT BY ENERGY INFORMATION ADMINISTRATION.**—Not later than 60 days after the date of the enactment of this Act, the Administrator of the Energy Information Administration shall submit to the President and the appropriate congressional committees a report on the natural gas sector of Iran that includes—

(1) an assessment of exports of natural gas from Iran;

(2) an identification of the countries that purchase the most natural gas from Iran;

(3) an assessment of alternative supplies of natural gas available to those countries;

(4) an assessment of the impact a reduction in exports of natural gas from Iran would have on global natural gas supplies and the price of natural gas, especially in countries identified under paragraph (2); and

(5) such other information as the Administrator considers appropriate.

(b) **REPORT BY PRESIDENT.**—

(1) **IN GENERAL.**—Not later than 60 days after receiving the report required by subsection (a), the President shall, relying on information in that report, submit to the appropriate congressional committees a report that includes—

(A) an assessment of—

(i) the extent to which revenues from exports of natural gas from Iran are still enriching the Government of Iran;

(ii) whether a sanctions regime similar to the sanctions regime imposed with respect to purchases of

petroleum and petroleum products from Iran pursuant to section 1245 of the National Defense Authorization Act for Fiscal Year 2012, as amended by sections 503 and 504, or other measures could be applied effectively to exports of natural gas from Iran;

(iii) the geostrategic implications of a reduction in exports of natural gas from Iran, including the impact of such a reduction on the countries identified under subsection (a)(2);

(iv) alternative supplies of natural gas available to those countries; and

(v) the impact a reduction in exports of natural gas from Iran would have on global natural gas supplies and the price of natural gas and the impact, if any, on swap arrangements for natural gas in place between Iran and neighboring countries; and

(B) specific recommendations with respect to measures designed to limit the revenue received by the Government of Iran from exports of natural gas; and

(C) any other information the President considers appropriate.

(2) FORM OF REPORT.—Each report required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

**SEC. 506. REPORT ON MEMBERSHIP OF IRAN IN INTERNATIONAL ORGANIZATIONS.** 22 USC 8773.

Not later than 180 days after the date of the enactment of this Act, and not later than September 1 of each year thereafter, the Secretary of State shall submit to the appropriate congressional committees a report listing the international organizations of which Iran is a member and detailing the amount that the United States contributes to each such organization on an annual basis.

**SEC. 507. SENSE OF CONGRESS ON EXPORTATION OF GOODS, SERVICES, AND TECHNOLOGIES FOR AIRCRAFT PRODUCED IN THE UNITED STATES.**

It is the sense of Congress that licenses to export or reexport goods, services, or technologies for aircraft produced in the United States should be provided only in situations in which such licenses are truly essential and in a manner consistent with the laws and foreign policy goals of the United States.

## **TITLE VI—GENERAL PROVISIONS**

**SEC. 601. IMPLEMENTATION; PENALTIES.**

22 USC 8781.

(a) IMPLEMENTATION.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out—

(1) sections 211, 212, 213, 217, 218, 220, 312, and 411, subtitle A of title III, and title VII;

(2) section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by section 312; and

(3) sections 105A and 105B of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by subtitle A of title IV.

(b) **PENALTIES.**—

(1) **IN GENERAL.**—The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of a provision specified in paragraph (2) of this subsection, or an order or regulation prescribed under such a provision, to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act.

(2) **PROVISIONS SPECIFIED.**—The provisions specified in this paragraph are the following:

(A) Sections 211, 212, 213, and 220, subtitle A of title III, and title VII.

(B) Sections 105A and 105B of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by subtitle A of title IV.

22 USC 8782.

**SEC. 602. APPLICABILITY TO CERTAIN INTELLIGENCE ACTIVITIES.**

Nothing in this Act or the amendments made by this Act shall apply to the authorized intelligence activities of the United States.

22 USC 8783.

**SEC. 603. APPLICABILITY TO CERTAIN NATURAL GAS PROJECTS.**

(a) **EXCEPTION FOR CERTAIN NATURAL GAS PROJECTS.**—Nothing in this Act or the amendments made by this Act shall apply to any activity relating to a project—

(1) for the development of natural gas and the construction and operation of a pipeline to transport natural gas from Azerbaijan to Turkey and Europe;

(2) that provides to Turkey and countries in Europe energy security and energy independence from the Government of the Russian Federation and other governments with jurisdiction over persons subject to sanctions imposed under this Act or amendments made by this Act; and

(3) that was initiated before the date of the enactment of this Act pursuant to a production-sharing agreement, or an ancillary agreement necessary to further a production-sharing agreement, entered into with, or a license granted by, the government of a country other than Iran before such date of enactment.

(b) **TERMINATION OF EXCEPTION.**—

(1) **IN GENERAL.**—The exception under subsection (a) shall not apply with respect to a project described in that subsection on or after the date on which the President certifies to the appropriate congressional committees that—

(A) the percentage of the equity interest in the project held by or on behalf of an entity described in paragraph (2) has increased relative to the percentage of the equity interest in the project held by or on behalf of such an entity on January 1, 2002; or

(B) an entity described in paragraph (2) has assumed an operational role in the project.

(2) **ENTITY DESCRIBED.**—An entity described in this paragraph is—

Certification.

(A) an entity—

(i) owned or controlled by the Government of Iran or identified under section 560.304 of title 31, Code of Federal Regulations (relating to the definition of the Government of Iran); or

(ii) organized under the laws of Iran or with the participation or approval of the Government of Iran;

(B) an entity owned or controlled by an entity described in subparagraph (A); or

(C) a successor entity to an entity described in subparagraph (A).

**SEC. 604. RULE OF CONSTRUCTION WITH RESPECT TO USE OF FORCE AGAINST IRAN AND SYRIA.** 22 USC 8784.

Nothing in this Act or the amendments made by this Act shall be construed as a declaration of war or an authorization of the use of force against Iran or Syria.

**SEC. 605. TERMINATION.**

22 USC 8785.

(a) **IN GENERAL.**—The provisions of sections 211, 212, 213, 218, 220, 221, and 501, title I, and subtitle A of title III shall terminate on the date that is 30 days after the date on which the President makes the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)).

(b) **AMENDMENT TO TERMINATION DATE OF COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2010.**—Section 401(a)(2) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)(2)) is amended by inserting “, and verifiably dismantled its,” after “development of”.

## **TITLE VII—SANCTIONS WITH RESPECT TO HUMAN RIGHTS ABUSES IN SYRIA**

Syria Human Rights Accountability Act of 2012. President. Determinations. 22 USC 8701 note.

**SEC. 701. SHORT TITLE.**

This title may be cited as the “Syria Human Rights Accountability Act of 2012”.

**SEC. 702. IMPOSITION OF SANCTIONS WITH RESPECT TO CERTAIN PERSONS WHO ARE RESPONSIBLE FOR OR COMPLICIT IN HUMAN RIGHTS ABUSES COMMITTED AGAINST CITIZENS OF SYRIA OR THEIR FAMILY MEMBERS.**

22 USC 8791.

(a) **IN GENERAL.**—The President shall impose sanctions described in subsection (c) with respect to each person on the list required by subsection (b).

(b) **LIST OF PERSONS WHO ARE RESPONSIBLE FOR OR COMPLICIT IN CERTAIN HUMAN RIGHTS ABUSES.**—

(1) **IN GENERAL.**—Not later than 120 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a list of persons who are officials of the Government of Syria or persons acting on behalf of that Government that the President determines, based on credible evidence, are responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against citizens

Deadline.

of Syria or their family members, regardless of whether such abuses occurred in Syria.

(2) **UPDATES OF LIST.**—The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

Deadlines.

(A) not later than 300 days after the date of the enactment of this Act and every 180 days thereafter; and

(B) as new information becomes available.

(3) **FORM OF REPORT; PUBLIC AVAILABILITY.**—

(A) **FORM.**—The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

Web posting.

(B) **PUBLIC AVAILABILITY.**—The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

(4) **CONSIDERATION OF DATA FROM OTHER COUNTRIES AND NONGOVERNMENTAL ORGANIZATIONS.**—In preparing the list required by paragraph (1), the President shall consider credible data already obtained by other countries and nongovernmental organizations, including organizations in Syria, that monitor the human rights abuses of the Government of Syria.

(c) **SANCTIONS DESCRIBED.**—The sanctions described in this subsection are sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), including blocking of property and restrictions or prohibitions on financial transactions and the exportation of property, subject to such regulations as the President may prescribe.

22 USC 8792.

**SEC. 703. IMPOSITION OF SANCTIONS WITH RESPECT TO THE TRANSFER OF GOODS OR TECHNOLOGIES TO SYRIA THAT ARE LIKELY TO BE USED TO COMMIT HUMAN RIGHTS ABUSES.**

(a) **IN GENERAL.**—The President shall impose sanctions described in section 702(c) with respect to—

(1) each person on the list required by subsection (b); and

(2) any person that—

(A) is a successor entity to a person on the list;

(B) owns or controls a person on the list, if the person that owns or controls the person on the list had actual knowledge or should have known that the person on the list engaged in the activity described in subsection (b)(2) for which the person was included in the list; or

(C) is owned or controlled by, or under common ownership or control with, the person on the list, if the person owned or controlled by, or under common ownership or control with (as the case may be), the person on the list knowingly engaged in the activity described in subsection (b)(2) for which the person was included in the list.

(b) **LIST.**—

Deadline.

(1) **IN GENERAL.**—Not later than 120 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a list of persons that the President determines have knowingly engaged in an activity described in paragraph (2) on or after such date of enactment.

(2) **ACTIVITY DESCRIBED.**—



(A) IN GENERAL.—A person engages in an activity described in this paragraph if the person—

(i) transfers, or facilitates the transfer of, goods or technologies described in subparagraph (C) to Syria; or

(ii) provides services with respect to goods or technologies described in subparagraph (C) after such goods or technologies are transferred to Syria.

(B) APPLICABILITY TO CONTRACTS AND OTHER AGREEMENTS.—A person engages in an activity described in subparagraph (A) without regard to whether the activity is carried out pursuant to a contract or other agreement entered into before, on, or after the date of the enactment of this Act.

(C) GOODS OR TECHNOLOGIES DESCRIBED.—Goods or technologies described in this subparagraph are goods or technologies that the President determines are likely to be used by the Government of Syria or any of its agencies or instrumentalities to commit human rights abuses against the people of Syria, including—

(i) firearms or ammunition (as those terms are defined in section 921 of title 18, United States Code), rubber bullets, police batons, pepper or chemical sprays, stun grenades, electroshock weapons, tear gas, water cannons, or surveillance technology; or

(ii) sensitive technology.

(D) SENSITIVE TECHNOLOGY DEFINED.—

(i) IN GENERAL.—For purposes of subparagraph (C), the term “sensitive technology” means hardware, software, telecommunications equipment, or any other technology, that the President determines is to be used specifically—

(I) to restrict the free flow of unbiased information in Syria; or

(II) to disrupt, monitor, or otherwise restrict speech of the people of Syria.

(ii) EXCEPTION.—The term “sensitive technology” does not include information or informational materials the exportation of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

(3) SPECIAL RULE TO ALLOW FOR TERMINATION OF SANCTIONABLE ACTIVITY.—The President shall not be required to include a person on the list required by paragraph (1) if the President certifies in writing to the appropriate congressional committees that—

(A) the person is no longer engaging in, or has taken significant verifiable steps toward stopping, the activity described in paragraph (2) for which the President would otherwise have included the person on the list; and

(B) the President has received reliable assurances that the person will not knowingly engage in any activity described in paragraph (2) in the future.

(4) UPDATES OF LIST.—The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

Certification.

Deadlines.	<p>(A) not later than 300 days after the date of the enactment of this Act and every 180 days thereafter; and</p> <p>(B) as new information becomes available.</p> <p>(5) FORM OF REPORT; PUBLIC AVAILABILITY.—</p> <p>(A) FORM.—The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.</p>
Web posting.	<p>(B) PUBLIC AVAILABILITY.—The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.</p>
22 USC 8793.	<p><b>SEC. 704. IMPOSITION OF SANCTIONS WITH RESPECT TO PERSONS WHO ENGAGE IN CENSORSHIP OR OTHER FORMS OF REPRESSION IN SYRIA.</b></p> <p>(a) IN GENERAL.—The President shall impose sanctions described in section 702(c) with respect to each person on the list required by subsection (b).</p> <p>(b) LIST OF PERSONS WHO ENGAGE IN CENSORSHIP.—</p>
Deadline.	<p>(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a list of persons that the President determines have engaged in censorship, or activities relating to censorship, in a manner that prohibits, limits, or penalizes the legitimate exercise of freedom of expression by citizens of Syria.</p> <p>(2) UPDATES OF LIST.—The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—</p>
Deadlines.	<p>(A) not later than 300 days after the date of the enactment of this Act and every 180 days thereafter; and</p> <p>(B) as new information becomes available.</p> <p>(3) FORM OF REPORT; PUBLIC AVAILABILITY.—</p> <p>(A) FORM.—The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.</p>
Web posting.	<p>(B) PUBLIC AVAILABILITY.—The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.</p>
22 USC 8794.	<p><b>SEC. 705. WAIVER.</b></p> <p>The President may waive the requirement to include a person on a list required by section 702, 703, or 704 or to impose sanctions pursuant to any such section if the President—</p> <p>(1) determines that such a waiver is in the national security interests of the United States; and</p> <p>(2) submits to the appropriate congressional committees a report on the reasons for that determination.</p>
22 USC 8795.	<p><b>SEC. 706. TERMINATION.</b></p> <p>(a) IN GENERAL.—The provisions of this title and any sanctions imposed pursuant to this title shall terminate on the date on which the President submits to the appropriate congressional committees—</p> <p>(1) the certification described in subsection (b); and</p> <p>(2) a certification that—</p>
Certification.	

(A) the Government of Syria is democratically elected and representative of the people of Syria; or

(B) a legitimate transitional government of Syria is in place.

(b) CERTIFICATION DESCRIBED.—A certification described in this subsection is a certification by the President that the Government of Syria—

(1) has unconditionally released all political prisoners;

(2) has ceased its practices of violence, unlawful detention, torture, and abuse of citizens of Syria engaged in peaceful political activity;

(3) has ceased its practice of procuring sensitive technology designed to restrict the free flow of unbiased information in Syria, or to disrupt, monitor, or otherwise restrict the right of citizens of Syria to freedom of expression;

(4) has ceased providing support for foreign terrorist organizations and no longer allows such organizations, including Hamas, Hezbollah, and Palestinian Islamic Jihad, to maintain facilities in territory under the control of the Government of Syria; and

(5) has ceased the development and deployment of medium- and long-range surface-to-surface ballistic missiles;

(6) is not pursuing or engaged in the research, development, acquisition, production, transfer, or deployment of biological, chemical, or nuclear weapons, and has provided credible assurances that it will not engage in such activities in the future; and

(7) has agreed to allow the United Nations and other international observers to verify that the Government of Syria is not engaging in such activities and to assess the credibility of the assurances provided by that Government.

(c) SUSPENSION OF SANCTIONS AFTER ELECTION OF DEMOCRATIC GOVERNMENT.—If the President submits to the appropriate congressional committees the certification described in subsection (a)(2), the President may suspend the provisions of this title and any sanctions imposed under this title for not more than 180 days to allow time for a certification described in subsection (b) to be submitted.

Approved August 10, 2012.

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LEGISLATIVE HISTORY—H.R. 1905:

CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 13, 14, considered and passed House.

Vol. 158 (2012): May 21, considered and passed Senate, amended.

Aug. 1, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.



Public Law 112–159  
112th Congress

An Act

Aug. 10, 2012  
[H.R. 3276]

To designate the facility of the United States Postal Service located at 2810 East Hillsborough Avenue in Tampa, Florida, as the “Reverend Abe Brown Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REVEREND ABE BROWN POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 2810 East Hillsborough Avenue in Tampa, Florida, shall be known and designated as the “Reverend Abe Brown Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Reverend Abe Brown Post Office Building”.

Approved August 10, 2012.

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**LEGISLATIVE HISTORY—H.R. 3276:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 26, 28, considered and passed House.

Aug. 1, considered and passed Senate.



Public Law 112–160  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 1421 Veterans Memorial Drive in Abbeville, Louisiana, as the “Sergeant Richard Franklin Abshire Post Office Building”.

Aug. 10, 2012  
[H.R. 3412]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SERGEANT RICHARD FRANKLIN ABSHIRE POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1421 Veterans Memorial Drive in Abbeville, Louisiana, shall be known and designated as the “Sergeant Richard Franklin Abshire Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Sergeant Richard Franklin Abshire Post Office Building”.

Approved August 10, 2012.

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**LEGISLATIVE HISTORY—H.R. 3412:**

CONGRESSIONAL RECORD, Vol. 158 (2012):  
June 26, 28, considered and passed House.  
Aug. 1, considered and passed Senate.



Public Law 112–161  
112th Congress

An Act

Aug. 10, 2012  
[H.R. 3501]

To designate the facility of the United States Postal Service located at 125 Kerr Avenue in Rome City, Indiana, as the “SPC Nicholas Scott Hartge Post Office”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SPC NICHOLAS SCOTT HARTGE POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 125 Kerr Avenue in Rome City, Indiana, shall be known and designated as the “SPC Nicholas Scott Hartge Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “SPC Nicholas Scott Hartge Post Office”.

Approved August 10, 2012.

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**LEGISLATIVE HISTORY—H.R. 3501:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 26, 28, considered and passed House.

Aug. 1, considered and passed Senate.



Public Law 112–162  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 150 South Union Street in Canton, Mississippi, as the “First Sergeant Landres Cheeks Post Office Building”.

Aug. 10, 2012  
[H.R. 3772]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FIRST SERGEANT LANDRES CHEEKS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 150 South Union Street in Canton, Mississippi, shall be known and designated as the “First Sergeant Landres Cheeks Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “First Sergeant Landres Cheeks Post Office Building”.

Approved August 10, 2012.

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LEGISLATIVE HISTORY—H.R. 3772:

CONGRESSIONAL RECORD, Vol. 158 (2012):  
June 26, 28, considered and passed House.  
Aug. 1, considered and passed Senate.



Public Law 112–163  
112th Congress

An Act

Aug. 10, 2012  
[H.R. 5986]

To amend the African Growth and Opportunity Act to extend the third-country fabric program and to add South Sudan to the list of countries eligible for designation under that Act, to make technical corrections to the Harmonized Tariff Schedule of the United States relating to the textile and apparel rules of origin for the Dominican Republic-Central America-United States Free Trade Agreement, to approve the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENTS TO AFRICAN GROWTH AND OPPORTUNITY ACT.**

(a) EXTENSION OF THIRD-COUNTRY FABRIC PROGRAM.—Section 112(c)(1) of the African Growth and Opportunity Act (19 U.S.C. 3721(c)(1)) is amended—

(1) in the paragraph heading, by striking “2012” and inserting “2015”;

(2) in subparagraph (A), by striking “2012” and inserting “2015”; and

(3) in subparagraph (B)(ii), by striking “2012” and inserting “2015”.

(b) ADDITION OF SOUTH SUDAN.—Section 107 of that Act (19 U.S.C. 3706) is amended by inserting after “Republic of South Africa (South Africa).” the following:

“Republic of South Sudan (South Sudan).”

(c) CONFORMING AMENDMENT.—Section 102(2) of that Act (19 U.S.C. 3701(2)) is amended by striking “48”.

19 USC 3701  
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 2. MODIFICATIONS TO TEXTILE AND APPAREL RULES OF ORIGIN FOR THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT.**

(a) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term “Agreement” has the meaning given the term in section 3(1) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4002(1)).

(2) CAFTA–DR COUNTRY.—The term “CAFTA–DR country” has the meaning given the term in section 3(2) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4002(2)).

(3) HTS.—The term “HTS” means the Harmonized Tariff Schedule of the United States.



(4) TRADE REPRESENTATIVE.—The term “Trade Representative” means the United States Trade Representative.

(b) MODIFICATIONS TO THE TEXTILE AND APPAREL RULES OF ORIGIN.—

(1) INTERPRETATION AND APPLICATION OF RULES OF ORIGIN.—Subdivision (m)(viii) of general note 29 of the HTS is amended as follows:

(A) The matter following subdivision (A)(2) is amended by striking the second sentence and inserting the following: “Any elastomeric yarn (except latex) contained in the originating yarns referred to in subdivision (A)(2) must be formed in the territory of one or more of the parties to the Agreement.”.

(B) Subdivision (B) is amended—

(i) in the matter preceding subdivision (B)(1), by striking “exclusive of collars and cuffs where applicable,” and inserting “exclusive of collars, cuffs and ribbed waistbands (only if the ribbed waistband is present in combination with cuffs and identical in fabric construction to the cuffs) where applicable,”;

(ii) in subdivision (B)(2), by inserting “or knit to shape components” after “one or more fabrics”;

(iii) by amending subdivision (B)(3) to read as follows:

“(3) any combination of the fabrics referred to in subdivision (B)(1), the fabrics or knit to shape components referred to in subdivision (B)(2), or one or more fabrics or knit to shape components originating under this note.”; and

(iv) in the matter following subdivision (B)(3), by striking the last sentence and inserting the following: “Any elastomeric yarn (except latex) contained in an originating fabric or knit to shape component referred to in subdivision (B)(3) must be formed in the territory of one or more of the parties to the Agreement.”.

(C) Subdivision (C) is amended—

(i) in subdivision (C)(2), by inserting “or knit to shape components” after “one or more fabrics”;

(ii) by amending subdivision (C)(3) to read as follows:

“(3) any combination of the fabrics referred to in subdivision (C)(1), the fabrics or knit to shape components referred to in subdivision (C)(2) or one or more fabrics or knit to shape components originating under this note.”; and

(iii) in the matter following subdivision (C)(3), by striking the second sentence and inserting the following: “Any elastomeric yarn (except latex) contained in an originating fabric or knit to shape component referred to in subdivision (C)(3) must be formed in the territory of one or more of the parties to the Agreement.”.

(2) CHANGE IN TARIFF CLASSIFICATION RULES.—Subdivision (n) of general note 29 of the HTS is amended as follows:

(A) Chapter rule 4 to chapter 61 is amended—

(i) by striking “5401 or 5508” and inserting “5401, or 5508 or yarn of heading 5402 used as sewing thread,”; and

(ii) by inserting “or yarn” after “only if such sewing thread”.

(B) The chapter rules to chapter 61 are amended by inserting after chapter rule 5 the following:

“Chapter rule 6: Notwithstanding chapter rules 1, 3, 4 or 5 to this chapter, an apparel good of chapter 61 shall be considered originating regardless of the origin of any visible lining fabric described in chapter rule 1 to this chapter, narrow elastic fabrics as described in chapter rule 3 to this chapter, sewing thread or yarn of heading 5402 used as sewing thread described in chapter rule 4 to this chapter or pocket bag fabric described in chapter rule 5 to this chapter, provided such material is listed in U.S. note 20 to subchapter XXII of chapter 98 and the good meets all other applicable requirements for preferential tariff treatment under this note.”.

(C) Chapter rules 3, 4, and 5 to chapter 62 are each amended by striking “nightwear” each place it appears and inserting “sleepwear”.

(D) Chapter rule 4 to chapter 62 is amended—

(i) by striking “5401 or 5508” and inserting “5401, or 5508 or yarn of heading 5402 used as sewing thread,”; and

(ii) by inserting “or yarn” after “only if such sewing thread”.

(E) The chapter rules to chapter 62 are amended by inserting after chapter rule 5 the following:

“Chapter rule 6: Notwithstanding chapter rules 1, 3, 4 or 5 to this chapter, an apparel good of chapter 62 shall be considered originating regardless of the origin of any visible lining fabric described in chapter rule 1 to this chapter, narrow elastic fabrics as described in chapter rule 3 to this chapter, sewing thread or yarn of heading 5402 used as sewing thread described in chapter rule 4 to this chapter or pocket bag fabric described in chapter rule 5, provided such material is listed in U.S. note 20 to subchapter XXII of chapter 98 and the good meets all other applicable requirements for preferential tariff treatment under this note.”.

(F) Tariff classification rule 33 to chapter 62 is amended to read as follows:

“33. A change to pajamas and sleepwear of subheadings 6207.21 or 6207.22, tariff items 6207.91.30 or 6207.92.40, subheadings 6208.21 or 6208.22 or tariff items 6208.91.30, 6208.92.00 or 6208.99.20 from any other chapter, provided that the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement.”.

(G) Chapter rule 2 to chapter 63 is amended—

(i) by striking “5401 or 5508” and inserting “5401, or 5508 or yarn of heading 5402 used as sewing thread,”; and

(ii) by inserting “or yarn” after “only if such sewing thread”.

(H) The chapter rules to chapter 63 are amended by inserting after chapter rule 2 the following:

“Chapter rule 3: Notwithstanding chapter rule 2 to this chapter, a good of this chapter shall be considered originating regardless

of the origin of sewing thread or yarn of heading 5402 used as sewing thread described in chapter rule 2 to this chapter, provided the thread or yarn is listed in U.S. note 20 to subchapter XXII of chapter 98 and the good meets all other applicable requirements for preferential tariff treatment under this note.”.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection apply to goods of a CAFTA–DR country that are entered, or withdrawn from warehouse for consumption, on or after the date that the Trade Representative determines is the first date on which the equivalent amendments to the rules of origin of the Agreement have entered into force in all CAFTA–DR countries.

Applicability.  
Determination.

(B) PUBLICATION OF DETERMINATION.—The Trade Representative shall promptly publish notice of the determination under subparagraph (A) in the Federal Register.

Federal Register,  
publication.

**SEC. 3. EXTENSION OF AND RENEWAL OF IMPORT RESTRICTIONS UNDER BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.**

(a) EXTENSION OF BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.—Section 9(b)(3) of the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61; 50 U.S.C. 1701 note) is amended by striking “nine years” and inserting “twelve years”.

(b) RENEWAL OF IMPORT RESTRICTIONS.—

50 USC 1701  
note.

(1) IN GENERAL.—Congress approves the renewal of the import restrictions contained in section 3(a)(1) and section 3A (b)(1) and (c)(1) of the Burmese Freedom and Democracy Act of 2003.

(2) RULE OF CONSTRUCTION.—This section shall be deemed to be a “renewal resolution” for purposes of section 9 of the Burmese Freedom and Democracy Act of 2003.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on the date of the enactment of this Act or July 26, 2012, whichever occurs first.

**SEC. 4. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

26 USC 6655  
note.

Notwithstanding section 6655 of the Internal Revenue Code of 1986—

(1) in the case of a corporation with assets of not less than \$1,000,000,000 (determined as of the end of the preceding taxable year), the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2017 shall be 100.25 percent of such amount; and

(2) the amount of the next required installment after an installment referred to in paragraph (1) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.

**SEC. 5. EXTENSION OF CUSTOMS USER FEES.**

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking “August 2, 2021” and inserting “October 22, 2021”;

(2) in subparagraph (B)(i), by striking “December 8, 2020”  
and inserting “October 29, 2021”; and  
(3) by striking subparagraphs (C) and (D).

Approved August 10, 2012.

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LEGISLATIVE HISTORY—H.R. 5986:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Aug 2, considered and passed House and Senate.



Public Law 112–164  
112th Congress

An Act

To direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon.

Aug. 10, 2012  
[S. 270]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

La Pine Land  
Conveyance Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “La Pine Land Conveyance Act”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) CITY.—The term “City” means the City of La Pine, Oregon.

(2) COUNTY.—The term “County” means the County of Deschutes, Oregon.

(3) MAP.—The term “map” means the map entitled “La Pine, Oregon Land Transfer” and dated December 11, 2009.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

**SEC. 3. CONVEYANCES OF LAND.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights and the provisions of this Act, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the City or County, without consideration, all right, title, and interest of the United States in and to each parcel of land described in subsection (b) for which the City or County has submitted to the Secretary a request for conveyance by the date that is not later than 1 year after the date of enactment of this Act.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) consist of—

(1) the approximately 150 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as “parcel A”, to be conveyed to the County, which is subject to a right-of-way retained by the Bureau of Land Management for a power substation and transmission line;

(2) the approximately 750 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as “parcel B”, to be conveyed to the County; and

(3) the approximately 10 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as “parcel C”, to be conveyed to the City.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) USE OF CONVEYED LAND.—

(1) IN GENERAL.—Consistent with the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.), the land conveyed under subsection

(a) shall be used for the following public purposes and associated uses:

(A) The parcel described in subsection (b)(1) shall be used for outdoor recreation, open space, or public parks, including a rodeo ground.

(B) The parcel described in subsection (b)(2) shall be used for a public sewer system.

(C) The parcel described in subsection (b)(3) shall be used for a public library, public park, or open space.

(2) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyances under subsection (a) as the Secretary determines to be appropriate to protect the interests of the United States.

(e) ADMINISTRATIVE COSTS.—The Secretary shall require the County to pay all survey costs and other administrative costs associated with the conveyances to the County under this Act.

(f) REVERSION.—If the land conveyed under subsection (a) ceases to be used for the public purpose for which the land was conveyed, the land shall, at the discretion of the Secretary, revert to the United States.

Approved August 10, 2012.

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LEGISLATIVE HISTORY—S. 270:

HOUSE REPORTS: No. 112–581 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–49 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Oct. 18, considered and passed Senate.

Vol. 158 (2012): July 31, Aug. 1, considered and passed House.



Public Law 112–165  
112th Congress

An Act

To require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, and for other purposes.

Aug. 10, 2012  
[S. 271]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Wallowa Forest Service Compound Conveyance Act”.

Wallowa Forest  
Service  
Compound  
Conveyance Act.

**SEC. 2. CONVEYANCE TO CITY OF WALLOWA, OREGON.**

(a) DEFINITIONS.—In this Act:

(1) CITY.—The term “City” means the city of Wallowa, Oregon.

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(3) WALLOWA FOREST SERVICE COMPOUND.—The term “Wallowa Forest Service Compound” means the approximately 1.11 acres of National Forest System land that—

(A) was donated by the City to the Forest Service on March 18, 1936; and

(B) is located at 602 First Street, Wallowa, Oregon.

(b) CONVEYANCE.—On the request of the City submitted to the Secretary by the date that is not later than 1 year after the date of enactment of this Act and subject to the provisions of this Act, the Secretary shall convey to the City all right, title, and interest of the United States in and to the Wallowa Forest Service Compound.

(c) CONDITIONS.—The conveyance under subsection (b) shall be—

(1) by quitclaim deed;

(2) for no consideration; and

(3) subject to—

(A) valid existing rights; and

(B) such terms and conditions as the Secretary may require.

(d) USE OF WALLOWA FOREST SERVICE COMPOUND.—As a condition of the conveyance under subsection (b), the City shall—

(1) use the Wallowa Forest Service Compound as a historical and cultural interpretation and education center;

(2) ensure that the Wallowa Forest Service Compound is managed by a nonprofit entity;

(3) agree to manage the Wallowa Forest Service Compound with due consideration and protection for the historic values of the Wallowa Forest Service Compound; and

(4) pay the reasonable administrative costs associated with the conveyance.

(e) REVERSION.—In the quitclaim deed to the City, the Secretary shall provide that the Wallowa Forest Service Compound shall revert to the Secretary, at the election of the Secretary, if any of the conditions under subsection (c) or (d) are violated.

Approved August 10, 2012.

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LEGISLATIVE HISTORY—S. 271:

HOUSE REPORTS: No. 112–432 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–50 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Nov. 2, considered and passed Senate.

Vol. 158 (2012): July 31, Aug. 1, considered and passed House.





Public Law 112–166  
112th Congress

An Act

To reduce the number of executive positions subject to Senate confirmation.

Aug. 10, 2012  
[S. 679]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Presidential  
Appointment  
Efficiency and  
Streamlining Act  
of 2011.  
5 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Presidential Appointment Efficiency and Streamlining Act of 2011”.

**SEC. 2. PRESIDENTIAL APPOINTMENTS NOT SUBJECT TO SENATE APPROVAL.**

(a) AGRICULTURE.—

(1) ASSISTANT SECRETARY OF AGRICULTURE FOR ADMINISTRATION.—Section 218(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6918(b)) is amended—

(A) by striking “subsection (a)” and inserting “paragraph (1) or (3) of subsection (a)”;

(B) by striking subsection (c); and

(C) by redesignating subsection (d) as subsection (c).

(2) RURAL UTILITIES SERVICE ADMINISTRATOR.—Section 232(b)(1) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942(b)(1)) is amended—

(A) by striking “, by and with the advice and consent of the Senate”;

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

5 USC 5315.

(3) COMMODITY CREDIT CORPORATION.—Section 9(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714g(a)) is amended in the third sentence by striking “by and with the advice and consent of the Senate”.

(b) COMMERCE.—

15 USC 1511  
note.

(1) CHIEF SCIENTIST; NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended by striking “, by and with the advice and consent of the Senate,”.

(c) DEPARTMENT OF DEFENSE.—

(1) ASSISTANT SECRETARIES OF DEFENSE.—

(A) IN GENERAL.—Section 138(a)(1) of title 10, United States Code, is amended by striking “16” and inserting “14”.

(B) ADMINISTRATION OF REDUCTION.—The Assistant Secretary of Defense positions eliminated in accordance with the reduction in numbers required by the amendment made by subparagraph (A) shall be—

10 USC 138 note.

(i) the Assistant Secretary of Defense for Networks and Information Integration; and

(ii) the Assistant Secretary of Defense for Public Affairs.

(C) CONTINUED SERVICE OF INCUMBENTS.—Notwithstanding the requirements of this paragraph, any individual serving in a position described under subparagraph (B) on the date of the enactment of this Act may continue to serve in such position without regard to the limitation imposed by the amendment in subparagraph (A).

Deadline.  
Reports.

(D) PLAN FOR SUCCESSOR POSITIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall report to the congressional defense committees on his plan for successor positions, not subject to Senate confirmation, for the positions eliminated in accordance with the requirements of this paragraph.

(2) MEMBERS OF NATIONAL SECURITY EDUCATION BOARD.—Section 803(b)(7) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1903(b)(7)) is amended by striking “by and with the advice and consent of the Senate,”.

(3) DIRECTOR OF SELECTIVE SERVICE.—Section 10(a)(3) of the Selective Service Act of 1948 (50 U.S.C. App. 460(a)(3)) is amended by striking “, by and with the advice and consent of the Senate”.

(d) DEPARTMENT OF EDUCATION.—

(1) ASSISTANT SECRETARY FOR MANAGEMENT.—Section 202(e) of the Department of Education Organization Act (20 U.S.C. 3412(e)) is amended by inserting after the first sentence the following: “Notwithstanding the previous sentence, the appointments of individuals to serve as the Assistant Secretary for Management shall not be subject to the advice and consent of the Senate.”.

(2) COMMISSIONER, EDUCATION STATISTICS.—Section 117(b) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9517(b)) is amended by striking “, by and with the advice and consent of the Senate,”.

42 USC 3501a  
note.

(e) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(1) ASSISTANT SECRETARY FOR PUBLIC AFFAIRS.—Notwithstanding any other provision of law, the appointment of an individual to serve as the Assistant Secretary for Public Affairs within the Department of Health and Human Services shall not be subject to the advice and consent of the Senate.

(f) DEPARTMENT OF HOMELAND SECURITY.—

(1) DIRECTOR OF THE OFFICE FOR DOMESTIC PREPAREDNESS; ASSISTANT ADMINISTRATOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, GRANT PROGRAMS.—Section 430(b) of the Homeland Security Act of 2002 (6 U.S.C. 238(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(2) ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION.—Section 5(b) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b)) is amended by striking “, by and with the advice and consent of the Senate,”.

(3) DIRECTOR OF THE OFFICE OF COUNTERNARCOTICS ENFORCEMENT.—Section 878(a) of the Homeland Security Act of 2002 (6 U.S.C. 458(a)) is amended by striking “, by and with the advice and consent of the Senate”.

(4) CHIEF MEDICAL OFFICER.—Section 516(a) of the Homeland Security Act of 2002 (6 U.S.C. 321e(a)) is amended by striking “, by and with the advice and consent of the Senate”.

(5) ASSISTANT SECRETARIES.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(A) by striking “There” and inserting “(1) IN GENERAL.—Except as provided under paragraph (2), there”;

(B) by redesignating paragraphs (1) through (10) as subparagraphs (A) through (J), respectively; and

(C) by adding at the end the following:

“(2) ASSISTANT SECRETARIES.—If any of the Assistant Secretaries referred to under paragraph (1)(I) is designated to be the Assistant Secretary for Health Affairs, the Assistant Secretary for Legislative Affairs, or the Assistant Secretary for Public Affairs, that Assistant Secretary shall be appointed by the President without the advice and consent of the Senate.”.

(g) HOUSING AND URBAN DEVELOPMENT; ASSISTANT SECRETARY FOR PUBLIC AFFAIRS.—Section 4(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(a)) is amended—

(1) by inserting “(1)” after “(a)”;

(2) by striking “eight” and inserting “7”; and

(3) by adding at the end the following:

“(2) There shall be in the Department an Assistant Secretary for Public Affairs, who shall be appointed by the President and shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.”.

(h) DEPARTMENT OF JUSTICE.—

(1) DIRECTOR, BUREAU OF JUSTICE STATISTICS.—Section 302(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(2) DIRECTOR, BUREAU OF JUSTICE ASSISTANCE.—Section 401(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(3) DIRECTOR, NATIONAL INSTITUTE OF JUSTICE.—Section 202(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(4) ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b)) is amended by striking “, by and with the advice and consent of the Senate,”.

(5) DIRECTOR, OFFICE FOR VICTIMS OF CRIME.—Section 1411(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10605(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(i) DEPARTMENT OF LABOR.—

(1) ASSISTANT SECRETARIES FOR ADMINISTRATION AND MANAGEMENT AND PUBLIC AFFAIRS.—Notwithstanding section 2 of the Act of April 17, 1946 (29 U.S.C. 553), the appointment of individuals to serve as the Assistant Secretary for Administration and Management and the Assistant Secretary for Public Affairs within the Department of Labor, shall not be subject to the advice and consent of the Senate.

29 USC 553 note.

(2) DIRECTOR OF THE WOMEN'S BUREAU.—Section 2 of the Act of June 5, 1920 (29 U.S.C. 12) is amended by striking “, by and with the advice and consent of the Senate”.

(j) DEPARTMENT OF STATE; ASSISTANT SECRETARY FOR PUBLIC AFFAIRS AND ASSISTANT SECRETARY FOR ADMINISTRATION.—Section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) is amended—

(1) by striking “, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and”; and

(2) by adding at the end the following: “Each Assistant Secretary of State shall be appointed by the President, by and with the advice and consent of the Senate, except that the appointments of the Assistant Secretary for Public Affairs and the Assistant Secretary for Administration shall not be subject to the advice and consent of the Senate.”.

(k) DEPARTMENT OF TRANSPORTATION.—

(1) ASSISTANT SECRETARIES.—Section 102(e) of title 49, United States Code, is amended—

(A) by striking “(e) THE DEPARTMENT” and all that follows through “An Assistant Secretary” and inserting the following:

“(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

“(1) APPOINTMENT.—The Department has 5 Assistant Secretaries and a General Counsel, including—

“(A) an Assistant Secretary for Aviation and International Affairs, an Assistant Secretary for Governmental Affairs, and an Assistant Secretary for Transportation Policy, who shall each be appointed by the President, with the advice and consent of the Senate;

“(B) an Assistant Secretary for Budget and Programs who shall be appointed by the President;

“(C) an Assistant Secretary for Administration, who shall be appointed by the Secretary, with the approval of the President; and

“(D) a General Counsel, who shall be appointed by the President, with the advice and consent of the Senate.

“(2) DUTIES AND POWERS.—The officers set forth in paragraph (1) shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary”.

(2) DEPUTY ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION.—Section 106 of title 49, United States Code, is amended—

(A) in subsection (b), by striking “. The Administration has a Deputy Administrator. They are appointed” and inserting “, who shall be appointed”; and

(B) in subsection (d)(1), by striking “The Deputy Administrator must” and inserting “The Administration has a Deputy Administrator, who shall be appointed by the President. In making an appointment, the President shall consider the fitness of the appointee to efficiently carry out the duties and powers of the office. The Deputy Administrator shall”.

(l) DEPARTMENT OF THE TREASURY.—

(1) ASSISTANT SECRETARIES FOR PUBLIC AFFAIRS AND MANAGEMENT.—Section 301(e) of title 31, United States Code, is amended—

(A) by striking “10 Assistant Secretaries” and inserting “8 Assistant Secretaries”; and

(B) by inserting “The Department shall have 2 Assistant Secretaries not subject to the advice and consent of the Senate who shall be the Assistant Secretary for Public Affairs, and the Assistant Secretary for Management.” after the first sentence.

(2) TREASURER OF THE UNITED STATES.—Section 301(d) of title 31, United States Code, is amended—

(A) by striking “2 Deputy Under Secretaries, and a Treasurer of the United States” and inserting “and 2 Deputy Under Secretaries”, and

(B) by inserting “and a Treasurer of the United States appointed by the President” after “Fiscal Assistant Secretary appointed by the Secretary”.

(m) DEPARTMENT OF VETERANS AFFAIRS.—Section 308(a) of title 38, United States Code, is amended—

(1) by striking “There shall” and inserting “(1) There shall”;

(2) in paragraph (1), as designated by paragraph (1) of this subsection, by striking “Each Assistant” and all that follows through the period at the end; and

(3) by adding at the end the following new paragraphs:

“(2) Except as provided in paragraph (3), each Assistant Secretary appointed under paragraph (1) shall be appointed by the President, by and with the advice and consent of the Senate.

“(3) The following Assistant Secretaries may be appointed without the advice and consent of the Senate:

“(A) The Assistant Secretary for Management.

“(B) The Assistant Secretary for Human Resources and Administration.

“(C) The Assistant Secretary for Public and Intergovernmental Affairs.

“(D) The Assistant Secretary for Operations, Security, and Preparedness.”.

(n) APPALACHIAN REGIONAL COMMISSION; ALTERNATE FEDERAL CO-CHAIRMAN.—Section 14301(b)(2) of title 40, United States Code, is amended by striking “by and with the advice and consent of the Senate”.

(o) COUNCIL OF ECONOMIC ADVISERS, MEMBERS.—Section 10 of the Employment Act of 1946 (15 U.S.C. 1023) is amended by striking subsection (a) and inserting the following:

“(a) CREATION; COMPOSITION; QUALIFICATIONS; CHAIRMAN AND VICE CHAIRMAN.—

“(1) CREATION.—There is created in the Executive Office of the President a Council of Economic Advisers (hereinafter called the ‘Council’).

“(2) COMPOSITION.—The Council shall be composed of three members, of whom—

“(A) 1 shall be the chairman who shall be appointed by the President by and with the advice and consent of the Senate; and

“(B) 2 shall be appointed by the President.

“(3) QUALIFICATIONS.—Each member shall be a person who, as a result of training, experience, and attainments, is exceptionally qualified to analyze and interpret economic developments, to appraise programs and activities of the Government in the light of the policy declared in section 2,

and to formulate and recommend national economic policy to promote full employment, production, and purchasing power under free competitive enterprise.

“(4) VICE CHAIRMAN.—The President shall designate 1 of the members of the Council as vice chairman, who shall act as chairman in the absence of the chairman.”.

(p) CORPORATION FOR NATIONAL AND COMMUNITY SERVICE; MANAGING DIRECTOR.—Section 194(a)(1) of the National and Community Service Act of 1990 (42 U.S.C. 12651e(a)(1)) is amended by striking “, by and with the advice and consent of the Senate”.

(q) NATIONAL COUNCIL ON DISABILITY MEMBERS.—Section 400(a)(1)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 780(a)(1)(A)) is amended by striking “, by and with the advice and consent of the Senate”.

(r) NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES; NATIONAL MUSEUM AND LIBRARY SERVICES BOARD; MEMBERS.—Section 207(b)(1) of the Museum and Library Services Act (20 U.S.C. 9105a(b)(1)) is amended—

(1) in subparagraph (D), by striking “, by and with the advice and consent of the Senate”; and

(2) in subparagraph (E), by striking “, by and with the advice and consent of the Senate”.

(s) NATIONAL SCIENCE FOUNDATION; BOARD MEMBERS.—Section 4(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(a)) is amended by striking “, by and with the advice and consent of the Senate,”.

(t) OFFICE OF NATIONAL DRUG CONTROL POLICY; DEPUTY DIRECTORS.—Section 704(a)(1) of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1703(a)(1)) is amended to read as follows:

“(1) IN GENERAL.—

“(A) DIRECTOR.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

“(B) DEPUTY DIRECTORS.—The Deputy Director of National Drug Control Policy, Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State, Local, and Tribal Affairs shall each be appointed by the President and serve at the pleasure of the President.

“(C) DEPUTY DIRECTOR FOR DEMAND REDUCTION.—In appointing the Deputy Director for Demand Reduction under this paragraph, the President shall take into consideration the scientific, educational, or professional background of the individual, and whether the individual has experience in the fields of substance abuse prevention, education, or treatment.”.

(u) OFFICE OF NAVAJO AND HOPI RELOCATION; COMMISSIONER.—Section 12(b)(1) of Public Law 93–531 (25 U.S.C. 640d–11(b)(1)) is amended by striking “by and with the advice and consent of the Senate”.

(v) UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—

(1) ASSISTANT ADMINISTRATOR FOR MANAGEMENT.—Notwithstanding section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), the appointment by the President of the Assistant Administrator for Management at the United States

Agency for International Development shall not be subject to the advice and consent of the Senate.

(w) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION FUND; ADMINISTRATOR.—Section 104(b)(1) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(b)(1)) is amended by striking “, by and with the advice and consent of the Senate”.

(x) DEPARTMENT OF TRANSPORTATION; ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION; ADMINISTRATOR.—Subsection (a) of section 2 of the Act of May 13, 1954, referred to as the Saint Lawrence Seaway Act (33 U.S.C. 982(a)) is amended by striking “, by and with the advice and consent of the Senate, for a term of seven years”.

(y) MISSISSIPPI RIVER COMMISSION; COMMISSIONER.—Section 2 of the Act of June 28, 1879 (33 U.S.C. 642), is amended in the first sentence by striking “, by and with the advice and consent of the Senate,”.

(z) GOVERNOR AND ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT BANK.—

(1) IN GENERAL.—Section 1333 of the African Development Bank Act (22 U.S.C. 290i-1) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by striking “(a) The President” and all that follows through “The term of office” and inserting the following:

“(a) The President shall appoint a Governor and an Alternate Governor of the Bank—

“(1) by and with the advice and consent of the Senate;

or

“(2) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate.

“(b) The term of office”.

(2) CONFORMING AMENDMENTS.—Section 1334 of such Act (22 U.S.C. 290i-2) is amended—

(A) by striking “The Director or Alternate Director” and inserting the following:

“(b) The Director or Alternate Director”; and

(B) by inserting before subsection (b), as redesignated, the following:

“(a) The President, by and with the advice and consent of the Senate, shall appoint a Director of the Bank.”.

(aa) GOVERNOR AND ALTERNATE GOVERNOR OF THE ASIAN DEVELOPMENT BANK.—Section 3(a) of the Asian Development Bank Act (22 U.S.C. 285a(a)) is amended to read as follows:

“(a) The President shall appoint—

“(1) a Governor of the Bank and an alternate for the Governor—

“(A) by and with the advice and consent of the Senate;

or

“(B) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate; and

“(2) a Director of the Bank, by and with the advice and consent of the Senate.”.

(bb) GOVERNOR AND ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT FUND.—Section 203(a) of the African Development Fund Act (22 U.S.C. 290g–1(a)) is amended to read as follows:

“(a) The President shall appoint a Governor, and an Alternate Governor, of the Fund—

“(1) by and with the advice and consent of the Senate;

or

“(2) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate.”.

(cc) NATIONAL BOARD FOR EDUCATION SCIENCES; MEMBERS.—Section 116(c)(1) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9516(c)(1)) is amended by striking “, by and with the advice and consent of the Senate”.

(dd) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD; MEMBERS.—Section 242(e)(1)(A) of the Adult Education and Family Literacy Act (20 U.S.C. 9252(e)(1)(A)) is amended by striking “with the advice and consent of the Senate”.

(ee) INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT; MEMBER, BOARD OF TRUSTEES.—Section 1505 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4412(a)(1)(A)) is amended by striking “by and with the advice and consent of the Senate”.

(ff) PUBLIC HEALTH SERVICE COMMISSIONED OFFICER CORPS.—

(1) APPOINTMENT.—Section 203(a)(3) of the Public Health Service Act (42 U.S.C. 204(a)(3)) is amended by striking “with the advice and consent of the Senate”.

(2) PROMOTIONS.—Section 210(a) of the Public Health Service Act (42 U.S.C. 211(a)) is amended by striking “, by and with the advice and consent of the Senate”.

(gg) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS.—

(1) APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.—Section 226 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3026) is amended by striking “, by and with the advice and consent of the Senate”.

(2) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Section 228(d)(1) of such Act (33 U.S.C. 3028(d)(1)) is amended by striking “, by and with the advice and consent of the Senate”.

(3) TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.—Section 229 of such Act (33 U.S.C. 3029) is amended—

(A) by striking “alone” each place it appears; and

(B) in subsection (a), in the second sentence, by striking “unless the Senate sooner gives its advice and consent to the appointment”.

5 USC 3132 note.

(hh) RULE OF CONSTRUCTION.—Notwithstanding section 3132(a)(2) of title 5, United States Code, removal of Senate confirmation for any position in this section shall not—

(1) result in any such position being placed in the Senior Executive Service; or

(2) alter compensation for any such position under the Executive Schedule or other applicable compensation provisions of law.



**SEC. 3. APPOINTMENT OF THE DIRECTOR OF THE CENSUS.**

(a) **IN GENERAL.**—Section 21 of the title 13, United States Code, is amended to read as follows:

**“§ 21. Director of the Census; duties**

**“(a) APPOINTMENT.—**

**“(1) IN GENERAL.—**The Bureau shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation.

**“(2) QUALIFICATIONS.—**Such appointment shall be made from individuals who have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data.

**“(b) TERM OF OFFICE.—**

**“(1) IN GENERAL.—**The term of office of the Director shall be 5 years, and shall begin on January 1, 2012, and every fifth year thereafter. An individual may not serve more than 2 full terms as Director.

**“(2) VACANCIES.—**Any individual appointed to fill a vacancy in such position, occurring before the expiration of the term for which such individual's predecessor was appointed, shall be appointed for the remainder of that term. The Director may serve after the end of the Director's term until reappointed or until a successor has been appointed, but in no event longer than 1 year after the end of such term.

**“(3) REMOVAL.—**An individual serving as Director may be removed from office by the President. The President shall communicate in writing the reasons for any such removal to both Houses of Congress not later than 60 days before the removal.

**“(4) PERSONNEL ACTIONS.—**Except as provided under paragraph (3), nothing in this subsection shall prohibit a personnel action otherwise authorized by law with respect to the Director of the Census, other than removal.

**“(c) DUTIES.—**The Director shall perform such duties as may be imposed upon the Director by law, regulations, or orders of the Secretary.”

**(b) TRANSITION RULES.—**

**(1) APPOINTMENT OF INITIAL DIRECTOR.—**The initial Director of the Bureau of the Census shall be appointed in accordance with the provisions of section 21(a) of title 13, United States Code, as amended by subsection (a).

**(2) INTERIM ROLE OF CURRENT DIRECTOR OF THE CENSUS AFTER DATE OF ENACTMENT.—**If, as of January 1, 2012, the initial Director of the Bureau of the Census has not taken office, the officer serving on December 31, 2011, as Director of the Census (or Acting Director of the Census, if applicable) in the Department of Commerce—

**(A)** shall serve as the Director of the Bureau of the Census; and

**(B)** shall assume the powers and duties of such Director for one term beginning January 1, 2012, as described in section 21(b) of such title, as so amended.

**(c) TECHNICAL AND CONFORMING AMENDMENTS.—**Not later than January 1, 2012, the Secretary of Commerce, in consultation with the Director of the Census, shall submit to each House of the

Notification.  
Deadline.

13 USC 21 note.

Deadline.  
Submission.  
13 USC 21 note.

Congress draft legislation containing any technical and conforming amendments to title 13, United States Code, and any other provisions which may be necessary to carry out the purposes of this section.

**SEC. 4. WORKING GROUP ON STREAMLINING PAPERWORK FOR EXECUTIVE NOMINATIONS.**

(a) **ESTABLISHMENT.**—There is established the Working Group on Streamlining Paperwork for Executive Nominations (in this section referred to as the “Working Group”).

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Working Group shall be composed of—

(A) the chairperson who shall be—

(i) except as provided under clause (ii), the Director of the Office of Presidential Personnel; or

(ii) a Federal officer designated by the President;

(B) representatives designated by the President from—

(i) the Office of Personnel Management;

(ii) the Office of Government Ethics; and

(iii) the Federal Bureau of Investigation; and

(C) individuals appointed by the chairperson of the Working Group who have experience and expertise relating to the Working Group, including—

(i) individuals from other relevant Federal agencies; and

(ii) individuals with relevant experience from previous presidential administrations.

(c) **STREAMLINING OF PAPERWORK REQUIRED FOR EXECUTIVE NOMINATIONS.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Working Group shall conduct a study and submit a report on the streamlining of paperwork required for executive nominations to—

(A) the President;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Rules and Administration of the Senate.

(2) **CONSULTATION WITH COMMITTEES OF THE SENATE.**—In conducting the study under this section, the Working Group shall consult with the chairperson and ranking member of the committees referred to under paragraph (1) (B) and (C).

(3) **CONTENTS.**—

(A) **IN GENERAL.**—The report submitted under this section shall include—

(i) recommendations for the streamlining of paperwork required for executive nominations; and

(ii) a detailed plan for the creation and implementation of an electronic system for collecting and distributing background information from potential and actual Presidential nominees for positions which require appointment by and with the advice and consent of the Senate.

(B) **ELECTRONIC SYSTEM.**—The electronic system described under subparagraph (A)(ii) shall—

(i) provide for—

Deadline.  
Study.  
Reports.

Recommendations.  
Plans.

- (I) less burden on potential nominees for positions which require appointment by and with the advice and consent of the Senate;
- (II) faster delivery of background information to Congress, the White House, the Federal Bureau of Investigation, Diplomatic Security, and the Office of Government Ethics; and
- (III) fewer errors of omission; and
- (ii) ensure the existence and operation of a single, searchable form which shall be known as a “Smart Form” and shall—
  - (I) be free to a nominee and easy to use;
  - (II) make it possible for the nominee to answer all vetting questions one way, at a single time;
  - (III) secure the information provided by a nominee;
  - (IV) allow for multiple submissions over time, but always in the format requested by the vetting agency or entity;
  - (V) be compatible across different computer platforms;
  - (VI) make it possible to easily add, modify, or subtract vetting questions;
  - (VII) allow error checking; and
  - (VIII) allow the user to track the progress of a nominee in providing the required information.
- (d) REVIEW OF BACKGROUND INVESTIGATION REQUIREMENTS.—
  - (1) IN GENERAL.—The Working Group shall conduct a review of the impact of background investigation requirements on the appointments process.
  - (2) CONDUCT OF REVIEW.—In conducting the review, the Working Group shall—
    - (A) assess the feasibility of using personnel other than Federal Bureau of Investigation personnel, in appropriate circumstances, to conduct background investigations of individuals under consideration for positions appointed by the President, by and with the advice and consent of the Senate; and Assessment.
    - (B) consider the extent to which the scope of the background investigation conducted for an individual under consideration for a position appointed by the President, by and with the advice and consent of the Senate, should be varied depending on the nature of the position for which the individual is being considered.
  - (3) REPORT.—Not later than 270 days after the date of enactment of this Act, the Working Group shall submit a report of the findings of the review under this subsection to—
    - (A) the President;
    - (B) the Committee on Homeland Security and Governmental Affairs of the Senate; and
    - (C) the Committee on Rules and Administration of the Senate.
- (e) PERSONNEL MATTERS.—
  - (1) COMPENSATION OF MEMBERS.—
    - (A) FEDERAL OFFICERS AND EMPLOYEES.—Each member of the Working Group who is a Federal officer or employee

shall serve without compensation in addition to that received for their services as a Federal officer or employee.

(B) MEMBERS NOT FEDERAL OFFICERS AND EMPLOYEES.—Each member of the Working Group who is not a Federal officer or employee shall not be compensated for services performed for the Working Group.

(2) TRAVEL EXPENSES.—The members of the Working Group shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Working Group.

(3) STAFF.—

(A) IN GENERAL.—The President may designate Federal officers and employees to provide support services for the Working Group.

(B) DETAIL OF FEDERAL EMPLOYEES.—Any Federal employee may be detailed to the Working Group without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) NON-APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Working Group established under this section.

(g) TERMINATION OF THE WORKING GROUP.—The Working Group shall terminate 60 days after the date on which the Working Group submits the latter of the 2 reports under this section.

#### SEC. 5. REPORT ON PRESIDENTIALLY APPOINTED POSITIONS.

(a) DEFINITIONS.—In this section—

(1) the term “agency” means an Executive agency defined under section 105 of title 5, United States Code; and

(2) the term “covered position” means a position in an agency that requires appointment by the President without the advice and consent of the Senate.

Study.

(b) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Government Accountability Office shall conduct a study and submit a report on covered positions to Congress and the President.

Determination.  
Evaluation.  
Recommendations.

(c) CONTENTS.—The report submitted under this section shall include—

(1) a determination of the number of covered positions in each agency;

(2) an evaluation of whether maintaining the total number of covered positions is necessary;

(3) an evaluation of the benefits and disadvantages of—

(A) eliminating certain covered positions;

(B) converting certain covered positions to career positions or positions in the Senior Executive Service that are not career reserved positions; and

(C) converting any categories of covered positions to career positions;

(4) the identification of—

(A) covered positions described under paragraph (3)(A) and (B); and

(B) categories of covered positions described under paragraph (3)(C); and

(5) any other recommendations relating to covered positions.

**SEC. 6. EFFECTIVE DATE.**

(a) **PRESIDENTIAL APPOINTMENTS NOT SUBJECT TO SENATE APPROVAL.**—The amendments made by section 2 shall take effect 60 days after the date of enactment of this Act and apply to appointments made on and after that effective date, including any nomination pending in the Senate on that date. 6 USC 113 note. Applicability.

(b) **DIRECTOR OF THE CENSUS AND WORKING GROUP.**—The provisions of sections 3 and 4 (including any amendments made by those sections) shall take effect on the date of enactment of this Act. 13 USC 21 note.

Approved August 10, 2012.

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**LEGISLATIVE HISTORY—S. 679:**

**SENATE REPORTS:** No. 112–24 (Comm. on Homeland Security and Governmental Affairs).

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): June 22, 23, 28, 29, considered and passed Senate.

Vol. 158 (2012): July 31, considered and passed House.



Public Law 112–167  
112th Congress

An Act

Aug. 10, 2012  
[S. 739]

To authorize the Architect of the Capitol to establish battery recharging stations for privately owned vehicles in parking areas under the jurisdiction of the Senate at no net cost to the Federal Government.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

2 USC 2170.

**SECTION 1. BATTERY RECHARGING STATIONS FOR PRIVATELY OWNED VEHICLES IN PARKING AREAS UNDER THE JURISDICTION OF THE SENATE AT NO NET COST TO THE FEDERAL GOVERNMENT.**

(a) DEFINITION.—In this Act, the term “covered employee” means—

(1) an employee whose pay is disbursed by the Secretary of the Senate; or

(2) any other individual who is authorized to park in any parking area under the jurisdiction of the Senate on Capitol Grounds.

(b) AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (3), funds appropriated to the Architect of the Capitol under the heading “CAPITOL POWER PLANT” under the heading “ARCHITECT OF THE CAPITOL” in any fiscal year are available to construct, operate, and maintain on a reimbursable basis battery recharging stations in parking areas under the jurisdiction of the Senate on Capitol Grounds for use by privately owned vehicles used by Senators or covered employees.

(2) VENDORS AUTHORIZED.—In carrying out paragraph (1), the Architect of the Capitol may use 1 or more vendors on a commission basis.

(3) APPROVAL OF CONSTRUCTION.—The Architect of the Capitol may construct or direct the construction of battery recharging stations described under paragraph (1) after—

(A) submission of written notice detailing the numbers and locations of the battery recharging stations to the Committee on Rules and Administration of the Senate; and

(B) approval by that Committee.

(c) FEES AND CHARGES.—

(1) IN GENERAL.—Subject to paragraph (2), the Architect of the Capitol shall charge fees or charges for electricity provided to Senators and covered employees sufficient to cover the costs to the Architect of the Capitol to carry out this section, including costs to any vendors or other costs associated with maintaining the battery recharging stations.

(2) APPROVAL OF FEES OR CHARGES.—The Architect of the Capitol may establish and adjust fees or charges under paragraph (1) after—

(A) submission of written notice detailing the amount of the fee or charge to be established or adjusted to the Committee on Rules and Administration of the Senate; and

(B) approval by that Committee.

(d) DEPOSIT AND AVAILABILITY OF FEES, CHARGES, AND COMMISSIONS.—Any fees, charges, or commissions collected by the Architect of the Capitol under this section shall be—

(1) deposited in the Treasury to the credit of the appropriations account described under subsection (b); and

(2) available for obligation without further appropriation during—

(A) the fiscal year collected; and

(B) the fiscal year following the fiscal year collected.

(e) REPORTS.—

(1) IN GENERAL.—Not later than 30 days after the end of each fiscal year, the Architect of the Capitol shall submit a report on the financial administration and cost recovery of activities under this section with respect to that fiscal year to the Committee on Rules and Administration of the Senate.

(2) AVOIDING SUBSIDY.—

(A) DETERMINATION.—Not later than 3 years after the date of enactment of this Act and every 3 years thereafter, the Architect of the Capitol shall submit a report to the Committee on Rules and Administration of the Senate determining whether Senators and covered employees using battery charging stations as authorized by this Act are receiving a subsidy from the taxpayers.

(B) MODIFICATION OF RATES AND FEES.—If a determination is made under subparagraph (A) that a subsidy is being received, the Architect of the Capitol shall submit a plan to the Committee on Rules and Administration of the Senate on how to update the program to ensure no subsidy is being received. If the committee does not act on the plan within 60 days, the Architect of the Capitol shall take appropriate steps to increase rates or fees to ensure reimbursement for the cost of the program consistent with an appropriate schedule for amortization, to be charged to those using the charging stations.

Plan.

(f) **EFFECTIVE DATE.**—This Act shall apply with respect to fiscal year 2011 and each fiscal year thereafter.

Approved August 10, 2012.

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**LEGISLATIVE HISTORY—S. 739:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 24, considered and passed Senate.

Aug. 2, considered and passed House.





Public Law 112–168  
112th Congress

An Act

To require a report on the designation of the Haqqani Network as a foreign terrorist organization and for other purposes.

Aug. 10, 2012  
[S. 1959]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Haqqani Network Terrorist Designation Act of 2012”.

Haqqani  
Network  
Terrorist  
Designation  
Act of 2012.

**SEC. 2. REPORT ON DESIGNATION OF THE HAQQANI NETWORK AS A FOREIGN TERRORIST ORGANIZATION.**

(a) FINDINGS.—Congress makes the following findings:

(1) A report of the Congressional Research Service on relations between the United States and Pakistan states that “[t]he terrorist network led by Jalaluddin Haqqani and his son Sirajuddin, based in the FATA, is commonly identified as the most dangerous of Afghan insurgent groups battling U.S.-led forces in eastern Afghanistan”.

Jalaluddin  
Haqqani.

(2) The report further states that, in mid-2011, the Haqqanis undertook several high-visibility attacks in Afghanistan. First, a late June assault on the Intercontinental Hotel in Kabul by 8 Haqqani gunmen and suicide bombers left 18 people dead. Then, on September 10, a truck bomb attack on a United States military base by Haqqani fighters in the Wardak province injured 77 United States troops and killed 5 Afghans. A September 13 attack on the United States Embassy compound in Kabul involved an assault that sparked a 20-hour-long gun battle and left 16 Afghans dead, 5 police officers and at least 6 children among them.

(3) The report further states that “U.S. and Afghan officials concluded the Embassy attackers were members of the Haqqani network”.

(4) In September 22, 2011, testimony before the Committee on Armed Services of the Senate, Chairman of the Joint Chiefs of Staff Admiral Mullen stated that “[t]he Haqqani network, for one, acts as a veritable arm of Pakistan’s Inter-Services Intelligence agency. With ISI support, Haqqani operatives plan and conducted that [September 13] truck bomb attack, as well as the assault on our embassy. We also have credible evidence they were behind the June 28th attack on the Intercontinental Hotel in Kabul and a host of other smaller but effective operations”.

(5) In October 27, 2011, testimony before the Committee on Foreign Affairs of the House of Representatives, Secretary

of State Hillary Clinton stated that “we are taking action to target the Haqqani leadership on both sides of the border. We’re increasing international efforts to squeeze them operationally and financially. We are already working with the Pakistanis to target those who are behind a lot of the attacks against Afghans and Americans. And I made it very clear to the Pakistanis that the attack on our embassy was an outrage and the attack on our forward operating base that injured 77 of our soldiers was a similar outrage.”

(6) At the same hearing, Secretary of State Clinton further stated that “I think everyone agrees that the Haqqani Network has safe havens inside Pakistan; that those safe havens give them a place to plan and direct operations that kill Afghans and Americans.”

Haji Mali Kahn.

(7) On November 1, 2011, the United States Government added Haji Mali Kahn to a list of specially designated global terrorists under Executive Order 13224. The Department of State described Khan as “a Haqqani Network commander” who has “overseen hundreds of fighters, and has instructed his subordinates to conduct terrorist acts.” The designation continued, “Mali Khan has provided support and logistics to the Haqqani Network, and has been involved in the planning and execution of attacks in Afghanistan against civilians, coalition forces, and Afghan police”. According to Jason Blazakis, the chief of the Terrorist Designations Unit of the Department of State, Khan also has links to al-Qaeda.

Sirajuddin  
Haqqani.

(8) Five other top Haqqani Network leaders have been placed on the list of specially designated global terrorists under Executive Order 13224 since 2008, and three of them have been so placed in the last year. Sirajuddin Haqqani, the overall leader of the Haqqani Network as well as the leader of the Taliban’s Mira shah Regional Military Shura, was designated by the Secretary of State as a terrorist in March 2008, and in March 2009, the Secretary of State put out a bounty of \$5,000,000 for information leading to his capture. The other four individuals so designated are Nasiruddin Haqqani, Khalil al Rahman Haqqani, Badruddin Haqqani, and Mullah Sangeen Zadrán.

Nasiruddin  
Haqqani.  
Khalil al  
Rahman  
Haqqani.  
Badruddin  
Haqqani.  
Mullah Sangeen  
Zadrán.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Haqqani Network meets the criteria for designation as a foreign terrorist organization as set forth in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); and

(2) the Secretary of State should so designate the Haqqani Network as a foreign terrorist organization under such section 219.

(c) REPORT.—

(1) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate committees of Congress—

(A) a detailed report on whether the Haqqani Network meets the criteria for designation as a foreign terrorist organization as set forth in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); and

(B) if the Secretary determines that the Haqqani Network does not meet the criteria set forth under such section 219, a detailed justification as to which criteria have not been met.

(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) CONSTRUCTION.—Nothing in this Act may be construed to infringe upon the sovereignty of Pakistan to combat militant or terrorist groups operating inside the boundaries of Pakistan.

Approved August 10, 2012.

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LEGISLATIVE HISTORY—S. 1959:

CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 17, considered and passed Senate.

Vol. 158 (2012): July 17, considered and passed House, amended.

July 26, Senate concurred in House amendment.



Public Law 112–169  
112th Congress

An Act

Aug. 10, 2012  
[S. 3363]

To provide for the use of National Infantry Museum and Soldier Center Commemorative Coin surcharges, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NATIONAL INFANTRY MUSEUM AND SOLDIER CENTER  
COMMEMORATIVE COIN SURCHARGES.**

31 USC 5112  
note.

Section 6(b) of the National Infantry Museum and Soldier Center Commemorative Coin Act (Public Law 110–357, 122 Stat. 3999) is amended by inserting before the period at the end the following: “, and for the retirement of debt associated with building the existing National Infantry Museum and Soldier Center”.

Approved August 10, 2012.

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**LEGISLATIVE HISTORY—S. 3363:**

CONGRESSIONAL RECORD, Vol. 158 (2012):  
June 29, considered and passed Senate.  
Aug. 1, considered and passed House.



Public Law 112–170  
112th Congress

An Act

To authorize the Architect of the Capitol to establish battery recharging stations for privately owned vehicles in parking areas under the jurisdiction of the House of Representatives at no net cost to the Federal Government.

Aug. 16, 2012  
[H.R. 1402]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BATTERY RECHARGING STATIONS FOR PRIVATELY OWNED  
VEHICLES IN PARKING AREAS UNDER THE JURISDIC-  
TION OF THE HOUSE OF REPRESENTATIVES AT NO NET  
COST TO THE FEDERAL GOVERNMENT.**

2 USC 2171.

(a) DEFINITION.—In this Act, the term “covered employee” means—

- (1) an employee whose pay is disbursed by the Chief Administrative Officer of the House of Representatives; or
- (2) any other individual who is authorized to park in any parking area under the jurisdiction of the House of Representatives on Capitol Grounds.

(b) AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (3), funds appropriated to the Architect of the Capitol under the heading “CAPITOL POWER PLANT” under the heading “ARCHITECT OF THE CAPITOL” in any fiscal year are available to construct, operate, and maintain on a reimbursable basis battery recharging stations in parking areas under the jurisdiction of the House of Representatives on Capitol Grounds for use by privately owned vehicles used by Members of the House of Representatives (including the Delegates or Resident Commissioner to the Congress) or covered employees.

(2) VENDORS AUTHORIZED.—In carrying out paragraph (1), the Architect of the Capitol may use 1 or more vendors on a commission basis.

(3) APPROVAL OF CONSTRUCTION.—The Architect of the Capitol may construct or direct the construction of battery recharging stations described under paragraph (1) after—

(A) submission of written notice detailing the numbers and locations of the battery recharging stations to the Committee on House Administration of the House of Representatives; and

(B) approval by that Committee.

(c) FEES AND CHARGES.—

(1) IN GENERAL.—Subject to paragraph (2), the Architect of the Capitol shall charge fees or charges for electricity provided to Members and covered employees sufficient to cover the costs to the Architect of the Capitol to carry out this

section, including costs to any vendors or other costs associated with maintaining the battery recharging stations.

(2) APPROVAL OF FEES OR CHARGES.—The Architect of the Capitol may establish and adjust fees or charges under paragraph (1) after—

(A) submission of written notice detailing the amount of the fee or charge to be established or adjusted to the Committee on House Administration of the House of Representatives; and

(B) approval by that Committee.

(d) DEPOSIT AND AVAILABILITY OF FEES, CHARGES, AND COMMISSIONS.—Any fees, charges, or commissions collected by the Architect of the Capitol under this section shall be—

(1) deposited in the Treasury to the credit of the appropriations account described under subsection (b); and

(2) available for obligation without further appropriation during—

(A) the fiscal year collected; and

(B) the fiscal year following the fiscal year collected.

(e) REPORTS.—

(1) IN GENERAL.—Not later than 30 days after the end of each fiscal year, the Architect of the Capitol shall submit a report on the financial administration and cost recovery of activities under this section with respect to that fiscal year to the Committee on House Administration of the House of Representatives.

(2) AVOIDING SUBSIDY.—

(A) DETERMINATION.—Not later than 3 years after the date of enactment of this Act and every 3 years thereafter, the Architect of the Capitol shall submit a report to the Committee on House Administration of the House of Representatives determining whether Members (including any Delegate or Resident Commissioner to Congress) and covered employees using battery charging stations as authorized by this Act are receiving a subsidy from the taxpayers.

(B) MODIFICATION OF RATES AND FEES.—If a determination is made under subparagraph (A) that a subsidy is being received, the Architect of the Capitol shall submit a plan to the Committee on House Administration of the House of Representatives on how to update the program to ensure no subsidy is being received. If the committee does not act on the plan within 60 days, the Architect of the Capitol shall take appropriate steps to increase rates or fees to ensure reimbursement for the cost of the program consistent with an appropriate schedule for amortization, to be charged to those using the charging stations.

Plan.

(f) **EFFECTIVE DATE.**—This Act shall apply with respect to fiscal year 2011 and each fiscal year thereafter.

Approved August 16, 2012.

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**LEGISLATIVE HISTORY—H.R. 1402:**

HOUSE REPORTS: No. 112–625 (Comm. on House Administration).  
CONGRESSIONAL RECORD, Vol. 158 (2012):

Aug. 2, considered and passed House and Senate.



Public Law 112–171  
112th Congress

An Act

Aug. 16, 2012  
[H.R. 3670]

To require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. APPLICABILITY OF THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT TO THE TRANSPORTATION SECURITY ADMINISTRATION.**

(a) IN GENERAL.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note; Public Law 107–71) is amended—

(1) by striking “Notwithstanding” and inserting the following:

“(1) GENERAL AUTHORITY.—Except as provided in paragraph (2), and notwithstanding”; and

(2) by adding at the end the following:

“(2) UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT.—In carrying out the functions authorized under paragraph (1), the Under Secretary shall be subject to the provisions set forth in chapter 43 of title 38, United States Code.”.

49 USC 44935  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 270 days after the date of the enactment of this Act.

Approved August 16, 2012.

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**LEGISLATIVE HISTORY—H.R. 3670:**

HOUSE REPORTS: No. 112–487, Pt. 1 (Comm. on Veterans’ Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 30, considered and passed House.

Aug. 2, considered and passed Senate.





Public Law 112–172  
112th Congress

An Act

To reauthorize the North Korean Human Rights Act of 2004, and for other purposes.

Aug. 16, 2012  
[H.R. 4240]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Ambassador James R. Lilley and Congressman Stephen J. Solarz North Korea Human Rights Reauthorization Act of 2012”.

Ambassador  
James R. Lilley  
and  
Congressman  
Stephen J. Solarz  
North Korea  
Human Rights  
Reauthorization  
Act of 2012.  
22 USC 7801  
note.  
22 USC 7801  
note.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.) and the North Korean Human Rights Reauthorization Act of 2008 (Public Law 110–346) were the product of broad, bipartisan consensus regarding the promotion of human rights, transparency in the delivery of humanitarian assistance, and the importance of refugee protection.

(2) In addition to the longstanding commitment of the United States to refugee and human rights advocacy, the United States is home to the largest Korean population outside of northeast Asia, and many in the two-million strong Korean-American community have family ties to North Korea.

(3) Although the transition to the leadership of Kim Jong-Un after the death of Kim Jong-Il has introduced new uncertainties and possibilities, the fundamental human rights and humanitarian conditions inside North Korea remain deplorable, North Korean refugees remain acutely vulnerable, and the findings in the 2004 Act and 2008 Reauthorization remain substantially accurate today.

Kim Jong-Un.  
Kim Jong-Il.

(4) Media and nongovernmental organizations have reported a crackdown on unauthorized border crossing during the North Korean leadership transition, including authorization for on-the-spot execution of attempted defectors, as well as an increase in punishments during the 100-day official mourning period after the death of Kim Jong-Il.

(5) Notwithstanding high-level advocacy by the United States, the Republic of Korea, and the United Nations High Commissioner for Refugees, China has continued to forcibly repatriate North Koreans, including dozens of presumed refugees who were the subject of international humanitarian appeals during February and March of 2012.

(6) The United States, which has the largest international refugee resettlement program in the world, has resettled 128

North Koreans since passage of the 2004 Act, including 23 North Koreans in fiscal year 2011.

(7) In a career of Asia-focused public service that spanned more than half a century, including service as a senior United States diplomat in times and places where there were significant challenges to human rights, Ambassador James R. Lilley also served as a director of the Committee for Human Rights in North Korea until his death in 2009.

(8) Following his 18 years of service in the House of Representatives, including as Chairman of the Foreign Affairs Subcommittee on East Asian and Pacific Affairs, Stephen J. Solarz committed himself to, in his words, highlighting “the plight of ordinary North Koreans who are denied even the most basic human rights, and the dramatic and heart-rending stories of those who risk their lives in the struggle to escape what is certainly the world’s worst nightmare”, and served as co-chairman of the Committee for Human Rights in North Korea until his death in 2010.

#### **SEC. 3. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the United States should continue to seek cooperation from foreign governments to allow the United States to process North Korean refugees overseas for resettlement in the United States, through persistent diplomacy by senior officials of the United States, including United States ambassadors to Asia-Pacific countries, and close cooperation with its ally, the Republic of Korea; and

(2) because there are genuine refugees among North Koreans fleeing into China who face severe punishments upon their forcible return, the United States should urge the People’s Republic of China to—

(A) immediately halt its forcible repatriation of North Koreans;

(B) fulfill its obligations pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the 1995 Agreement on the Upgrading of the UNHCR Mission in the People’s Republic of China to UNHCR Branch Office in the People’s Republic of China; and

(C) allow the United Nations High Commissioner for Refugees (UNHCR) unimpeded access to North Koreans inside China to determine whether such North Koreans are refugees requiring protection.

#### **SEC. 4. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.**

Section 102(b)(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7812(b)(1)) is amended by striking “2012” and inserting “2017”.

#### **SEC. 5. RADIO BROADCASTING TO NORTH KOREA.**

Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors (BBG) shall submit to the appropriate congressional committees, as defined in section 5(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7803(1)), a report that describes the status and content of current United States broadcasting to North Korea and the extent to which the BBG has achieved the goal of 12-hour-per-day broadcasting

Deadline.  
Reports.

to North Korea pursuant to section 103 of such Act (22 U.S.C. 7813).

**SEC. 6. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.**

Subsections (b)(1) and (c) of section 104 of the North Korean Human Rights Act of 2004 (22 U.S.C. 7814) is amended by striking “2012” and inserting “2017” each place it appears.

**SEC. 7. SPECIAL ENVOY ON NORTH KOREAN HUMAN RIGHTS ISSUES.**

Section 107(d) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7817(d)) is amended by striking “2012” and inserting “2017”.

**SEC. 8. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.**

Section 201(a) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7831(a)) is amended, in the matter preceding paragraph (1), by striking “2012” and inserting “2017”.

**SEC. 9. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.**

Section 203(c)(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7833(c)(1)) is amended—

- (1) by striking “\$20,000,000” and inserting “\$5,000,000”;
- and
- (2) by striking “2005 through 2012” and inserting “2013 through 2017”.

**SEC. 10. ANNUAL REPORTS.**

Section 305(a) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7845(a)) is amended, in the matter preceding paragraph (1) by striking “2012” and inserting “2017”.

Approved August 16, 2012.

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LEGISLATIVE HISTORY—H.R. 4240:

CONGRESSIONAL RECORD, Vol. 158 (2012):  
May 15, considered and passed House.  
Aug. 2, considered and passed Senate.



Public Law 112–173  
112th Congress

An Act

Aug. 16, 2012  
[S. 3510]

To prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EFFECTIVE DATE DELAY.**

The STOCK Act (Public Law 112–105) is amended—

5 USC app. 105  
note.

(1) in section 8(a)(1), by striking “August 31, 2012” and inserting “September 30, 2012”; and

5 USC app. 105  
note.

(2) in section 11(a)(1), by striking “August 31, 2012” and inserting “September 30, 2012”.

**SEC. 2. IMPLEMENTATION OF PTR REQUIREMENTS UNDER STOCK ACT.**

Effective date.  
Reports.  
Applicability.  
5 USC app. 103  
note.

Effective September 30, 2012, for purposes of implementing subsection (l) of section 103 of the Ethics in Government Act of 1978 (as added by section 6 of the STOCK Act, Public Law 112–105) for reporting individuals whose reports under section 101 of such Act (5 U.S.C. App. 101) are required to be filed with the Clerk of the House of Representatives, section 102(e) of such Act (5 U.S.C. App. 102(e)) shall apply as if the report under such subsection (l) were a report under such section 101 but only with respect to the transaction information required under such subsection (l).

Approved August 16, 2012.

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**LEGISLATIVE HISTORY—S. 3510:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Aug. 2, considered and passed Senate and House.



Public Law 112–174  
112th Congress

An Act

To direct the Joint Committee on the Library to accept a statue depicting Frederick Douglass from the District of Columbia and to provide for the permanent display of the statue in Emancipation Hall of the United States Capitol.

Sept. 20, 2012  
[H.R. 6336]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds the following:

(1) Frederick Douglass, born Frederick Augustus Washington Bailey in Maryland in 1818, escaped from slavery and became a leading writer, orator, and publisher, and one of the Nation’s most influential advocates for abolitionism, women’s suffrage, and the equality of all people.

(2) The contributions of Frederick Douglass over many decades were crucial to the abolition of slavery, the passage of the 13th, 14th, and 15th Amendments to the Constitution of the United States, the support for women’s suffrage, and the advancement of African-Americans after the Civil War.

(3) After living in New Bedford, Massachusetts, Frederick Douglass resided for 25 years in Rochester, New York, where he published and edited “The North Star”, the leading African-American newspaper in the United States, and other publications.

(4) Self-educated, Frederick Douglass wrote several influential books, including his best-selling first autobiography, “Narrative of the Life of Frederick Douglass, an American Slave”, published in 1845.

(5) Frederick Douglass worked tirelessly for the emancipation of African-American slaves, was a pivotal figure in Underground Railroad activities, and was an inspiration to enslaved Americans who aspired to freedom.

(6) As a well-known speaker in great demand, Frederick Douglass traveled widely, visiting countries such as England and Ireland, to spread the message of emancipation and equal rights.

(7) Frederick Douglass was the only African-American to attend the Seneca Falls Convention, a women’s rights convention held in Seneca Falls, New York in 1848.

(8) During the Civil War, Frederick Douglass recruited African-Americans to volunteer as soldiers for the Union Army, including 2 of his sons, who served nobly in the Fifty-Fourth Massachusetts Regiment.

(9) In 1872, Frederick Douglass moved to Washington, DC, after a fire destroyed his home in Rochester, New York.

(10) Frederick Douglass was appointed as a United States Marshal in 1877 and was named Recorder of Deeds for the District of Columbia in 1881.

(11) Frederick Douglass became the first African-American to receive a vote for nomination as President of the United States at a major party convention for the 1888 Republican National Convention.

(12) From 1889 to 1891, Frederick Douglass served as minister-resident and consul-general to the Republic of Haiti.

(13) Frederick Douglass was recognized around the world as one of the most important political activists in the history of the United States.

(14) Frederick Douglass died in 1895 in Washington, DC and is buried in Rochester, New York.

(15) Frederick Douglass's achievements and influence on the history of the United States merit recognition in the United States Capitol.

**SEC. 2. ACCEPTANCE OF STATUE OF FREDERICK DOUGLASS FOR PLACEMENT IN EMANCIPATION HALL.**

(a) **ACCEPTANCE.**—Not later than 2 years after the date of the enactment of this Act, the Joint Committee on the Library shall accept from the District of Columbia the donation of a statue depicting Frederick Douglass, subject to the terms and conditions that the Joint Committee considers appropriate.

(b) **PLACEMENT.**—The Joint Committee shall place the statue accepted under subsection (a) in a suitable permanent location in Emancipation Hall of the United States Capitol.

Approved September 20, 2012.

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**LEGISLATIVE HISTORY—H.R. 6336:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 10, considered and passed House.

Sept. 12, considered and passed Senate.



Public Law 112–175  
112th Congress

Joint Resolution

Making continuing appropriations for fiscal year 2013, and for other purposes.

Sept. 28, 2012

[H.J. Res. 117]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2013, and for other purposes, namely:

Continuing  
Appropriations  
Resolution, 2013.

SEC. 101. (a) Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2012 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2012, and for which appropriations, funds, or other authority were made available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012 (division A of Public Law 112–55), except for the appropriations designated by the Congress as being for disaster relief in section 735 of such Act.

(2) The Commerce, Justice, Science, and Related Agencies Appropriations Act, 2012 (division B of Public Law 112–55), except for the appropriation designated by the Congress as being for disaster relief in the second paragraph under the heading “Department of Commerce—Economic Development Administration—Economic Development Assistance Programs” in such Act.

(3) The Department of Defense Appropriations Act, 2012 (division A of Public Law 112–74).

(4) The Energy and Water Development Appropriations Act, 2012 (division B of Public Law 112–74).

(5) The Financial Services and General Government Appropriations Act, 2012 (division C of Public Law 112–74).

(6) The Department of Homeland Security Appropriations Act, 2012 (division D of Public Law 112–74).

(7) The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012 (division E of Public Law 112–74).

(8) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2012 (division F of Public Law 112–74).

(9) The Legislative Branch Appropriations Act, 2012 (division G of Public Law 112-74).

(10) The Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2012 (division H of Public Law 112-74).

(11) The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 (division I of Public Law 112-74).

(12) The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2012 (division C of Public Law 112-55), except for the appropriations designated by the Congress as being for disaster relief under the heading “Department of Transportation—Federal Highway Administration—Emergency Relief” and in the last proviso of section 239 of such Act.

(13) The Disaster Relief Appropriations Act, 2012 (Public Law 112-77), except for appropriations under the heading “Corps of Engineers-Civil”.

Continuation.  
Applicability.

(b) Whenever an amount designated for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (in this section referred to as an “OCO/GWOT amount”) in an Act described in paragraph (3) or (10) of subsection (a) that would be made available for a project or activity is different from the amount requested in the President’s fiscal year 2013 budget request, the project or activity shall be continued at a rate for operations that would be permitted by, and such designation shall be applied to, the amount in the President’s fiscal year 2013 budget request.

Rate increase.

(c) The rate for operations provided by subsection (a) is hereby increased by 0.612 percent. Such increase shall not apply to OCO/GWOT amounts or to amounts incorporated in this joint resolution by reference to the Disaster Relief Appropriations Act, 2012 (Public Law 112-77).

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for: (1) the new production of items not funded for production in fiscal year 2012 or prior years; (2) the increase in production rates above those sustained with fiscal year 2012 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item that includes a program element and subprogram element within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2012.

Contracts.

(b) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.



SEC. 104. Except as otherwise provided in section 102, no appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2012.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act for fiscal year 2013, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act for fiscal year 2013 without any provision for such project or activity; or (3) March 27, 2013.

Expiration date.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations made and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2013 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2012, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2012, to be continued through the date specified in section 106(3).

Continuation.

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2012 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

Deadline.

SEC. 112. Amounts made available under section 101 for civilian personnel compensation and benefits in each department and

agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year 2012, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

Applicability.  
5 USC 5303 note.

SEC. 114. (a) Section 147 of Public Law 111–242, as added by Public Law 111–322, shall be applied by substituting the date specified in section 106(3) of this joint resolution for “December 31, 2012” each place it appears.

Pay adjustment.

(b) Notwithstanding any other provision of law, any statutory pay adjustment (as defined in section 147(b)(2) of the Continuing Appropriations Act, 2011 (Public Law 111–242)) otherwise scheduled to take effect during fiscal year 2013 but prior to the date specified in section 106(3) of this joint resolution may take effect on the first day of the first applicable pay period beginning after the date specified in section 106(3).

SEC. 115. (a) Each amount incorporated by reference in this joint resolution that was previously designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or as being for disaster relief pursuant to section 251(b)(2)(D) of such Act is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A) of such Act or as being for disaster relief pursuant to section 251(b)(2)(D) of such Act, respectively.

(b) Of the amount made available by section 101 for “Social Security Administration—Limitation on Administrative Expenses”, \$483,484,000 is additional new budget authority specified for purposes of subsection 251(b)(2)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Applicability.

(c) Section 5 of Public Law 112–74 shall apply to amounts designated in subsection (a) for Overseas Contingency Operations/Global War on Terrorism.

Deadlines.  
Time period.  
Plan.

SEC. 116. (a) Not later than 30 days after the date of the enactment of this joint resolution, each department and agency in subsection (c) shall submit to the Committees on Appropriations of the House of Representatives and the Senate, for the period through the date specified in section 106(3) of this joint resolution, a spending, expenditure, or operating plan—

(1) at the program, project, or activity level (or, for national intelligence programs funded in the Department of Defense Appropriations Act, at the expenditure center and project level); or

(2) as applicable, at any greater level of detail required for funds covered by such a plan in an appropriations Act referred to in section 101, in the joint explanatory statement accompanying such Act, or in committee report language incorporated by reference in such joint explanatory statement.

(b) Not later than 30 days after the date on which any sequestration is ordered by the President under section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, each department and agency in subsection (c) shall submit to the Committees on Appropriations of the House of Representatives and the Senate the spending, expenditure, or operating plan required under subsection (a), updated to reflect any adjustments to funding as a result of the sequestration and any extension of the date specified in section 106(3) of this joint resolution.

(c) The departments and agencies to which this section applies are as follows: Applicability.

- (1) The Department of Agriculture.
- (2) The Department of Commerce.
- (3) The Department of Defense.
- (4) The Department of Education.
- (5) The Department of Energy.
- (6) The Department of Health and Human Services.
- (7) The Department of Homeland Security.
- (8) The Department of Housing and Urban Development.
- (9) The Department of the Interior.
- (10) The Department of Justice.
- (11) The Department of Labor.
- (12) The Department of State and United States Agency for International Development.
- (13) The Department of Transportation.
- (14) The Department of the Treasury.
- (15) The Department of Veterans Affairs.
- (16) The National Aeronautics and Space Administration.
- (17) The National Science Foundation.
- (18) The Judiciary.
- (19) With respect to amounts made available under the heading “Executive Office of the President and Funds Appropriated to the President”, agencies funded under such heading.
- (20) The Federal Communications Commission.
- (21) The General Services Administration.
- (22) The Office of Personnel Management.
- (23) The National Archives and Records Administration.
- (24) The Securities and Exchange Commission.
- (25) The Small Business Administration.
- (26) The Environmental Protection Agency.
- (27) The Indian Health Service.
- (28) The Smithsonian Institution.
- (29) The Social Security Administration.
- (30) The Corporation for National and Community Service.
- (31) The Corporation for Public Broadcasting.
- (32) The Food and Drug Administration.
- (33) The Commodity Futures Trading Commission.
- (34) The Central Intelligence Agency.
- (35) The National Security Agency.
- (36) The National Reconnaissance Office.
- (37) The Defense Intelligence Agency.
- (38) The National Geospatial Intelligence Agency.
- (39) The Office of the Director of National Intelligence.

SEC. 117. Not later than November 1, 2012, and each month thereafter through the month following the period covered by this joint resolution, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the

Deadlines.  
Time period.  
Reports.

House of Representatives and the Senate a report on all obligations incurred by each department and agency in the period covered by this joint resolution. Such report shall—

(1) set forth obligations by account;

(2) compare the obligations incurred in the period covered by the report to the obligations incurred in the same period in fiscal year 2012; and

(3) specify each executive branch account for which funds made available by this joint resolution are apportioned at a different rate for operations than the rate otherwise provided in section 101, with an estimate of the different rate otherwise provided in such section and the total obligations estimated to be incurred under this joint resolution for such account.

Applicability.

SEC. 118. Section 726(15) of division A of Public Law 112–55 shall be applied to amounts made available by this joint resolution without regard to the first proviso of such section.

SEC. 119. Notwithstanding section 101, amounts are provided for “Department of Agriculture—Domestic Food Programs—Food and Nutrition Service—Commodity Assistance Program”, at a rate for operations of \$253,952,000, of which \$186,935,000 shall be for the Commodity Supplemental Food Program.

SEC. 120. (a) Amounts made available under section 101 for “Department of Commerce—National Oceanic and Atmospheric Administration—Procurement, Acquisition and Construction” may be apportioned up to the rate for operations necessary to maintain the planned launch schedules for the Joint Polar Satellite System and the Geostationary Operational Environmental Satellite system.

Deadline.  
Plan.

(b) Not later than 30 days after the date of enactment of this joint resolution, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a plan to maintain the launch schedules and life cycle cost estimates established in fiscal year 2012 for the satellite systems described in subsection (a) and options for reducing costs, including management costs.

SEC. 121. Through the earlier of the date specified in section 106(3) of this joint resolution or the date of the enactment of an Act authorizing appropriations for fiscal year 2013 for military activities of the Department of Defense, no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to—

(1) retire, divest, realign, or transfer aircraft of the Air Force;

(2) disestablish or convert any unit associated with aircraft described in paragraph (1) or any unit of the Air National Guard or Air Force Reserve; or

(3) retire C–23 Sherpa aircraft.

Extension date.

SEC. 122. The authority provided by section 801 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2399) shall continue in effect, notwithstanding subsection (f) of such section, through the earlier of the date specified in section 106(3) of this joint resolution or the date of the enactment of an Act authorizing appropriations for fiscal year 2013 for military activities of the Department of Defense.

Extension date.

SEC. 123. The authority provided by section 572(b)(4) of the National Defense Authorization Act for Fiscal Year 2006 (20 U.S.C. 7703b(b)(4)) shall continue in effect through the earlier of the date specified in section 106(3) of this joint resolution or the date of

the enactment of an Act authorizing appropriations for fiscal year 2013 for military activities of the Department of Defense.

SEC. 124. In addition to any other transfer authority available to the Department of Defense, the Secretary of Defense may transfer an amount designated for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 made available by this joint resolution for the Department of Defense between such appropriations, to be merged with and to be available for the same purposes, and the same time period, as the appropriation or fund to which transferred. The Secretary of Defense shall notify the congressional defense committees not fewer than 15 days prior to any transfer made pursuant to this section.

Notification.  
Deadline.

SEC. 125. (a) Notwithstanding section 101, amounts are provided for “Department of Energy—National Nuclear Security Administration—Weapons Activities” at a rate for operations of \$7,577,341,000.

(b) Section 301(c) of title III of division B of Public Law 112–74 shall not apply to amounts made available by this section.

SEC. 126. In addition to the amounts otherwise made available by section 101 for “Department of Energy—National Nuclear Security Administration—Defense Nuclear Nonproliferation”, an additional amount is made available for domestic uranium enrichment research, development, and demonstration at a rate for operations of \$100,000,000.

SEC. 127. Section 14704 of title 40, United States Code, shall be applied to amounts made available by this joint resolution by substituting the date specified in section 106(3) of this joint resolution for “October 1, 2012”.

Applicability.

SEC. 128. Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds under the heading “District of Columbia Funds” for such programs and activities under title IV of H.R. 6020 (112th Congress), as reported by the Committee on Appropriations of the House of Representatives, at the rate set forth under “District of Columbia Funds—Summary of Expenses” as included in the Fiscal Year 2013 Budget Request Act of 2012 (D.C. Act 19–381), as modified as of the date of the enactment of this joint resolution.

SEC. 129. Notwithstanding section 101, amounts are provided for “District of Columbia—Federal Funds—Federal Payment for Emergency Planning and Security Costs in the District of Columbia” at a rate for operations of \$24,700,000, of which not less than \$9,800,000 shall be used for costs associated with the Presidential Inauguration.

SEC. 130. Notwithstanding section 101, amounts are provided for “General Services Administration—Expenses, Presidential Transition” for necessary expenses to carry out the Presidential Transition Act of 1963 (3 U.S.C. 102 note), at a rate for operations of \$8,947,000, of which not to exceed \$1,000,000 is for activities authorized by sections 3(a)(8) and (9) of such Act.

SEC. 131. (a) Notwithstanding section 101, amounts are provided for “Executive Office of the President—Office of Administration—Presidential Transition Administrative Support” to carry out the Presidential Transition Act of 1963 (3 U.S.C. 102 note) at a rate for operations of \$8,000,000.

(b) Such funds may be transferred to other accounts in this joint resolution or any other Act that provide funding for offices

within the Executive Office of the President and the Office of the Vice President to carry out the Presidential Transition Act of 1963 (3 U.S.C. 102 note).

Applicability.

SEC. 132. Notwithstanding section 101, the fifth proviso under the heading “Federal Communications Commission—Salaries and Expenses” in division C of Public Law 112–74 shall be applied by substituting “\$98,739,000” for “\$85,000,000”.

SEC. 133. Notwithstanding any other provision of this joint resolution, amounts made available by section 101 for “Department of the Treasury—Departmental Offices—Salaries and Expenses” and “Department of the Treasury—Office of Inspector General—Salaries and Expenses” may be used for activities in connection with section 1602(e) of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (subtitle F of title I of division A of Public Law 112–141).

SEC. 134. Notwithstanding section 101, amounts are provided for “Office of Government Ethics—Salaries and Expenses” at a rate for operations of \$18,664,000, of which \$5,000,000 shall be for development and deployment of the centralized, publicly accessible database required in section 11(b) of the STOCK Act (Public Law 112–105).

SEC. 135. Notwithstanding section 101, amounts are provided for “Small Business Administration—Business Loans Program Account” for the cost of guaranteed loans as authorized by section 7(a) of the Small Business Act and section 503 of the Small Business Investment Act of 1958 at a rate for operations of \$333,600,000.

SEC. 136. (a) Amounts made available by this joint resolution for “Department of Homeland Security—U.S. Customs and Border Protection—Salaries and Expenses” shall be obligated at the rate for operations necessary to maintain the staffing levels (including by backfilling vacant positions) of Border Patrol agents, Customs and Border Protection officers, and Air and Marine interdiction agents in effect at the end of the fourth quarter of fiscal year 2012, or, with respect to Border Patrol agents, at such greater levels as may otherwise be required in the second proviso under the heading “U.S. Customs and Border Protection—Salaries and Expenses” in division D of Public Law 112–74. Any increase of the rate for operations for such purpose under this subsection shall be derived by adjusting amounts otherwise made available within such account by this joint resolution, without regard to the restrictions on reprogramming in section 503 of division D of Public Law 112–74.

Deadline.  
Expenditure  
plan.  
Time period.

(b) Not later than 15 days after the date of the enactment of this joint resolution, the Commissioner of U.S. Customs and Border Protection shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for “Department of Homeland Security—U.S. Customs and Border Protection—Salaries and Expenses” at the program, project, and activity level that specifies how the Commissioner will maintain staffing levels as required under subsection (a) through the date specified in section 106(3) of this joint resolution.

SEC. 137. (a) Notwithstanding section 101, amounts are provided for “Department of Homeland Security—National Protection and Programs Directorate—Infrastructure Protection and Information Security” at a rate for operations of \$1,170,243,000, of which \$328,000,000 is for Network Security Deployment, and \$218,000,000

is for Federal Network Security that may be obligated at a rate for operations necessary to establish and sustain essential cybersecurity activities, including procurement and operations of continuous monitoring and diagnostics systems and intrusion detection systems for civilian Federal computer networks.

(b) Not later than 15 days after the date of the enactment of this joint resolution, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for essential cybersecurity activities described in subsection (a) of this section for the period through the date specified in section 106(3) of this joint resolution.

Deadline.  
Expenditure  
plan.  
Time period.

SEC. 138. The authority provided by section 532 of Public Law 109–295 shall continue in effect through the date specified in section 106(3) of this joint resolution.

Extension date.

SEC. 139. Section 550(b) of Public Law 109–295 (6 U.S.C. 121 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “October 4, 2012”.

Applicability.

SEC. 140. (a) Notwithstanding section 101, amounts are provided for “Department of the Interior—Department-wide Programs—Wildland Fire Management” at a rate for operations of \$726,473,000.

(b) In addition to the amounts provided under subsection (a), there is appropriated \$23,000,000 for an additional amount for fiscal year 2013 for “Department of the Interior—Department-wide Programs—Wildland Fire Management”, to remain available until expended, for repayment to other appropriations accounts from which funds were transferred in fiscal year 2012 for wildfire suppression.

SEC. 141. (a) Notwithstanding section 101, amounts are provided for “Department of Agriculture—Forest Service—Wildland Fire Management” at a rate for operations of \$1,971,390,000.

(b) In addition to the amounts provided under subsection (a), there is appropriated \$400,000,000 for an additional amount for fiscal year 2013 for “Department of Agriculture—Forest Service—Wildland Fire Management”, to remain available until expended, for repayment to other appropriations accounts from which funds were transferred in fiscal year 2012 for wildfire suppression.

SEC. 142. Section 411(h)(4)(A) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(h)(4)(A)) is amended to read as follows:

“(A) IN GENERAL.—The annual amount allocated under subparagraph (A) or (B) of section 402(g)(1) to any State or Indian tribe that makes a certification under subsection (a) of this section in which the Secretary concurs shall be reallocated and available for grants under section 402(g)(5).”.

SEC. 143. The authority provided by section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2000 (enacted by reference in section 1000(a)(3) of Public Law 106–113; 16 U.S.C. 497 note) shall continue in effect through the date specified in section 106(3) of this joint resolution.

Extension date.

SEC. 144. (a) The following sections of the Federal Insecticide, Fungicide, and Rodenticide Act shall continue in effect through the date specified in section 106(3) of this joint resolution—

Extension date.  
Applicability.

(1) Subparagraphs (C) through (E) of section 4(i)(5) (7 U.S.C. 136a–1(i)(5)(C)–(E));

(2) Section 4(k)(3) (7 U.S.C. 136a–1(k)(3)); and

(3) Section 33(c)(3)(B) (7 U.S.C. 136w–8(c)(3)(B)).

(b)(1) Section 4(i)(5)(H) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)(H)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2012”.

(2) Notwithstanding section 33(m)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(m)(2)), section 33(m)(1) of such Act (7 U.S.C. 136w–8(m)(1)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2012”.

(c) Section 408(m)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)(3)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2012”.

20 USC 7801  
note.

SEC. 145. Section 163 of Public Law 111–242, as amended by Public Law 111–322, is further amended—

(1) in subsection (b), by striking “2012–2013” and inserting “2013–2014”; and

(2) by inserting at the end the following:

Deadline.  
Reports.

“(c) Not later than December 31, 2013, the Secretary of Education shall submit a report to the Committees on Appropriations and Health, Education, Labor, and Pensions of the Senate and the Committees on Appropriations and Education and the Workforce of the House of Representatives, using data required under existing law (section 1111(h)(6)(A) of Public Law 107–110) by State and each local educational agency, regarding the extent to which students in the following categories are taught by teachers who are deemed highly qualified pursuant to 34 CFR 200.56(a)(2)(ii) as published in the Federal Register on December 2, 2002:

“(1) Students with disabilities.

“(2) English Learners.

“(3) Students in rural areas.

“(4) Students from low-income families.”.

Applicability.

SEC. 146. The first proviso under the heading “Department of Health and Human Services—Administration for Children and Families—Low Income Home Energy Assistance” in division F of Public Law 112–74 shall be applied to amounts made available by this joint resolution by substituting “2013” for “2012”.

SEC. 147. Notwithstanding section 101, amounts are provided for “Department of Health and Human Services—Administration for Children and Families—Refugee and Entrant Assistance” at a rate for operations of \$900,000,000. Amounts made available by this section may be obligated up to a rate for operations necessary to maintain program operations at the level provided in fiscal year 2012, as necessary to accommodate increased demand.

Extension date.

SEC. 148. Activities authorized by part A of title IV and section 1108(b) of the Social Security Act shall continue through the date specified in section 106(3) of this joint resolution, in the manner authorized for fiscal year 2012, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority on a quarterly basis through the second quarter of fiscal year 2013 at the level provided for such activities for the corresponding quarter of fiscal year 2012.



SEC. 149. Notwithstanding any other provision of this joint resolution, there is appropriated for payment to the heirs at law of Donald M. Payne, late a Representative from the State of New Jersey, \$174,000.

Donald M.  
Payne.

SEC. 150. Notwithstanding section 101, amounts are provided for “Department of Veterans Affairs—Departmental Administration—General Operating Expenses, Veterans Benefits Administration” at a rate for operations of \$2,164,074,000.

SEC. 151. The authority provided by section 315(b) of title 38, United States Code, shall continue in effect through the date specified in section 106(3) of this joint resolution.

Extension date.

SEC. 152. (a) Section 120 of division C of Public Law 112–55 shall not apply to amounts made available by this joint resolution.

(b) During the period covered by this joint resolution, section 1102 of Public Law 112–141 shall be applied—

Applicability.

(1) in subsection (a)(1), by substituting “\$39,143,582,670” for “\$39,699,000,000”;

(2) in subsection (b)(10), as if the limitation applicable through fiscal year 2011 applied through fiscal year 2012; and

(3) in subsection (c)(5), by treating the reference to section 204 of title 23, United States Code, as a reference to sections 202 and 204 of such title.

SEC. 153. The matter under the heading “Department of Transportation—National Highway Traffic Safety Administration—Highway Traffic Safety Grants” in division C of Public Law 112–55 shall be applied to amounts made available by this joint resolution by treating each reference to section 2001(a)(11) of Public Law 109–59 under such heading as a reference to section 31101(a)(6) of Public Law 112–141.

Applicability.

SEC. 154. The matter under the heading “Department of Transportation—Federal Transit Administration—Formula and Bus Grants” in division C of Public Law 112–55 shall be applied to amounts made available by this joint resolution by substituting “49 U.S.C. 5305, 5307, 5310, 5311, 5318, 5322(d), 5335, 5337, 5339, and 5340” for “49 U.S.C. 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of Public Law 105–178, as amended” each place it appears.

Applicability.

SEC. 155. Section 601(e)(1)(B) of division B of Public Law 110–432 shall be applied by substituting the date specified in section 106(3) of this joint resolution for “4 years after such date”.

Applicability.

This joint resolution may be cited as the “Continuing Appropriations Resolution, 2013”.

Approved September 28, 2012.

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LEGISLATIVE HISTORY—H.J. Res. 117:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 13, considered and passed House.

Sept. 20, 21, considered and passed Senate.



Public Law 112–176  
112th Congress

An Act

To extend by 3 years the authorization of the EB–5 Regional Center Program, the E–Verify Program, the Special Immigrant Nonminister Religious Worker Program, and the Conrad State 30 J–1 Visa Waiver Program.

Sept. 28, 2012  
[S. 3245]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REAUTHORIZATION OF EB–5 REGIONAL CENTER PROGRAM.**

Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended—

- (1) by striking “pilot” each place such term appears; and
- (2) in subsection (b), by striking “September 30, 2012” and inserting “September 30, 2015”.

**SEC. 2. REAUTHORIZATION OF E–VERIFY.**

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking “September 30, 2012” and inserting “September 30, 2015”.

**SEC. 3. REAUTHORIZATION OF SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM.**

Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)) is amended—

- (1) in subclause (II), by striking “September 30, 2012” and inserting “September 30, 2015”; and
- (2) in subclause (III), by striking “September 30, 2012” and inserting “September 30, 2015”.

**SEC. 4. REAUTHORIZATION OF CONRAD STATE 30 J–1 VISA WAIVER PROGRAM.**

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “September 30, 2012” and inserting “September 30, 2015”.

126 STAT. 1326

PUBLIC LAW 112–176—SEPT. 28, 2012

8 USC 1101 note. **SEC. 5. NO AUTHORITY FOR NATIONAL IDENTIFICATION CARD.**

Nothing in this Act may be construed to authorize the planning, testing, piloting, or development of a national identification card.

Approved September 28, 2012.

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LEGISLATIVE HISTORY—S. 3245:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Aug. 2, considered and passed Senate.

Sept. 11, 13, considered and passed House.



Public Law 112–177  
112th Congress

An Act

To reauthorize the Federal Insecticide, Fungicide, and Rodenticide Act.

Sept. 28, 2012

[S. 3552]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Pesticide Registration Improvement Extension Act of 2012”.

Pesticide  
Registration  
Improvement  
Extension Act  
of 2012.  
7 USC 136 note.

**SEC. 2. PESTICIDE REGISTRATION IMPROVEMENT.**

(a) MAINTENANCE FEES.—

(1) FEES.—Section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)) is amended—

(A) in paragraph (5)—

(i) in subparagraph (C), by striking “aggregate amount of” and all that follows through the end of the subparagraph and inserting “aggregate amount of \$27,800,000 for each of fiscal years 2013 through 2017.”;

(ii) in subparagraph (D)—

(I) in clause (i), by striking “shall be” and all that follows through the semicolon and inserting “shall be \$115,500 for each of fiscal years 2013 through 2017.”; and

(II) in clause (ii), by striking “shall be” and all that follows through the period and inserting “shall be \$184,800 for each of fiscal years 2013 through 2017.”;

(iii) in subparagraph (E)(i)—

(I) in subclause (I), by striking “shall be” and all that follows through the semicolon and inserting “shall be \$70,600 for each of fiscal years 2013 through 2017.”; and

(II) in subclause (II), by striking “shall be” and all that follows through the period and inserting “shall be \$122,100 for each of fiscal years 2013 through 2017.”;

(iv) in subparagraph (F)—

(I) by striking “paragraph (3)” and inserting “this paragraph”; and

(II) by striking “Humans” and inserting “Human”;

(v) by redesignating subparagraphs (F) through (H) as subparagraphs (G) through (I), respectively;

(vi) by inserting after subparagraph (E) the following:

“(F) FEE REDUCTION FOR CERTAIN SMALL BUSINESSES.—

“(i) DEFINITION.—In this subparagraph, the term ‘qualified small business entity’ means a corporation, partnership, or unincorporated business that—

“(I) has 500 or fewer employees;

“(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual global gross revenue from all sources that did not exceed \$10,000,000; and

“(III) holds not more than 5 pesticide registrations under this paragraph.

“(ii) WAIVER.—Except as provided in clause (iii), the Administrator shall waive 25 percent of the fee under this paragraph applicable to the first registration of any qualified small business entity under this paragraph.

“(iii) LIMITATION.—The Administrator shall not grant a waiver under clause (ii) to a qualified small business entity if the Administrator determines that the entity has been formed or manipulated primarily for the purpose of qualifying for the waiver.”; and

(vii) in subparagraph (I) (as redesignated by clause (v)), by striking “2012” and inserting “2017”;

(B) in paragraph (6)—

(i) by striking “2014” and inserting “2019”; and

(ii) by striking “paragraphs (1) through (5)” and inserting “paragraph (1)”;

(C) by striking paragraphs (1), (2), (3), (4), and (7);

and

(D) by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1) is amended—

(i) in subsection (d)(5)(B)(ii)(III), by striking “subsection (i)(1)” and inserting “this section”;

(ii) in subsection (j), by striking “subsection (i)(5)” and inserting “subsection (i)(1)”; and

(iii) in subsection (k)(5)—

(I) in the first sentence, by striking “subsection (i)(5)(C)(ii)” and inserting “subsection (i)(1)(C)(ii)”; and

(II) in the third and sixth sentences, by striking “subsection (i)(5)(C)” each place it appears and inserting “subsection (i)(1)(C)”.

(B) Section 33(b)(7)(F) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(b)(7)(F)) is amended—

(i) by striking “section 4(i)(5)(E)(ii)” each place it appears in clauses (i), (ii)(I), and (iv)(I) and inserting “section 4(i)(1)(E)(ii)”;

(ii) by striking “section 4(i)(5)(E)(ii)(I)(bb)” each place it appears in clauses (ii)(II) and (iv)(II) and inserting “section 4(i)(1)(E)(ii)(I)(bb)”; and

(iii) in clause (iv)(II)—

(I) by striking “applicable.” and inserting “applicable”; and

(II) by striking “revenues” and inserting “revenue”.

(3) EXTENSION OF PROHIBITION ON TOLERANCE FEES.—Section 408(m)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)(3)) is amended by striking “September 30, 2012” and inserting “September 30, 2017”.

(4) REREGISTRATION AND EXPEDITED PROCESSING FUND.—

(A) SOURCE AND USE.—Section 4(k)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(k)(2)(A)) is amended—

(i) by inserting “, to enhance the information systems capabilities to improve the tracking of pesticide registration decisions,” after “paragraph (3)” each place it appears; and

(ii) in clause (i)—

(I) by inserting “offset” before “the costs of reregistration”; and

(II) by striking “in the same portion as appropriated funds”.

(B) EXPEDITED PROCESSING OF SIMILAR APPLICATIONS.—Section 4(k)(3)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(k)(3)(A)) is amended—

(i) in the matter preceding clause (i), by striking “2008 through 2012, between  $\frac{1}{8}$  and  $\frac{1}{7}$ ” and inserting “2013 through 2017, between  $\frac{1}{9}$  and  $\frac{1}{8}$ ”; and

(ii) in clause (i), by striking “new”; and

(iii) in clause (ii), by striking “any application” and all that follows through “that—” and inserting “any application that—”.

(C) ENHANCEMENTS OF INFORMATION TECHNOLOGY SYSTEMS FOR IMPROVEMENT IN REVIEW OF PESTICIDE APPLICATIONS.—Section 4(k) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(k)) is amended—

(i) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(ii) by inserting after paragraph (3) the following:

“(4) ENHANCEMENTS OF INFORMATION TECHNOLOGY SYSTEMS FOR IMPROVEMENT IN REVIEW OF PESTICIDE APPLICATIONS.—

“(A) IN GENERAL.—For each of fiscal years 2013 through 2017, the Administrator shall use not more than \$800,000 of the amounts made available to the Administrator in the Reregistration and Expedited Processing Fund for the activities described in subparagraph (B).

“(B) ACTIVITIES.—The Administrator shall use amounts made available from the Reregistration and Expedited Processing Fund to improve the information systems capabilities for the Office of Pesticide Programs to enhance tracking of pesticide registration decisions, which shall include—

“(i) the electronic tracking of—

“(I) registration submissions; and

“(II) the status of conditional registrations;

“(ii) enhancing the database for information regarding endangered species assessments for registration review;

“(iii) implementing the capability to electronically review labels submitted with registration actions; and

“(iv) acquiring and implementing the capability to electronically assess and evaluate confidential statements of formula submitted with registration actions.”; and

(iii) in the first sentence of paragraph (6) (as redesignated by clause (i)), by striking “to carry out the goals established under subsection (1)” and inserting “for the purposes described in paragraphs (2), (3), and (4) and to carry out the goals established under subsection (1)”.

(b) PESTICIDE REGISTRATION SERVICE FEES.—

(1) AMOUNT OF FEES.—Section 33(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(b)) is amended—

(A) by striking paragraph (3) and inserting the following:

“(3) SCHEDULE OF COVERED APPLICATIONS AND REGISTRATION SERVICE FEES.—Subject to paragraph (6), the schedule of covered pesticide registration applications and corresponding registration service fees shall be as follows:

“TABLE 1. — REGISTRATION DIVISION — NEW ACTIVE INGREDIENTS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R010	1	New Active Ingredient, Food use (2) (3)	24	569,221
R020	2	New Active Ingredient, Food use; reduced risk (2) (3)	18	569,221
R040	3	New Active Ingredient, Food use; Experimental Use Permit application; establish temporary tolerance; submitted before application for registration; credit 45% of fee toward new active ingredient application that follows (3)	18	419,502



“TABLE 1. — REGISTRATION DIVISION — NEW ACTIVE  
INGREDIENTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
R060	4	New Active Ingredient, Non-food use; outdoor (2) (3)	21	395,467
R070	5	New Active Ingredient, Non-food use; out- door; reduced risk (2) (3)	16	395,467
R090	6	New Active Ingredient, Non-food use; out- door; Experimental Use Permit applica- tion; submitted be- fore application for registration; credit 45% of fee toward new active ingredient (3)	16	293,596
R110	7	New Active Ingredient, Non-food use; indoor (2) (3)	20	219,949
R120	8	New Active Ingredient, Non-food use; indoor; reduced risk (2) (3)	14	219,949
R121	9	New Active Ingredient, Non-food use; indoor; Experimental Use Permit application; submitted before ap- plication for registra- tion; credit 45% of fee toward new active in- gredient application that follows (3)	18	165,375

“TABLE 1. — REGISTRATION DIVISION — NEW ACTIVE INGREDIENTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R122	10	Enriched isomer(s) of registered mixed-isomer active ingredient (2) (3)	18	287,643
R123	11	New Active Ingredient, Seed treatment only; includes agricultural and non-agricultural seeds; residues not expected in raw agricultural commodities (2) (3)	18	427,991
R125 New	12	New Active Ingredient, Seed treatment; Experimental Use Permit application; submitted before application for registration; credit 45% of fee toward new active ingredient application that follows (3)	16	293,596

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) All requests for new uses (food and/or nonfood) contained in any application for a new active ingredient or a first food use are covered by the base fee for that new active ingredient or first food use application and retain the same decision time review period as the new active ingredient or first food use application. The application must be received by the agency in one package. The base fee for the category covers a maximum of five new products. Each application for an additional new product registration and new inert approval that is submitted in the new active ingredient application package or first food use application package is subject to the registration service fee for a new product or a new inert approval. All such associated applications that are submitted together will be subject to the new active ingredient or first food use decision review time. In the case of a new active ingredient application, until that new active ingredient is approved, any subsequent application for another new product containing the same active ingredient or an amendment to the proposed labeling will be deemed a new active ingredient application, subject to the registration service fee and decision review time for a new active ingredient. In the case of a first food use application, until that first food use is approved, any subsequent application for an additional new food use or uses will be subject to the registration service fee and decision review time for a first food use. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screening, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new active ingredient or first food use application.

(3) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.

Labeling.  
Deadlines.

Notification.

“TABLE 2. — REGISTRATION DIVISION — NEW USES

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R130	13	First food use; indoor; food/food handling (2) (3)	21	173,644
R140	14	Additional food use; Indoor; food/food handling (3) (4)	15	40,518
R150	15	First food use (2) (3)	21	239,684
R160	16	First food use; reduced risk (2) (3)	16	239,684
R170	17	Additional food use (3) (4)	15	59,976
R175 New	18	Additional food uses covered within a crop group resulting from the conversion of existing approved crop group(s) to one or more revised crop groups. (3) (4)	10	59,976
R180	19	Additional food use; reduced risk (3) (4)	10	59,976
R190	20	Additional food uses; 6 or more submitted in one application (3) (4)	15	359,856
R200	21	Additional food uses; 6 or more submitted in one application; reduced risk (3) (4)	10	359,856

“TABLE 2. — REGISTRATION DIVISION — NEW USES—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R210	22	Additional food use; Experimental Use Permit application; establish temporary tolerance; no credit toward new use registration (3) (4)	12	44,431
R220	23	Additional food use; Experimental Use Permit application; crop destruct basis; no credit toward new use registration (3) (4)	6	17,993
R230	24	Additional use; non-food; outdoor (3) (4)	15	23,969
R240	25	Additional use; non-food; outdoor; reduced risk (3) (4)	10	23,969
R250	26	Additional use; non-food; outdoor; Experimental Use Permit application; no credit toward new use registration (3) (4)	6	17,993
R251 New	27	Experimental Use Permit application which requires no changes to the tolerance(s); non-crop destruct basis (3)	8	17,993
R260	28	New use; non-food; indoor (3) (4)	12	11,577

“TABLE 2. — REGISTRATION DIVISION — NEW USES—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R270	29	New use; non-food; indoor; reduced risk (3) (4)	9	11,577
R271	30	New use; non-food; indoor; Experimental Use Permit application; no credit toward new use registration (3) (4)	6	8,820
R273	31	Additional use; seed treatment; limited uptake into raw agricultural commodities; includes crops with established tolerances (e.g., for soil or foliar application); includes food or non-food uses (3) (4)	12	45,754
R274	32	Additional uses; seed treatment only; 6 or more submitted in one application; limited uptake into raw agricultural commodities; includes crops with established tolerances (e.g., for soil or foliar application); includes food and/or non-food uses (3) (4)	12	274,523

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) All requests for new uses (food and/or nonfood) contained in any application for a new active ingredient or a first food use are covered by the base fee for that new active ingredient or first food use application and retain the same decision time review period as the new active ingredient or first food use application. The application must be received by the agency in one package. The base fee for the category covers a maximum of five new products. Each application for an additional new product registration and new inert approval that is submitted in the new active ingredient application package or first food use application package is subject to the registration service fee for a new product or a new inert approval. All such associated applications that are submitted together will be subject to the new active ingredient or first food use decision review time. In the case of a new active ingredient application, until that new active ingredient is approved, any subsequent application for another new product containing the same active ingredient or an amendment to the proposed labeling will be deemed a new active ingredient application, subject to the registration service fee and decision review time for a new active ingredient. In the case of a first food use application, until that first food use is approved, any subsequent application for an additional new food use or uses will be subject to the registration service fee and decision review time for a first food use. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screening, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new active ingredient or first food use application.

(3) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.

Labeling.  
Deadlines.

Notification.

(4) Amendment applications to add the new use(s) to registered product labels are covered by the base fee for the new use(s). All items in the covered application must be submitted together in one package. Each application for an additional new product registration and new inert approval(s) that is submitted in the new use application package is subject to the registration service fee for a new product or a new inert approval. However, if a new use application only proposes to register the new use for a new product and there are no amendments in the application, then review of one new product application is covered by the new use fee. All such associated applications that are submitted together will be subject to the new use decision review time. Any application for a new product or an amendment to the proposed labeling (a) submitted subsequent to submission of the new use application and (b) prior to conclusion of its decision review time and (c) containing the same new uses, will be deemed a separate new-use application, subject to a separate registration service fee and new decision review time for a new use. If the new-use application includes non-food (indoor and/or outdoor), and food (outdoor and/or indoor) uses, the appropriate fee is due for each type of new use and the longest decision review time applies to all of the new uses requested in the application. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screen, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new use application.

“TABLE 3. — REGISTRATION DIVISION — IMPORT AND OTHER TOLERANCES

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R280	33	Establish import tolerance; new active ingredient or first food use (2)	21	289,407
R290	34	Establish import tolerance; additional food use	15	57,882
R291	35	Establish import tolerances; additional food uses; 6 or more crops submitted in one petition	15	347,288



“TABLE 3. — REGISTRATION DIVISION — IMPORT AND  
OTHER TOLERANCES—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
R292	36	Amend an established tolerance (e.g., decrease or increase); domestic or import; applicant-initiated	11	41,124
R293	37	Establish tolerance(s) for inadvertent residues in one crop; applicant-initiated	12	48,510
R294	38	Establish tolerances for inadvertent residues; 6 or more crops submitted in one application; applicant-initiated	12	291,060
R295	39	Establish tolerance(s) for residues in one rotational crop in response to a specific rotational crop application; applicant-initiated	15	59,976
R296	40	Establish tolerances for residues in rotational crops in response to a specific rotational crop petition; 6 or more crops submitted in one application; applicant-initiated	15	359,856

“TABLE 3. — REGISTRATION DIVISION — IMPORT AND  
OTHER TOLERANCES—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
R297 New	41	Amend 6 or more es- tablished tolerances (e.g., decrease or in- crease) in one peti- tion; domestic or im- port; applicant-initi- ated	11	246,744
R298 New	42	Amend an established tolerance (e.g., de- crease or increase); domestic or import; submission of amend- ed labels (requiring science review) in ad- dition to those associ- ated with the amend- ed tolerance; appli- cant-initiated (3)	13	53,120
R299 New	43	Amend 6 or more es- tablished tolerances (e.g., decrease or in- crease); domestic or import; submission of amended labels (re- quiring science re- view) in addition to those associated with the amended toler- ance; applicant-initi- ated (3)	13	258,740

Extension.

(1) A decision review time that would otherwise end on a Satur-  
day, Sunday, or federal holiday, will be extended to end on the next  
business day.

(2) All requests for new uses (food and/or nonfood) contained in any application for a new active ingredient or a first food use are covered by the base fee for that new active ingredient or first food use application and retain the same decision time review period as the new active ingredient or first food use application. The application must be received by the agency in one package. The base fee for the category covers a maximum of five new products. Each application for an additional new product registration and new inert approval that is submitted in the new active ingredient application package or first food use application package is subject to the registration service fee for a new product or a new inert approval. All such associated applications that are submitted together will be subject to the new active ingredient or first food use decision review time. In the case of a new active ingredient application, until that new active ingredient is approved, any subsequent application for another new product containing the same active ingredient or an amendment to the proposed labeling will be deemed a new active ingredient application, subject to the registration service fee and decision review time for a new active ingredient. In the case of a first food use application, until that first food use is approved, any subsequent application for an additional new food use or uses will be subject to the registration service fee and decision review time for a first food use. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screening, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new active ingredient or first food use application.

(3) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.

Labeling.  
Deadlines.

“TABLE 4. — REGISTRATION DIVISION — NEW PRODUCTS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R300	44	New product; or similar combination product (already registered) to an identical or substantially similar in composition and use to a registered product; registered source of active ingredient; no data review on acute toxicity, efficacy or CRP – only product chemistry data; cite-all data citation, or selective data citation where applicant owns all required data, or applicant submits specific authorization letter from data owner. Category also includes 100% repackage of registered end-use or manufacturing-use product that requires no data submission nor data matrix. (2) (3)	4	1,434

“TABLE 4. — REGISTRATION DIVISION — NEW PRODUCTS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R301	45	New product; or similar combination product (already registered) to an identical or substantially similar in composition and use to a registered product; registered source of active ingredient; selective data citation only for data on product chemistry and/or acute toxicity and/or public health pest efficacy, where applicant does not own all required data and does not have a specific authorization letter from data owner. (2) (3)	4	1,720

“TABLE 4. — REGISTRATION DIVISION — NEW PRODUCTS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R310	46	<p>New end-use or manufacturing-use product with registered source(s) of active ingredient(s); includes products containing two or more registered active ingredients previously combined in other registered products; requires review of data package within RD only; includes data and/or waivers of data for only:</p> <ul style="list-style-type: none"> <li>● product chemistry and/or</li> <li>● acute toxicity and/or</li> <li>● public health pest efficacy and/or</li> <li>● child resistant packaging. (2) (3)</li> </ul>	7	4,807

“TABLE 4. — REGISTRATION DIVISION — NEW PRODUCTS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R314 New	47	<p>New end use product containing two or more registered active ingredients never before registered as this combination in a formulated product; new product label is identical or substantially similar to the labels of currently registered products which separately contain the respective component active ingredients; requires review of data package within RD only; includes data and/or waivers of data for only:</p> <ul style="list-style-type: none"> <li>● product chemistry and/or</li> <li>● acute toxicity and/or</li> <li>● public health pest efficacy and/or</li> <li>● child resistant packaging. (2) (3)</li> </ul>	8	6,009

“TABLE 4. — REGISTRATION DIVISION — NEW PRODUCTS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R315 New	48	New end-use non-food animal product with submission of two or more target animal safety studies; includes data and/or waivers of data for only: <ul style="list-style-type: none"> <li>● product chemistry and/or</li> <li>● acute toxicity and/or</li> <li>● public health pest efficacy and/or</li> <li>● animal safety studies and/or</li> <li>● child resistant packaging (2) (3)</li> </ul>	9	8,000
R320	49	New product; new physical form; requires data review in science divisions (2) (3)	12	11,996
R331	50	New product; repack of identical registered end-use product as a manufacturing-use product; same registered uses only (2) (3)	3	2,294



“TABLE 4. — REGISTRATION DIVISION — NEW PRODUCTS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R332	51	New manufacturing-use product; registered active ingredient; unregistered source of active ingredient; submission of completely new generic data package; registered uses only; requires review in RD and science divisions (2) (3)	24	256,883
R333 New	52	New product; MUP or End use product with unregistered source of active ingredient; requires science data review; new physical form; etc. Cite-all or selective data citation where applicant owns all required data. (2) (3)	10	17,993

“TABLE 4. — REGISTRATION DIVISION — NEW PRODUCTS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R334 New	53	New product; MUP or End use product with unregistered source of the active ingredient; requires science data review; new physical form; etc. Selective data citation. (2) (3)	11	17,993

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) An application for a new end-use product using a source of active ingredient that (a) is not yet registered but (b) has an application pending with the Agency for review, will be considered an application for a new product with an unregistered source of active ingredient.

Labeling.  
Deadlines.

(3) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.

Notification.

“TABLE 5. — REGISTRATION DIVISION — AMENDMENTS TO REGISTRATION

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R340	54	Amendment requiring data review within RD (e.g., changes to precautionary label statements) (2) (3)	4	3,617
R345 New	55	Amending non-food animal product that includes submission of target animal safety data; previously registered (2) (3)	7	8,000
R350	56	Amendment requiring data review in science divisions (e.g., changes to REI, or PPE, or PHI, or use rate, or number of applications; or add aerial application; or modify GW/SW advisory statement) (2) (3)	9	11,996
R351 New	57	Amendment adding a new unregistered source of active ingredient. (2) (3)	8	11,996
R352 New	58	Amendment adding already approved uses; selective method of support; does not apply if the applicant owns all cited data (2) (3)	8	11,996

“TABLE 5. — REGISTRATION DIVISION — AMENDMENTS TO  
REGISTRATION—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
R371	59	Amendment to Experi- mental Use Permit; (does not include ex- tending a permit’s time period) (3)	6	9,151

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) (a) EPA-initiated amendments shall not be charged registration service fees. (b) Registrant-initiated fast-track amendments are to be completed within the timelines specified in FIFRA Section 3(c)(3)(B) and are not subject to registration service fees. (c) Registrant-initiated fast-track amendments handled by the Antimicrobials Division are to be completed within the timelines specified in FIFRA Section 3(h) and are not subject to registration service fees. (d) Registrant initiated amendments submitted by notification under PR Notices, such as PR Notice 98-10, continue under PR Notice timelines and are not subject to registration service fees. (e) Submissions with data and requiring data review are subject to registration service fees.

Labeling.  
Deadlines.

Notification.

(3) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant’s written or electronic confirmation of agreement to the Agency.

“TABLE 6. — REGISTRATION DIVISION — OTHER ACTIONS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
R124	60	Conditional Ruling on Preapplication Study Waivers; applicant-initiated	6	2,294
R272	61	Review of Study Protocol applicant-initiated; excludes DART, pre-registration conference, Rapid Response review, DNT protocol review, protocol needing HSRB review	3	2,294
R275 New	62	Rebuttal of agency reviewed protocol, applicant initiated	3	2,294
R370	63	Cancer reassessment; applicant-initiated	18	179,818

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

Extension.

“TABLE 7. — ANTIMICROBIALS DIVISION — NEW ACTIVE INGREDIENTS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A380	64	Food use; establish tolerance exemption (2) (3)	24	104,187
A390	65	Food use; establish tolerance (2) (3)	24	173,644

“TABLE 7. — ANTIMICROBIALS DIVISION — NEW ACTIVE  
INGREDIENTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
A400	66	Non-food use; outdoor; FIFRA §2(mm) uses (2) (3)	18	86,823
A410	67	Non-food use; outdoor; uses other than FIFRA §2(mm) (2) (3)	21	173,644
A420	68	Non-food use; indoor; FIFRA §2(mm) uses (2) (3)	18	57,882
A430	69	Non-food use; indoor; uses other than FIFRA §2(mm) (2) (3)	20	86,823
A431	70	Non-food use; indoor; low-risk, low-toxicity food-grade active in- gredient(s); efficacy testing for public health claims re- quired under GLP and following DIS/ TSS or AD-approved study protocol (2) (3)	12	60,638

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) All requests for new uses (food and/or nonfood) contained in any application for a new active ingredient or a first food use are covered by the base fee for that new active ingredient or first food use application and retain the same decision time review period as the new active ingredient or first food use application. The application must be received by the agency in one package. The base fee for the category covers a maximum of five new products. Each application for an additional new product registration and new inert approval that is submitted in the new active ingredient application package or first food use application package is subject to the registration service fee for a new product or a new inert approval. All such associated applications that are submitted together will be subject to the new active ingredient or first food use decision review time. In the case of a new active ingredient application, until that new active ingredient is approved, any subsequent application for another new product containing the same active ingredient or an amendment to the proposed labeling will be deemed a new active ingredient application, subject to the registration service fee and decision review time for a new active ingredient. In the case of a first food use application, until that first food use is approved, any subsequent application for an additional new food use or uses will be subject to the registration service fee and decision review time for a first food use. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screening, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new active ingredient or first food use application.

(3) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.

Labeling.  
Deadline.

“TABLE 8. — ANTIMICROBIALS DIVISION — NEW USES

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A440	71	First food use; establish tolerance exemption (2) (3) (4)	21	28,942
A450	72	First food use; establish tolerance (2) (3) (4)	21	86,823
A460	73	Additional food use; establish tolerance exemption (3) (4) (5)	15	11,577
A470	74	Additional food use; establish tolerance (3) (4) (5)	15	28,942
A471 New	75	Additional food uses; establish tolerances; 6 or more submitted in one application (3) (4) (5)	15	173,652
A480	76	Additional use; non-food; outdoor; FIFRA §2(mm) uses (4) (5)	9	17,365
A481 New	77	Additional non-food outdoor uses; FIFRA §2(mm) uses; 6 or more submitted in one application (4) (5)	9	104,190
A490	78	Additional use; non-food; outdoor; uses other than FIFRA §2(mm) (4) (5)	15	28,942



“TABLE 8. — ANTIMICROBIALS DIVISION — NEW USES—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A491 New	79	Additional non-food; outdoor; uses other than FIFRA §2(mm); 6 or more submitted in one application (4) (5)	15	173,652
A500	80	Additional use; non-food, indoor, FIFRA §2(mm) uses (4) (5)	9	11,577
A501 New	81	Additional non-food; indoor; FIFRA §2(mm) uses; 6 or more submitted in one application (4) (5)	9	69,462
A510	82	Additional use; non-food; indoor; uses other than FIFRA §2(mm) (4) (5)	12	11,577
A511 New	83	Additional non-food; indoor; uses other than FIFRA §2(mm); 6 or more submitted in one application (4) (5)	12	69,462

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day. Extension.

(2) All requests for new uses (food and/or nonfood) contained in any application for a new active ingredient or a first food use are covered by the base fee for that new active ingredient or first food use application and retain the same decision time review period as the new active ingredient or first food use application. The application must be received by the agency in one package. The base fee for the category covers a maximum of five new products. Each application for an additional new product registration and new inert approval that is submitted in the new active ingredient application package or first food use application package is subject to the registration service fee for a new product or a new inert approval. All such associated applications that are submitted together will be subject to the new active ingredient or first food use decision review time. In the case of a new active ingredient application, until that new active ingredient is approved, any subsequent application for another new product containing the same active ingredient or an amendment to the proposed labeling will be deemed a new active ingredient application, subject to the registration service fee and decision review time for a new active ingredient. In the case of a first food use application, until that first food use is approved, any subsequent application for an additional new food use or uses will be subject to the registration service fee and decision review time for a first food use. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screening, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new active ingredient or first food use application.

Time period.

(3) If EPA data rules are amended to newly require clearance under section 408 of the FFDCA for an ingredient of an antimicrobial product where such ingredient was not previously subject to such a clearance, then review of the data for such clearance of such product is not subject to a registration service fee for the tolerance action for two years from the effective date of the rule.

Labeling.  
Deadlines.

Notification.

(4) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.

(5) Amendment applications to add the new use(s) to registered product labels are covered by the base fee for the new use(s). All items in the covered application must be submitted together in one package. Each application for an additional new product registration and new inert approval(s) that is submitted in the new use application package is subject to the registration service fee for a new product or a new inert approval. However, if a new use application only proposes to register the new use for a new product and there are no amendments in the application, then review of one new product application is covered by the new use fee. All such associated applications that are submitted together will be subject to the new use decision review time. Any application for a new product or an amendment to the proposed labeling (a) submitted subsequent to submission of the new use application and (b) prior to conclusion of its decision review time and (c) containing the same new uses, will be deemed a separate new-use application, subject to a separate registration service fee and new decision review time for a new use. If the new-use application includes non-food (indoor and/or outdoor), and food (outdoor and/or indoor) uses, the appropriate fee is due for each type of new use and the longest decision review time applies to all of the new uses requested in the application. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screen, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new use application.

“TABLE 9. — ANTIMICROBIALS DIVISION — NEW PRODUCTS AND AMENDMENTS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A530	84	New product; identical or substantially similar in composition and use to a registered product; no data review or only product chemistry data; cite-all data citation, or selective data citation when applicant owns all required data, or applicant submits specific authorization letter for data owner. Category also includes 100% re-package of registered end-use or manufacturing-use product that requires no data submission nor data matrix. (2) (3)	4	1,159

“TABLE 9. — ANTIMICROBIALS DIVISION — NEW PRODUCTS  
AND AMENDMENTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A531	85	New product; identical or substantially similar in composition and use to a registered product; registered source of active ingredient: selective data citation only for data on product chemistry and/or acute toxicity and/or public health pest efficacy, where applicant does not own all required data and does not have a specific authorization letter from data owner. (2) (3)	4	1,654
A532	86	New product; identical or substantially similar in composition and use to a registered product; registered active ingredient; unregistered source of active ingredient; cite-all data citation except for product chemistry; product chemistry data submitted (2) (3)	5	4,631
A540	87	New end use product; FIFRA §2(mm) uses only (2) (3)	5	4,631

“TABLE 9. — ANTIMICROBIALS DIVISION — NEW PRODUCTS  
AND AMENDMENTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
A550	88	New end-use product; uses other than FIFRA §2(mm); non- FQPA product (2) (3)	7	4,631
A560	89	New manufacturing-use product; registered active ingredient; se- lective data citation (2) (3)	12	17,365
A570	90	Label amendment re- quiring data review (3) (4)	4	3,474
A572 New	91	New Product or amend- ment requiring data review for risk as- sessment by Science Branch (e.g., changes to REI, or PPE, or use rate) (2) (3) (4)	9	11,996

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) An application for a new end-use product using a source of active ingredient that (a) is not yet registered but (b) has an application pending with the Agency for review, will be considered an application for a new product with an unregistered source of active ingredient.

(3) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.

Labeling.  
Deadlines.

Notification.

(4) (a) EPA-initiated amendments shall not be charged registration service fees. (b) Registrant-initiated fast-track amendments are to be completed within the timelines specified in FIFRA Section 3(c)(3)(B) and are not subject to registration service fees. (c) Registrant-initiated fast-track amendments handled by the Antimicrobials Division are to be completed within the timelines specified in FIFRA Section 3(h) and are not subject to registration service fees. (d) Registrant initiated amendments submitted by notification under PR Notices, such as PR Notice 98–10, continue under PR Notice timelines and are not subject to registration service fees. (e) Submissions with data and requiring data review are subject to registration service fees.

“TABLE 10. — ANTIMICROBIALS DIVISION — EXPERIMENTAL USE PERMITS AND OTHER TYPE OF ACTIONS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A520	92	Experimental Use Permit application, Non-Food Use (2)	9	5,789

“TABLE 10. — ANTIMICROBIALS DIVISION — EXPERIMENTAL USE PERMITS AND OTHER TYPE OF ACTIONS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A521	93	Review of public health efficacy study protocol within AD, per AD Internal Guidance for the Efficacy Protocol Review Process; Code will also include review of public health efficacy study protocol and data review for devices making pesticidal claims; applicant-initiated; Tier 1	3	2,250
A522	94	Review of public health efficacy study protocol outside AD by members of AD Efficacy Protocol Review Expert Panel; Code will also include review of public health efficacy study protocol and data review for devices making pesticidal claims; applicant-initiated; Tier 2	12	11,025



“TABLE 10. — ANTIMICROBIALS DIVISION — EXPERIMENTAL USE PERMITS AND OTHER TYPE OF ACTIONS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A524 New	95	New Active Ingredient, Experimental Use Permit application; Food Use Requires Tolerance. Credit 45% of fee toward new active ingredient application that follows. (2)	18	138,916
A525 New	96	New Active Ingredient, Experimental Use Permit application; Food Use Requires Tolerance Exemption. Credit 45% of fee toward new active ingredient application that follows. (2)	18	83,594
A526 New	97	New Active Ingredient, Experimental Use Permit application; Non-Food, Outdoor Use. Credit 45% of fee toward new active ingredient application that follows. (2)	15	86,823
A527 New	98	New Active Ingredient, Experimental Use Permit application; Non-Food, Indoor Use. Credit 45% of fee toward new active ingredient application that follows. (2)	15	58,000

“TABLE 10. — ANTIMICROBIALS DIVISION — EXPERIMENTAL USE PERMITS AND OTHER TYPE OF ACTIONS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A528 New	99	Experimental Use Permit application, Food Use; Requires Tolerance or Tolerance Exemption (2)	15	20,260
A529 New	100	Amendment to Experimental Use Permit; requires data review or risk assessment (2)	9	10,365
A523 New	101	Review of protocol other than a public health efficacy study (i.e., Toxicology or Exposure Protocols)	9	11,025

“TABLE 10. — ANTIMICROBIALS DIVISION — EXPERIMENTAL USE PERMITS AND OTHER TYPE OF ACTIONS—  
Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
A571 New	102	Science reassessment: Cancer risk, refined ecological risk, and/or endangered species; applicant-initiated	18	86,823

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

Extension.

(2) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.

Labeling.  
Deadlines.

Notification.

“TABLE 11. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW ACTIVE INGREDIENTS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B580	103	New active ingredient; food use; petition to establish a tolerance (2)	19	46,305
B590	104	New active ingredient; food use; petition to establish a tolerance exemption (2)	17	28,942
B600	105	New active ingredient; non-food use (2)	13	17,365
B610	106	New active ingredient; Experimental Use Permit application; petition to establish a temporary tolerance or temporary tolerance exemption	10	11,577
B611 New	107	New active ingredient; Experimental Use Permit application; petition to establish permanent tolerance exemption	12	11,577
B612 New	108	New active ingredient; no change to a permanent tolerance exemption (2)	10	15,918

“TABLE 11. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW ACTIVE INGREDIENTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B613 New	109	New active ingredient; petition to convert a temporary tolerance or a temporary tolerance exemption to a permanent tolerance or tolerance exemption (2)	11	15,918

“TABLE 11. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW ACTIVE INGREDIENTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B620	110	New active ingredient; Experimental Use Permit application; non-food use including crop destruct	7	5,789

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) All requests for new uses (food and/or nonfood) contained in any application for a new active ingredient or a first food use are covered by the base fee for that new active ingredient or first food use application and retain the same decision time review period as the new active ingredient or first food use application. The application must be received by the agency in one package. The base fee for the category covers a maximum of five new products. Each application for an additional new product registration and new inert approval that is submitted in the new active ingredient application package or first food use application package is subject to the registration service fee for a new product or a new inert approval. All such associated applications that are submitted together will be subject to the new active ingredient or first food use decision review time, except where the new inert approval decision review time is greater than that for the new active ingredient, in which case the associated new active ingredient will be subject to the new inert approval decision review time. In the case of a new active ingredient application, until that new active ingredient is approved, any subsequent application for another new product containing the same active ingredient or an amendment to the proposed labeling will be deemed a new active ingredient application, subject to the registration service fee and decision review time for a new active ingredient. In the case of a first food use application, until that first food use is approved, any subsequent application for an additional new food use or uses will be subject to the registration service fee and decision review time for a first food use. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screening, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new active ingredient or first food use application.

“TABLE 12. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW USES

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B630	111	First food use; petition to establish a tolerance exemption (2)	13	11,577
B631	112	New food use; petition to amend an established tolerance (3)	12	11,577
B640	113	First food use; petition to establish a tolerance (2)	19	17,365
B643 New	114	New Food use; petition to amend tolerance exemption (3)	10	11,577
B642 New	115	First food use; indoor; food/food handling (2)	12	28,942
B644 New	116	New use, no change to an established tolerance or tolerance exemption (3)	8	11,577
B650	117	New use; non-food (3)	7	5,789

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

Extension.

(2) All requests for new uses (food and/or nonfood) contained in any application for a new active ingredient or a first food use are covered by the base fee for that new active ingredient or first food use application and retain the same decision time review period as the new active ingredient or first food use application. The application must be received by the agency in one package. The base fee for the category covers a maximum of five new products. Each application for an additional new product registration and new inert approval that is submitted in the new active ingredient application package or first food use application package is subject to the registration service fee for a new product or a new inert approval. All such associated applications that are submitted together will be subject to the new active ingredient or first food use decision review time. In the case of a new active ingredient application, until that new active ingredient is approved, any subsequent application for another new product containing the same active ingredient or an amendment to the proposed labeling will be deemed a new active ingredient application, subject to the registration service fee and decision review time for a new active ingredient. In the case of a first food use application, until that first food use is approved, any subsequent application for an additional new food use or uses will be subject to the registration service fee and decision review time for a first food use. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screening, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new active ingredient or first food use application.

(3) Amendment applications to add the new use(s) to registered product labels are covered by the base fee for the new use(s). All items in the covered application must be submitted together in one package. Each application for an additional new product registration and new inert approval(s) that is submitted in the new use application package is subject to the registration service fee for a new product or a new inert approval. However, if a new use application only proposes to register the new use for a new product and there are no amendments in the application, then review of one new product application is covered by the new use fee. All such associated applications that are submitted together will be subject to the new use decision review time. Any application for a new product or an amendment to the proposed labeling (a) submitted subsequent to submission of the new use application and (b) prior to conclusion of its decision review time and (c) containing the same new uses, will be deemed a separate new-use application, subject to a separate registration service fee and new decision review time for a new use. If the new-use application includes non-food (indoor and/or outdoor), and food (outdoor and/or indoor) uses, the appropriate fee is due for each type of new use and the longest decision review time applies to all of the new uses requested in the application. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screen, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new use application.



“TABLE 13. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW PRODUCTS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B652 New	118	New product; registered source of active ingredient; requires petition to amend established tolerance or tolerance exemption; requires 1) submission of product specific data; or 2) citation of previously reviewed and accepted data; or 3) submission or citation of data generated at government expense; or 4) submission or citation of scientifically-sound rationale based on publicly available literature or other relevant information that addresses the data requirement; or 5) submission of a request for a data requirement to be waived supported by a scientifically-sound rationale explaining why the data requirement does not apply (2)	13	11,577

“TABLE 13. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW PRODUCTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B660	119	New product; registered source of active ingredient(s); identical or substantially similar in composition and use to a registered product; no change in an established tolerance or tolerance exemption. No data review, or only product chemistry data; cite-all data citation, or selective data citation where applicant owns all required data or authorization from data owner is demonstrated. Category includes 100% repackage of registered end-use or manufacturing-use product that requires no data submission or data matrix. For microbial pesticides, the active ingredient(s) must not be re-isolated. (2)	4	1,159

“TABLE 13. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW PRODUCTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B670	120	New product; registered source of active ingredient(s); no change in an established tolerance or tolerance exemption; requires: 1) submission of product specific data; or 2) citation of previously reviewed and accepted data; or 3) submission or citation of data generated at government expense; or 4) submission or citation of a scientifically-sound rationale based on publicly available literature or other relevant information that addresses the data requirement; or 5) submission of a request for a data requirement to be waived supported by a scientifically-sound rationale explaining why the data requirement does not apply. (2)	7	4,631

“TABLE 13. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW PRODUCTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B671	121	New product; unregistered source of active ingredient(s); requires a petition to amend an established tolerance or tolerance exemption; requires: 1) submission of product specific data; or 2) citation of previously reviewed and accepted data; or 3) submission or citation of data generated at government expense; or 4) submission or citation of a scientifically-sound rationale based on publicly available literature or other relevant information that addresses the data requirement; or 5) submission of a request for a data requirement to be waived supported by a scientifically-sound rationale explaining why the data requirement does not apply. (2)	17	11,577

“TABLE 13. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW PRODUCTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B672	122	New product; unregistered source of active ingredient(s); non-food use or food use with a tolerance or tolerance exemption previously established for the active ingredient(s); requires: 1) submission of product specific data; or 2) citation of previously reviewed and accepted data; or 3) submission or citation of data generated at government expense; or 4) submission or citation of a scientifically-sound rationale based on publicly available literature or other relevant information that addresses the data requirement; or 5) submission of a request for a data requirement to be waived supported by a scientifically-sound rationale explaining why the data requirement does not apply. (2)	13	8,269

“TABLE 13. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW PRODUCTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B673 New	123	New product MUP/EP; unregistered source of active ingredient(s); citation of Technical Grade Active Ingredient (TGAI) data previously reviewed and accepted by the Agency. Requires an Agency determination that the cited data supports the new product. (2)	10	4,631
B674 New	124	New product MUP; Repack of identical registered end-use product as a manufacturing-use product; same registered uses only (2)	4	1,159
B675 New	125	New Product MUP; registered source of active ingredient; submission of completely new generic data package; registered uses only. (2)	10	8,269

“TABLE 13. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW PRODUCTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B676 New	126	New product; more than one active ingredient where one active ingredient is an unregistered source; product chemistry data must be submitted; requires: 1) submission of product specific data, and 2) citation of previously reviewed and accepted data; or 3) submission or citation of data generated at government expense; or 4) submission or citation of a scientifically-sound rationale based on publicly available literature or other relevant information that addresses the data requirement; or 5) submission of a request for a data requirement to be waived supported by a scientifically-sound rationale explaining why the data requirement does not apply. (2)	13	8,269

“TABLE 13. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; NEW PRODUCTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B677 New	127	New end-use non-food animal product with submission of two or more target animal safety studies; includes data and/or waivers of data for only: <ul style="list-style-type: none"> <li>● product chemistry and/or</li> <li>● acute toxicity and/or</li> <li>● public health pest efficacy and/or</li> <li>● animal safety studies and/or</li> <li>● child resistant packaging (2)</li> </ul>	10	8,000

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) An application for a new end-use product using a source of active ingredient that (a) is not yet registered but (b) has an application pending with the Agency for review, will be considered an application for a new product with an unregistered source of active ingredient.



“TABLE 14. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; AMENDMENTS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B621	128	Amendment; Experimental Use Permit; no change to an established temporary tolerance or tolerance exemption.	7	4,631
B622 New	129	Amendment; Experimental Use Permit; petition to amend an established or temporary tolerance or tolerance exemption.	11	11,577
B641	130	Amendment of an established tolerance or tolerance exemption.	13	11,577
B680	131	Amendment; registered source of active ingredient(s); no new use(s); no changes to an established tolerance or tolerance exemption. Requires data submission. (2)	5	4,631
B681	132	Amendment; unregistered source of active ingredient(s). Requires data submission. (2)	7	5,513

“TABLE 14. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — MICROBIAL AND BIOCHEMICAL PESTICIDES; AMENDMENTS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B683 New	133	Label amendment; requires review/update of previous risk assessment(s) without data submission (e.g., labeling changes to REI, PPE, PHI). (2)	6	4,631
B684 New	134	Amending non-food animal product that includes submission of target animal safety data; previously registered (2)	8	8,000

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) (a) EPA-initiated amendments shall not be charged registration service fees. (b) Registrant-initiated fast-track amendments are to be completed within the timelines specified in FIFRA Section 3(c)(3)(B) and are not subject to registration service fees. (c) Registrant-initiated fast-track amendments handled by the Antimicrobials Division are to be completed within the timelines specified in FIFRA Section 3(h) and are not subject to registration service fees. (d) Registrant initiated amendments submitted by notification under PR Notices, such as PR Notice 98-10, continue under PR Notice timelines and are not subject to registration service fees. (e) Submissions with data and requiring data review are subject to registration service fees.

“TABLE 15. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — STRAIGHT CHAIN LEPIDOPTERAN PHEROMONES(SCLPS)

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B690	135	New active ingredient; food or non-food use. (2)	7	2,316
B700	136	Experimental Use Permit application; new active ingredient or new use.	7	1,159
B701	137	Extend or amend Experimental Use Permit.	4	1,159

“TABLE 15. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — STRAIGHT CHAIN LEPIDOPTERAN PHEROMONES(SCLPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B710	138	New product; registered source of active ingredient(s); identical or substantially similar in composition and use to a registered product; no change in an established tolerance or tolerance exemption. No data review, or only product chemistry data; cite-all data citation, or selective data citation where applicant owns all required data or authorization from data owner is demonstrated. Category includes 100% repackage of registered end-use or manufacturing-use product that requires no data submission or data matrix. (3)	4	1,159

“TABLE 15. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — STRAIGHT CHAIN LEPIDOPTERAN PHEROMONES(SCLPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B720	139	New product; registered source of active ingredient(s); requires: 1) submission of product specific data; or 2) citation of previously reviewed and accepted data; or 3) submission or citation of data generated at government expense; or 4) submission or citation of a scientifically-sound rationale based on publicly available literature or other relevant information that addresses the data requirement; or 5) submission of a request for a data requirement to be waived supported by a scientifically-sound rationale explaining why the data requirement does not apply. (3)	5	1,159
B721	140	New product; unregistered source of active ingredient. (3)	7	2,426

“TABLE 15. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — STRAIGHT CHAIN LEPIDOPTERAN PHEROMONES(SCLPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B722	141	New use and/or amendment; petition to establish a tolerance or tolerance exemption. (4) (5)	7	2,246
B730	142	Label amendment requiring data submission. (4)	5	1,159

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) All requests for new uses (food and/or nonfood) contained in any application for a new active ingredient or a first food use are covered by the base fee for that new active ingredient or first food use application and retain the same decision time review period as the new active ingredient or first food use application. The application must be received by the agency in one package. The base fee for the category covers a maximum of five new products. Each application for an additional new product registration and new inert approval that is submitted in the new active ingredient application package or first food use application package is subject to the registration service fee for a new product or a new inert approval. All such associated applications that are submitted together will be subject to the new active ingredient or first food use decision review time, except where the new inert approval decision review time is greater than that for the new active ingredient, in which case the associated new active ingredient will be subject to the new inert approval decision review time. In the case of a new active ingredient application, until that new active ingredient is approved, any subsequent application for another new product containing the same active ingredient or an amendment to the proposed labeling will be deemed a new active ingredient application, subject to the registration service fee and decision review time for a new active ingredient. In the case of a first food use application, until that first food use is approved, any subsequent application for an additional new food use or uses will be subject to the registration service fee and decision review time for a first food use. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screening, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new active ingredient or first food use application.

(3) An application for a new end-use product using a source of active ingredient that (a) is not yet registered but (b) has an application pending with the Agency for review, will be considered an application for a new product with an unregistered source of active ingredient.

(4) (a) EPA-initiated amendments shall not be charged registration service fees. (b) Registrant-initiated fast-track amendments are to be completed within the timelines specified in FIFRA Section 3(c)(3)(B) and are not subject to registration service fees. (c) Registrant-initiated fast-track amendments handled by the Antimicrobials Division are to be completed within the timelines specified in FIFRA Section 3(h) and are not subject to registration service fees. (d) Registrant initiated amendments submitted by notification under PR Notices, such as PR Notice 98-10, continue under PR Notice timelines and are not subject to registration service fees. (e) Submissions with data and requiring data review are subject to registration service fees.

(5) Amendment applications to add the new use(s) to registered product labels are covered by the base fee for the new use(s). All items in the covered application must be submitted together in one package. Each application for an additional new product registration and new inert approval(s) that is submitted in the new use application package is subject to the registration service fee for a new product or a new inert approval. However, if a new use application only proposes to register the new use for a new product and there are no amendments in the application, then review of one new product application is covered by the new use fee. All such associated applications that are submitted together will be subject to the new use decision review time. Any application for a new product or an amendment to the proposed labeling (a) submitted subsequent to submission of the new use application and (b) prior to conclusion of its decision review time and (c) containing the same new uses, will be deemed a separate new-use application, subject to a separate registration service fee and new decision review time for a new use. If the new-use application includes non-food (indoor and/or outdoor), and food (outdoor and/or indoor) uses, the appropriate fee is due for each type of new use and the longest decision review time applies to all of the new uses requested in the application. Any information that (a) was neither requested nor required by the Agency, and (b) is submitted by the applicant at the applicant's initiative to support the application after completion of the technical deficiency screen, and (c) is not itself a covered registration application, must be assessed 25% of the full registration service fee for the new use application.

“TABLE 16. — BIOPESTICIDES AND POLLUTION  
PREVENTION DIVISION — OTHER ACT

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B614 New	143	Conditional Ruling on Preapplication Study Waivers; applicant-initiated	3	2,294
B615 New	144	Rebuttal of agency reviewed protocol, applicant initiated	3	2,294



“TABLE 16. — BIOPESTICIDES AND POLLUTION  
PREVENTION DIVISION — OTHER ACT—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
B682	145	Protocol review; appli- cant initiated; ex- cludes time for HSRB review	3	2,205

(1) A decision review time that would otherwise end on a Satur-  
day, Sunday, or federal holiday, will be extended to end on the next  
business day.

Extension.

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVEN-  
TION DIVISION — PLANT INCORPORATED PROTECTANTS  
(PIPS)

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
B740	146	Experimental Use Per- mit application; no petition for tolerance/ tolerance exemption. Includes: 1) non-food/feed use(s) for a new (2) or reg- istered (3) PIP; 2) food/feed use(s) for a new or registered PIP with crop destruct; 3) food/feed use(s) for a new or registered PIP in which an estab- lished tolerance/toler- ance exemption ex- ists for the intended use(s). (4)	6	86,823

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B750	147	Experimental Use Permit application; with a petition to establish a temporary or permanent tolerance/tolerance exemption for the active ingredient. Includes new food/feed use for a registered (3) PIP. (4)	9	115,763
B770	148	Experimental Use Permit application; new (2) PIP; with petition to establish a temporary tolerance/tolerance exemption for the active ingredient; credit 75% of B771 fee toward registration application for a new active ingredient that follows; SAP review. (5)	15	173,644
B771	149	Experimental Use Permit application; new (2) PIP; with petition to establish a temporary tolerance/tolerance exemption for the active ingredient; credit 75% of B771 fee toward registration application for a new active ingredient that follows.	10	115,763

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B772	150	Application to amend or extend an Experimental Use Permit; no petition since the established tolerance/tolerance exemption for the active ingredient is unaffected.	3	11,577
B773	151	Application to amend or extend an Experimental Use Permit; with petition to extend a temporary tolerance/tolerance exemption for the active ingredient.	5	28,942
B780	152	Registration application; new (2) PIP; non-food/feed.	12	144,704
B790	153	Registration application; new (2) PIP; non-food/feed; SAP review. (5)	18	202,585
B800	154	Registration application; new (2) PIP; with petition to establish permanent tolerance/tolerance exemption for the active ingredient based on an existing temporary tolerance/tolerance exemption.	12	231,585

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B810	155	Registration application; new (2) PIP; with petition to establish permanent tolerance/tolerance exemption for the active ingredient based on an existing temporary tolerance/tolerance exemption. SAP review. (5)	18	289,407
B820	156	Registration application; new (2) PIP; with petition to establish or amend a permanent tolerance/tolerance exemption of an active ingredient.	15	289,407
B840	157	Registration application; new (2) PIP; with petition to establish or amend a permanent tolerance/tolerance exemption of an active ingredient. SAP review. (5)	21	347,288

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B851	158	Registration application; new event of a previously registered PIP active ingredient(s); no petition since permanent tolerance/tolerance exemption is already established for the active ingredient(s).	9	115,763
B870	159	Registration application; registered (3) PIP; new product; new use; no petition since a permanent tolerance/tolerance exemption is already established for the active ingredient(s). (4)	9	34,729
B880	160	Registration application; registered (3) PIP; new product or new terms of registration; additional data submitted; no petition since a permanent tolerance/tolerance exemption is already established for the active ingredient(s). (6) (7)	9	28,942

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B881	161	Registration application; registered (3) PIP; new product or new terms of registration; additional data submitted; no petition since a permanent tolerance/tolerance exemption is already established for the active ingredient(s). SAP review. (5) (6) (7)	15	86,823
B883 New	162	Registration application; new (2) PIP, seed increase with negotiated acreage cap and time-limited registration; with petition to establish a permanent tolerance/tolerance exemption for the active ingredient based on an existing temporary tolerance/tolerance exemption. (8)	9	115,763

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B884 New	163	Registration application; new (2) PIP, seed increase with negotiated acreage cap and time-limited registration; with petition to establish a permanent tolerance/tolerance exemption for the active ingredient. (8)	12	144,704
B885 New	164	Registration application; registered (3) PIP, seed increase; breeding stack of previously approved PIPs, same crop; no petition since a permanent tolerance/tolerance exemption is already established for the active ingredient(s). (9)	9	86,823
B890	165	Application to amend a seed increase registration; converts registration to commercial registration; no petition since permanent tolerance/tolerance exemption is already established for the active ingredient(s).	9	57,882

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B891	166	Application to amend a seed increase registration; converts registration to a commercial registration; no petition since a permanent tolerance/ tolerance exemption already established for the active ingredient(s); SAP review. (5)	15	115,763
B900	167	Application to amend a registration, including actions such as extending an expiration date, modifying an IRM plan, or adding an insect to be controlled. (10) (11)	6	11,577
B901	168	Application to amend a registration, including actions such as extending an expiration date, modifying an IRM plan, or adding an insect to be controlled. SAP review. (10) (11)	12	69,458
B902	169	PIP protocol review	3	5,789



“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B903	170	Inert ingredient tolerance exemption; e.g., a marker such as NPT II; reviewed in BPPD.	6	57,882

“TABLE 17. — BIOPESTICIDES AND POLLUTION PREVENTION DIVISION — PLANT INCORPORATED PROTECTANTS (PIPS)—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
B904	171	Import tolerance or tolerance exemption; processed commodities/food only (inert or active ingredient).	9	115,763

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) New PIP = a PIP with an active ingredient that has not been registered.

(3) Registered PIP = a PIP with an active ingredient that is currently registered.

(4) Transfer registered PIP through conventional breeding for new food/feed use, such as from field corn to sweet corn.

(5) The scientific data involved in this category are complex. EPA often seeks technical advice from the Scientific Advisory Panel on risks that pesticides pose to wildlife, farm workers, pesticide applicators, non-target species, as well as insect resistance, and novel scientific issues surrounding new technologies. The scientists of the SAP neither make nor recommend policy decisions. They provide advice on the science used to make these decisions. Their advice is invaluable to the EPA as it strives to protect humans and the environment from risks posed by pesticides. Due to the time it takes to schedule and prepare for meetings with the SAP, additional time and costs are needed.

(6) Registered PIPs stacked through conventional breeding.

(7) Deployment of a registered PIP with a different IRM plan (e.g., seed blend).

(8) The negotiated acreage cap will depend upon EPA's determination of the potential environmental exposure, risk(s) to non-target organisms, and the risk of targeted pest developing resistance to the pesticidal substance. The uncertainty of these risks may reduce the allowable acreage, based upon the quantity and type of non-target organism data submitted and the lack of insect resistance management data, which is usually not required for seed-increase registrations. Registrants are encouraged to consult with EPA prior to submission of a registration application in this category.

(9) Application can be submitted prior to or concurrently with an application for commercial registration.

(10) For example, IRM plan modifications that are applicant-initiated.

(11) EPA-initiated amendments shall not be charged fees.

“TABLE 18. — INERT INGREDIENTS, EXTERNAL REVIEW  
AND MISCELLANEOUS ACTIONS

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
I001	172	Approval of new food use inert ingredient (2) (3)	12	18,000
I002 New	173	Amend currently ap- proved inert ingre- dient tolerance or ex- emption from toler- ance; new data (2)	10	5,000
I003 New	174	Amend currently ap- proved inert ingre- dient tolerance or ex- emption from toler- ance; no new data (2)	8	3,000
I004 New	175	Approval of new non- food use inert ingre- dient (2)	8	10,000
I005 New	176	Amend currently ap- proved non-food use inert ingredient with new use pattern; new data (2)	8	5,000
I006 New	177	Amend currently ap- proved non-food use inert ingredient with new use pattern; no new data (2)	6	3,000

“TABLE 18. — INERT INGREDIENTS, EXTERNAL REVIEW  
AND MISCELLANEOUS ACTIONS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
I007 New	178	Approval of substantially similar non-food use inert ingredients when original inert is compositionally similar with similar use pattern (2)	4	1,500
I008 New	179	Approval of new polymer inert ingredient, food use (2)	5	3,400
I009 New	180	Approval of new polymer inert ingredient, non food use (2)	4	2,800
I010 New	181	Petition to amend a tolerance exemption descriptor to add one or more CASRNs; no new data (2)	6	1,500
M001 New	182	Study protocol requiring Human Studies Review Board review as defined in 40 CFR 26 in support of an active ingredient (4)	9	7,200
M002 New	183	Completed study requiring Human Studies Review Board review as defined in 40 CFR 26 in support of an active ingredient (4)	9	7,200

“TABLE 18. — INERT INGREDIENTS, EXTERNAL REVIEW  
AND MISCELLANEOUS ACTIONS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
M003 New	184	External technical peer review of new active ingredient, product, or amendment (e.g., consultation with FIFRA Scientific Advisory Panel) for an action with a decision timeframe of less than 12 months. Applicant initiated request based on a requirement of the Administrator, as defined by FIFRA § 25(d), in support of a novel active ingredient, or unique use pattern or application technology. Excludes PIP active ingredients. (5)	12	58,000

“TABLE 18. — INERT INGREDIENTS, EXTERNAL REVIEW  
AND MISCELLANEOUS ACTIONS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
M004 New	185	External technical peer review of new active ingredient, product, or amendment (e.g., consultation with FIFRA Scientific Advisory Panel) for an action with a decision timeframe of greater than 12 months. Applicant initiated request based on a requirement of the Administrator, as defined by FIFRA § 25(d), in support of a novel active ingredient, or unique use pattern or application technology. Excludes PIP active ingredients. (5)	18	58,000

“TABLE 18. — INERT INGREDIENTS, EXTERNAL REVIEW  
AND MISCELLANEOUS ACTIONS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registration Service Fee (\$)
M005 New	186	New Product: Combination, Contains a combination of active ingredients from a registered and/or unregistered source; conventional, anti-microbial and/or bio-pesticide. Requires coordination with other regulatory divisions to conduct review of data, label and/or verify the validity of existing data as cited. Only existing uses for each active ingredient in the combination product. (6) (7)	9	20,000
M006 New	187	Request for up to 5 letters of certification (Gold Seal) for one actively registered product.	1	250
M007 New	188	Request to extend Exclusive Use of data as provided by FIFRA Section 3(c)(1)(F)(ii)	12	5,000

“TABLE 18. — INERT INGREDIENTS, EXTERNAL REVIEW  
AND MISCELLANEOUS ACTIONS—Continued

EPA No.	New CR No.	Action	Decision Review Time (Months) (1)	Registra- tion Service Fee (\$)
M008 New	189	Request to grant Exclu- sive Use of data as provided by FIFRA Section 3(c)(1)(F)(vi) for a minor use, when a FIFRA Sec- tion 2(l)(2) deter- mination is required	10	1,500

Extension.

(1) A decision review time that would otherwise end on a Saturday, Sunday, or federal holiday, will be extended to end on the next business day.

(2) If another covered application is associated with and dependent upon a pending application for an inert ingredient action, each application will be subject to its respective registration service fee. The decision review time for the other associated covered application will be extended to match the PRIA due date of the pending inert ingredient action, unless the PRIA due date for the other associated covered action is further out, in which case it will be subject to its own decision review time. If the application covers multiple ingredients grouped by EPA into one chemical class, a single registration service fee will be assessed for approval of those ingredients.

(3) If EPA data rules are amended to newly require clearance under section 408 of the FFDCA for an ingredient of an antimicrobial product where such ingredient was not previously subject to such a clearance, then review of the data for such clearance of such product is not subject to a registration service fee for the tolerance action for two years from the effective date of the rule.

(4) Any other covered application that is associated with and dependent on the HSRB review will be subject to its separate registration service fee. The decision review times for the associated actions run concurrently, but will end at the date of the latest review time.

(5) Any other covered application that is associated with and dependent on the SAP review will be subject to its separate registration service fee. The decision review time for the associated action will be extended by the decision review time for the SAP review.

(6) An application for a new end-use product using a source of active ingredient that (a) is not yet registered but (b) has an application pending with the Agency for review, will be considered an application for a new product with an unregistered source of active ingredient.



(7) Where the action involves approval of a new or amended label, on or before the end date of the decision review time, the Agency shall provide to the applicant a draft accepted label, including any changes made by the Agency that differ from the applicant-submitted label and relevant supporting data reviewed by the Agency. The applicant will notify the Agency that the applicant either (a) agrees to all of the terms associated with the draft accepted label as amended by the Agency and requests that it be issued as the accepted final Agency-stamped label; or (b) does not agree to one or more of the terms of the draft accepted label as amended by the Agency and requests additional time to resolve the difference(s); or (c) withdraws the application without prejudice for subsequent resubmission, but forfeits the associated registration service fee. For cases described in (b), the applicant shall have up to 30 calendar days to reach agreement with the Agency on the final terms of the Agency-accepted label. If the applicant agrees to all of the terms of the accepted label as in (a), including upon resolution of differences in (b), the Agency shall provide an accepted final Agency-stamped label to the registrant within 2 business days following the registrant's written or electronic confirmation of agreement to the Agency.”;

Labeling.  
Deadlines.

Notification.

(B) in paragraph (6)—

(i) in subparagraph (A)—

(I) by striking “October 1, 2008” and inserting “October 1, 2013”; and

(II) by striking “September 30, 2010” and inserting “September 30, 2015”; and

(ii) in subparagraph (B)—

(I) by striking “October 1, 2010” and inserting “October 1, 2015”; and

(II) by striking “September 30, 2010” and inserting “September 30, 2015”; and

(C) in paragraph (8)(C)(ii)—

(i) in subclause (I), by striking “or” at the end;

(ii) in subclause (II), by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

“(III) on the basis that the Administrator rejected the application under subsection (f)(4)(B).”.

(2) PESTICIDE REGISTRATION FUND.—Section 33(c)(3)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(c)(3)(B)) is amended—

(A) in clause (i), by striking “2008 through 2012” and inserting “2013 through 2017”;

(B) in clause (ii), by striking “grants” and all that follows through the end of the clause and inserting “grants, for each of fiscal years 2013 through 2017, \$500,000.”; and

(C) in clause (iii), by striking “2008 through 2012” and inserting “2013 through 2017”.

(3) ASSESSMENT OF FEES.—Section 33(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(d)) is amended—

(A) in paragraph (2), by striking “2002” each place it appears and inserting “2012”;

(B) by striking paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4).

(4) REFORMS TO REDUCE DECISION TIME REVIEW PERIODS.—Section 33(e) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(e)) is amended by striking “Pesticide Registration Improvement Act of 2003” and inserting “Pesticide Registration Improvement Extension Act of 2012”.

(5) DECISION TIME REVIEW PERIODS.—Section 33(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(f)) is amended—

(A) in paragraph (1), by striking “Pesticide Registration Improvement Renewal Act, the Administrator shall publish in the Federal Register” and inserting “Pesticide Registration Improvement Extension Act of 2012, the Administrator shall make publicly available”;

(B) in paragraph (2), by striking “appearing in the Congressional Record on pages S10409” and all that follows through the period and inserting “provided under subsection (b)(3).”; and

(C) in paragraph (4)—

(i) in subparagraph (A), by inserting “and fee” before the period; and

(ii) in subparagraph (B)—

(I) by striking “(B) COMPLETENESS OF APPLICATION” and all that follows through “Not later” in clause (i) and inserting the following:

“(B) INITIAL CONTENT AND PRELIMINARY TECHNICAL SCREENINGS.—

“(i) SCREENINGS.—

“(I) INITIAL CONTENT.—Not later”;

(II) in clause (i) (as so designated) by adding at the end the following:

“(II) PRELIMINARY TECHNICAL SCREENING.—After conducting the initial content screening described in subclause (I) and in accordance with clause (iv), the Administrator shall conduct a preliminary technical screening—

“(aa) not later than 45 days after the date on which the decision time review period begins (for applications with decision time review periods of not more than 180 days); and

“(bb) not later than 90 days after the date on which the decision time review period begins (for applications with decision time review periods greater than 180 days).”;

(III) by striking clause (ii) and inserting the following:

“(ii) REJECTION.—

“(I) IN GENERAL.—If the Administrator determines at any time before the Administrator completes the preliminary technical screening under clause (i)(II) that the application failed the initial content or preliminary technical screening and the applicant does not correct the failure before the date that is 10 business days after the applicant

Deadlines.

Determination.

receives a notification of the failure, the Administrator shall reject the application.

“(II) WRITTEN NOTIFICATION.—The Administrator shall make every effort to provide a written notification of a rejection under subclause (I) during the 10-day period that begins on the date the Administrator completes the preliminary technical screening.”;

Time period.

(IV) in clause (iii)—

(aa) in the heading, by inserting “INITIAL CONTENT” before “SCREENING”;

(bb) in the matter preceding subclause (I), by inserting “content” after “initial”; and

(cc) in subclause (II), by striking “contains” and inserting “appears to contain”; and (V) by adding at the end the following:

“(iv) REQUIREMENTS OF PRELIMINARY TECHNICAL SCREENING.—In conducting a preliminary technical screening of an application, the Administrator shall determine if—

Determination.

“(I) the application and the data and information submitted with the application are accurate and complete; and

“(II) the application, data, and information are consistent with the proposed labeling and any proposal for a tolerance or exemption from the requirement for a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), and are such that, subject to full review under the standards of this Act, could result in the granting of the application.”.

(6) REPORTS.—Section 33(k) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(k)) is amended—

(A) in paragraph (1), by striking “March 1, 2014” and inserting “March 1, 2017”;

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (vi)(V), by striking “and” at the end;

(II) in clause (vii)(II), by inserting “and” at the end; and

(III) by adding at the end the following:

“(viii) the number of extensions of decision time review periods agreed to under subsection (f)(5) along with a description of the reason that the Administrator was unable to make a decision within the initial decision time review period;”;

(ii) in subparagraph (E), by striking “and” at the end;

(iii) in subparagraph (F), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

“(G) a review of the progress made toward—

“(i) carrying out section 4(k)(4) and the amounts from the Reregistration and Expedited Processing Fund used for the purposes described in that section;

Public information. Deadline.	<p>“(ii) implementing systems for the electronic tracking of registration submissions by December 31, 2013;</p> <p>“(iii) implementing a system for tracking the status of conditional registrations, including making nonconfidential information related to the conditional registrations publicly available by December 31, 2013;</p> <p>“(iv) implementing enhancements to the endangered species knowledge database, including making nonconfidential information related to the database publicly available;</p> <p>“(v) implementing the capability to electronically submit and review labels submitted with registration actions;</p>
Assessment. Evaluation. Deadline.	<p>“(vi) acquiring and implementing the capability to electronically assess and evaluate confidential statements of formula submitted with registration actions by December 31, 2014; and</p>
Notification.	<p>“(vii) facilitating public participation in certain registration actions and the registration review process by providing electronic notification to interested parties of additions to the public docket;</p> <p>“(H) the number of applications rejected by the Administrator under the initial content and preliminary technical screening conducted under subsection (f)(4);</p>
Review.	<p>“(I) a review of the progress made in updating the Pesticide Incident Data System, including progress toward making the information contained in the System available to the public (as the Administrator determines is appropriate); and</p>
Assessment.	<p>“(J) an assessment of the public availability of summary pesticide usage data.”; and</p>
	<p>(C) by adding at the end the following:</p>
	<p>“(4) OTHER REPORT.—</p>
	<p>“(A) SCOPE.—In addition to the annual report described in paragraph (1), not later than October 1, 2016, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes an analysis of the impact of maintenance fees on small businesses that have—</p>
	<p>“(i) 10 or fewer employees; and</p>
	<p>“(ii) annual global gross revenue that does not exceed \$2,000,000.</p>
	<p>“(B) INFORMATION REQUIRED.—In conducting the analysis described in subparagraph (A), the Administrator shall collect, and include in the report under that subparagraph, information on—</p>
	<p>“(i) the number of small businesses described in subparagraph (A) that are paying maintenance fees; and</p>
	<p>“(ii) the number of registrations each company holds.”.</p>
	<p>(7) TERMINATION OF EFFECTIVENESS.—Section 33(m) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8(m)) is amended—</p>

(A) in paragraph (1), by striking “2012” and inserting “2017”; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the heading, by striking “2013” and inserting “2018”;

(II) by striking “2013,” and inserting “2018,”; and

(III) by striking “September 30, 2012” and inserting “September 30, 2017”;

(ii) in subparagraph (B)—

(I) in the heading, by striking “2014” and inserting “2019”;

(II) by striking “2014,” and inserting “2019,”; and

(III) by striking “September 30, 2012” and inserting “September 30, 2017”;

(iii) in subparagraph (C)—

(I) in the heading, by striking “2014” and inserting “2019”; and

(II) by striking “September 30, 2014” and inserting “September 30, 2019”; and

(iv) in subparagraph (D), by striking “2012” each place it appears and inserting “2017”.

(c) **EFFECTIVE DATE.**—This section and the amendments made by this section take effect on October 1, 2012.

7 USC 136a–1  
note.

(d) **RELATIONSHIP TO OTHER LAW.**—In the case of any conflict between this section (including the amendments made by this section) and a joint resolution making continuing appropriations for fiscal year 2013 (including any amendments made by such a joint resolution), this section and the amendments made by this section shall control.

7 USC 136a–1  
note.

Approved September 28, 2012.

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**LEGISLATIVE HISTORY—S. 3552:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 13, considered and passed Senate.

Sept. 14, considered and passed House.



Public Law 112–178  
112th Congress

An Act

Sept. 28, 2012  
[S. 3625]

To change the effective date for the internet publication of certain information to prevent harm to the national security or endangering the military officers and civilian employees to whom the publication requirement applies, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CHANGED EFFECTIVE DATE FOR FINANCIAL DISCLOSURE FORMS OF CERTAIN OFFICERS AND EMPLOYEES.**

(a) IN GENERAL.—Except with respect to financial disclosure forms filed by officers and employees referred to in subsection (b), section 8(a)(1) and section 11(a)(1) of the STOCK Act (5 U.S.C. App. 105 note) shall take effect on December 8, 2012.

(b) FINANCIAL DISCLOSURE FORMS NOT SUBJECT TO NEW EFFECTIVE DATE.—Financial disclosure forms filed by the following individuals shall not be subject to the effective date under this section:

- (1) The President.
- (2) The Vice President.
- (3) Any Member of Congress.
- (4) Any candidate for Congress.

(5) Any officer occupying a position listed in section 5312 or section 5313 of title 5, United States Code, having been nominated by the President and confirmed by the Senate to that position.

**SEC. 2. STUDY AND REPORT.**

Contracts.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall contract with the National Academy of Public Administration (referred to in this section as the “National Academy”) to—

(1) conduct a study of issues raised by website publication of financial disclosure forms as is required under the STOCK Act (Public Law 112–105; 126 Stat. 291); and

(2) issue a report containing findings and recommendations.

(b) SCOPE OF STUDY.—The study conducted under subsection (a)(1) shall—

(1) examine the nature, scope, and degree of risk, including risk of harm to national security, law enforcement, or other Federal missions and risk of endangerment, including to personal safety and security, financial security (such as through identity theft), and privacy, of officers and employees and their family members, that may be posed by website and other

publication of financial disclosure forms and associated personal information;

(2) examine any harm that may have arisen from the current online availability of financial disclosure forms and associated personal information of employees of the legislative branch, including any harm to national security, law enforcement, or other Federal missions and any endangerment that may have occurred, including to personal safety and security, financial security (such as through identity theft), and privacy, of such legislative branch officers and employees or their family members; and

(3) include any other analysis that the National Academy believes is necessary or desirable on the topic of the study.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the National Academy shall submit to Congress and the President a report that contains—

(1) the findings of the study conducted under subsection (a)(1);

(2) recommendations for ways to avoid or mitigate the risks identified in the study conducted under subsection (a)(1), consistent with the goal of providing appropriate public disclosure of potential conflicts of interest or instances of insider trading by Federal officers or employees; and

(3) any other recommendations that the National Academy believes are necessary or desirable.

### SEC. 3. PERIODIC TRANSACTION REPORTS FOR TRANSACTIONS OF SPOUSES AND CHILDREN.

(a) IN GENERAL.—

(1) DATE REPORTING REQUIREMENT COMMENCES IN HOUSE OF REPRESENTATIVES AND EXECUTIVE BRANCH.—Section 2 of the Act entitled “An Act to prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes”, approved August 16, 2012 (5 U.S.C. App. 103 note), is amended by striking “September 30, 2012” and inserting “January 1, 2013”.

(2) EXTENSION TO EXECUTIVE BRANCH.—Section 2 of the Act entitled “An Act to prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes”, approved August 16, 2012 (5 U.S.C. App. 103 note), is amended by striking “for reporting individuals” and all that follows through “House of Representatives”.

(3) TECHNICAL AND CONFORMING AMENDMENT.—Section 2 of the Act entitled “An Act to prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes”, approved August 16, 2012 (5 U.S.C. App. 103 note), is amended by striking “such section 101” and inserting “section 101 of such Act (5 U.S.C. App. 101)”.

(b) EFFECTIVE DATE; RULE OF CONSTRUCTION.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2013.

5 USC app. 103  
note.

(2) RULE OF CONSTRUCTION.—Before January 1, 2013, the amendments made by subsection (a) shall not affect the applicability of section 2 of the Act entitled “An Act to prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes”, approved August 16, 2012 (5 U.S.C. App. 103 note), as in effect on the day before the effective date under paragraph (1).

(c) SAVINGS CLAUSE.—Nothing in the amendments made by subsection (a) shall be construed as affecting any requirement with respect to the House of Representatives or the executive branch in effect before January 1, 2013, with respect to the inclusion of transaction information for a report under section 103(l) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(l)).

(d) NO CHANGE TO EXISTING SENATE REQUIREMENTS.—Nothing in this section or the amendments made this section shall be construed as affecting the requirement that took effect with respect to the Senate on July 3, 2012, which mandates the inclusion of transaction information for spouses and dependent children for a report under section 103(l) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(l)).

Approved September 28, 2012.

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LEGISLATIVE HISTORY—S. 3625:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 21, considered and passed Senate.

Sept. 28, considered and passed House.





Public Law 112–179  
112th Congress

An Act

To provide for the use and distribution of the funds awarded to the Minnesota Chippewa Tribe, et al., by the United States Court of Federal Claims in Docket Numbers 19 and 188, and for other purposes.

Oct. 5, 2012  
[H.R. 1272]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Minnesota Chippewa Tribe Judgment Fund Distribution Act of 2012”.

Minnesota  
Chippewa Tribe  
Judgment Fund  
Distribution Act  
of 2012.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) On January 22, 1948, the Minnesota Chippewa Tribe, representing all Chippewa bands in Minnesota except the Red Lake Band, filed a claim before the Indian Claims Commission in Docket No. 19 for an accounting of all funds received and expended pursuant to the Act of January 14, 1889, 25 Stat. 642, and amendatory acts (hereinafter referred to as the Nelson Act).

(2) On August 2, 1951, the Minnesota Chippewa Tribe, representing all Chippewa bands in Minnesota except the Red Lake Band, filed a number of claims before the Indian Claims Commission in Docket No. 188 for an accounting of the Government’s obligation to each of the member bands of the Minnesota Chippewa Tribe under various statutes and treaties that are not covered by the Nelson Act of January 14, 1889.

(3) On May 17, 1999, a Joint Motion for Findings in Aid of Settlement of the claims in Docket No. 19 and 188 was filed before the Court.

(4) The terms of the settlement were approved by the Court and the final judgment was entered on May 26, 1999.

(5) On June 22, 1999, \$20,000,000 was transferred to the Department of the Interior and deposited into a trust fund account established for the beneficiaries of the funds awarded in Docket No. 19 and 188.

(6) Pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), Congress must act to authorize the use or distribution of the judgment funds.

(7) On October 1, 2009, the Minnesota Chippewa Tribal Executive Committee passed Resolution 146–09, approving a plan to distribute the judgment funds and requesting that the United States Congress act to distribute the judgment funds in the manner described by the plan.

**SEC. 3. DEFINITIONS.**

For the purpose of this Act:

(1) **AVAILABLE FUNDS.**—The term “available funds” means the funds awarded to the Minnesota Chippewa Tribe and interest earned and received on those funds, less the funds used for payments authorized under section 4.

(2) **BANDS.**—The term “Bands” means the Bois Forte Band, Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, and White Earth Band.

(3) **JUDGMENT FUNDS.**—The term “judgment funds” means the funds awarded on May 26, 1999, to the Minnesota Chippewa Tribe by the Court of Federal Claims in Docket No. 19 and 188.

(4) **MINNESOTA CHIPPEWA TRIBE.**—The term “Minnesota Chippewa Tribe” means the Minnesota Chippewa Tribe, Minnesota, composed of the Bois Forte Band, Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, and White Earth Band. It does not include Red Lake Band of Chippewa Indians, Minnesota.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

**SEC. 4. LOAN REIMBURSEMENTS TO MINNESOTA CHIPPEWA TRIBE.**

(a) **IN GENERAL.**—The Secretary is authorized to reimburse the Minnesota Chippewa Tribe the amount of funds, plus interest earned to the date of reimbursement, that the Minnesota Chippewa Tribe contributed for payment of attorneys’ fees and litigation expenses associated with the litigation of Docket No. 19 and 188 before the U.S. Court of Federal Claims and the distribution of judgment funds.

(b) **CLAIMS.**—The Minnesota Chippewa Tribe’s claim for reimbursement of funds expended shall be—

Deadline.

(1) presented to the Secretary not later than 90 days after the date of enactment of this Act;

Certification.

(2) certified by the Minnesota Chippewa Tribe as being unreimbursed to the Minnesota Chippewa Tribe from other funding sources;

(3) paid with interest calculated at the rate of 6.0 percent per annum, simple interest, from the date the funds were expended to the date the funds are reimbursed to the Minnesota Chippewa Tribe; and

(4) paid from the judgment funds prior to the division of the funds under section 5.

**SEC. 5. DIVISION OF JUDGMENT FUNDS.**

Deadline.

(a) **MEMBERSHIP ROLLS.**—Not later than 90 days after the date of the enactment of this Act, the Minnesota Chippewa Tribe shall submit to the Secretary updated membership rolls for each Band, which shall include all enrolled members the date of the enactment of this Act.

(b) **DIVISIONS.**—After all funds have been reimbursed under section 4, and the membership rolls have been updated under subsection (a), the Secretary shall—

(1) set aside for each Band a portion of the available judgment funds equivalent to \$300 for each member enrolled within each Band; and

(2) after the funds are set aside in accordance with paragraph (1), divide 100 percent of the remaining funds into equal shares for each Band.

(c) SEPARATE ACCOUNTS.—The Secretary shall—

(1) deposit all funds described in subsection (b)(1) into a “Per Capita” account for each Band; and

(2) deposit all funds described in subsection (b)(2) into an “Equal Shares” account for each Band.

(d) WITHDRAWAL OF FUNDS.—After the Secretary deposits the available funds into the accounts described in subsection (c), a Band may withdraw all or part of the monies in its account.

(e) DISBURSEMENT OF PER CAPITA PAYMENTS.—All funds described in subsection (b)(1) shall be used by each Band only for the purposes of distributing one \$300 payment to each individual member of the Band. Each Band may—

(1) distribute the \$300 payment to the parents or legal guardians on behalf of each dependent Band member instead of distributing such \$300 payment to the dependent Band member; or

(2) deposit into a trust account the \$300 payment to each dependent Band member for the benefit of such dependent Band member, to be distributed under the terms of such trust.

(f) DISTRIBUTION OF UNCLAIMED PAYMENTS.—One year after the funds described in subsection (b)(1) are made available to the Bands, all unclaimed payments described in subsection (e) shall be returned to the Secretary, who shall divide these funds into equal shares for each Band, and deposit the divided shares into the accounts described in subsection (c)(2) for the use of each Band. Deadline.

(g) LIABILITY.—If a Band exercises the right to withdraw monies from its accounts, the Secretary shall not retain liability for the expenditure or investment of the monies after each withdrawal.

#### SEC. 6. GENERAL PROVISIONS.

(a) PREVIOUS OBLIGATIONS.—Funds disbursed under this Act shall not be liable for the payment of previously contracted obligations of any recipient as provided in Public Law 98–64 (25 U.S.C. 117b(a)).

(b) INDIAN JUDGMENT FUNDS DISTRIBUTION ACT.—All funds distributed under this Act are subject to the provisions in the Indian Judgment Funds Distribution Act (25 U.S.C. 1407).

Approved October 5, 2012.

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LEGISLATIVE HISTORY—H.R. 1272:

HOUSE REPORTS: No. 112–501 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 18, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–180  
112th Congress

An Act

To designate the United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida, as the “Alto Lee Adams, Sr., United States Courthouse”.

Oct. 5, 2012  
[H.R. 1791]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida, shall be known and designated as the “Alto Lee Adams, Sr., United States Courthouse”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Alto Lee Adams, Sr., United States Courthouse”.

Approved October 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 1791:**

HOUSE REPORTS: No. 112–282 (Comm. on Transportation and Infrastructure).

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Nov. 14, 16, considered and passed House.

Vol. 158 (2012): Sept. 21, considered and passed Senate.



Public Law 112–181  
112th Congress

An Act

Oct. 5, 2012  
[H.R. 2139]

To require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

Lions Clubs  
International  
Century of  
Service  
Commemorative  
Coin Act.  
31 USC 5112  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Lions Clubs International Century of Service Commemorative Coin Act”.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Lions Clubs International is the world’s largest service club organization founded in 1917 by Chicago business leader Melvin Jones. Lions Clubs International empowers volunteers to serve their communities, meet humanitarian needs, encourage peace and promote international understanding through Lions clubs.

(2) Today, Lions Clubs International has over 1.35 million members in more than 45,000 clubs globally, extending its mission of service throughout the world every day.

(3) In 1945, Lions Clubs International became one of the first nongovernmental organizations invited to assist in drafting the United Nations Charter and has enjoyed a special relationship with the United Nations ever since.

(4) In 1968, Lions Clubs International Foundation was established to assist with global and large-scale local humanitarian projects and has since then awarded more than \$700 million to fund five unique areas of service: preserving sight, combating disability, promoting health, serving youth and providing disaster relief.

(5) In 1990, the Lions Clubs International Foundation launched the SightFirst program to build comprehensive eye care systems to fight the major causes of blindness and care for the blind or visually impaired. Thanks to the generosity of Lions worldwide, over \$415 million has been raised, resulting in the prevention of serious vision loss in 30 million people and improved eye care for hundreds of millions of people.

(6) On June 7, 2017, Lions Clubs International will celebrate 100 years of community service to men, women, and children in need throughout the world.

**SEC. 3. COIN SPECIFICATIONS.**

(a) \$1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall mint and issue

Melvin Jones.

not more than 400,000 \$1 coins in commemoration of the centennial of the founding of the Lions Clubs International, each of which shall—

- (1) weigh 26.73 grams;
- (2) have a diameter of 1.500 inches; and
- (3) contain 90 percent silver and 10 percent copper.

(b) **LEGAL TENDER.**—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) **NUMISMATIC ITEMS.**—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

#### **SEC. 4. DESIGN OF COINS.**

(a) **DESIGN REQUIREMENTS.**—

(1) **IN GENERAL.**—The design of the coins minted under this Act shall be emblematic of the centennial of the Lions Clubs International.

(2) **DESIGNATION AND INSCRIPTIONS.**—On each coin minted under this Act, there shall be—

- (A) a designation of the value of the coin;
- (B) an inscription of the year “2017”; and
- (C) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(b) **SELECTION.**—The design for the coins minted under this Act shall be—

- (1) chosen by the Secretary after consultation with Lions Clubs International Special Centennial Planning Committee and the Commission of Fine Arts; and
- (2) reviewed by the Citizens Coinage Advisory Committee.

#### **SEC. 5. ISSUANCE OF COINS.**

(a) **QUALITY OF COINS.**—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) **MINT FACILITY.**—Only one facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) **PERIOD FOR ISSUANCE.**—The Secretary may issue coins under this Act only during the calendar year beginning on January 1, 2017.

#### **SEC. 6. SALE OF COINS.**

(a) **SALE PRICE.**—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

- (1) the face value of the coins;
- (2) the surcharge provided in section 7 with respect to such coins; and
- (3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) **BULK SALES.**—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) **PREPAID ORDERS.**—

(1) **IN GENERAL.**—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) **DISCOUNT.**—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) **IN GENERAL.**—All sales of coins issued under this Act shall include a surcharge of \$10 per coin.

(b) **DISTRIBUTION.**—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Lions Clubs International Foundation for the purposes of—

(1) furthering its programs for the blind and visually impaired in the United States and abroad;

(2) investing in adaptive technologies for the disabled; and

(3) investing in youth and those affected by a major disaster.

(c) **AUDITS.**—The Lions Clubs International Foundation shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (b).

(d) **LIMITATION.**—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code. The Secretary may issue guidance to carry out this subsection.

**SEC. 8. FINANCIAL ASSURANCES.**

The Secretary shall take such actions as may be necessary to ensure that—

(1) minting and issuing coins under this Act will not result in any net cost to the United States Government; and

(2) no funds, including applicable surcharges, shall be disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

**SEC. 9. BUDGET COMPLIANCE.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the



Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

Approved October 5, 2012.

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LEGISLATIVE HISTORY—H.R. 2139 (S. 1299):

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 10, considered and passed House.  
Sept. 21, considered and passed Senate.



Public Law 112–182  
112th Congress

An Act

Oct. 5, 2012  
[H.R. 2240]

To authorize the exchange of land or interest in land between Lowell National Historical Park and the city of Lowell in the Commonwealth of Massachusetts, and for other purposes.

Lowell National  
Historical Park  
Land Exchange  
Act of 2012.  
16 USC 410cc  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Lowell National Historical Park Land Exchange Act of 2012”.

**SEC. 2. AMENDMENTS.**

16 USC  
410cc–22.

The Act entitled “An act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes” approved June 5, 1978 (Public Law 95–290; 16 U.S.C. 410cc et seq.), is amended in section 202, by adding at the end the following:

“(d)(1) The Secretary may exchange any land or interest in land within the boundaries of the park for any land or interest in land owned by the Commonwealth of Massachusetts, the city of Lowell, or the University of Massachusetts Building Authority.

“(2) Except as provided in paragraph (3), an exchange under this subsection shall be subject to the laws, regulations, and policies applicable to exchanges of land administered by the National Park Service and any other terms and conditions that the Secretary determines to be necessary to protect the interests of the United States.

“(3) Where facilities or infrastructure required for the management and operation of the Lowell National Historical Park exists on the Federal land to be exchanged, and the non-Federal land or interest in land to be exchanged is not of equal value, the values shall be equalized by the payment of cash to the Secretary. The Secretary shall not be required to equalize the values of any exchange conducted under this subsection if the land or interest

in land received by the Federal Government exceeds the value of the Federal land or interest in land exchanged.”.

Approved October 5, 2012.

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LEGISLATIVE HISTORY—H.R. 2240:

HOUSE REPORTS: No. 112–450 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Apr. 24, 26, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–183  
112th Congress

An Act

Oct. 5, 2012

[H.R. 2706]

To prohibit the sale of billfish.

Billfish  
Conservation  
Act of 2012.  
16 USC 1801  
note.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Billfish Conservation Act of 2012”.

16 USC 1827a  
note.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The United States carefully regulates its domestic fisheries for billfish and participates in international fishery management bodies in the Atlantic and Pacific.

(2) Global billfish populations have declined significantly, however, because of overfishing primarily through retention of bycatch by non-United States commercial fishing fleets.

(3) Ending the importation of foreign-caught billfish for sale in the United States aligns with U.S. management measures of billfish and protects the significant economic benefits to the U.S. economy of recreational fishing and marine commerce and the traditional cultural fisheries.

**SEC. 3. STATEMENT OF CONSTITUTIONAL AUTHORITY.**

The Congress enacts this Act pursuant to clause 3 of section 8 of article I of the Constitution.

16 USC 1827a.

**SEC. 4. PROHIBITION ON SALE OF BILLFISH.**

(a) **PROHIBITION.**—No person shall offer for sale, sell, or have custody, control, or possession of for purposes of offering for sale or selling billfish or products containing billfish.

(b) **PENALTY.**—For purposes of section 308(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858(a)), a violation of this section shall be treated as an act prohibited by section 307 of that Act (16 U.S.C. 1857).

Hawaii.

(c) **EXEMPTIONS FOR TRADITIONAL FISHERIES AND MARKETS.**—

(1) Subsection (a) does not apply to billfish caught by US fishing vessels and landed in the State of Hawaii or Pacific Insular Areas as defined in section 3(35) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(35)).

(2) Subsection (a) does not apply to billfish landed by foreign fishing vessels in the Pacific Insular Areas when the foreign caught billfish is exported to non-US markets or

retained within Hawaii and the Pacific Insular Areas for local consumption.

(d) BILLFISH DEFINED.—In this section the term “billfish”—

(1) means any fish of the species—

- (A) *Makaira nigricans* (blue marlin);
- (B) *Kajikia audax* (striped marlin);
- (C) *Istiompax indica* (black marlin);
- (D) *Istiophorus platypterus* (sailfish);
- (E) *Tetrapturus angustirostris* (shortbill spearfish);
- (F) *Kajikia albida* (white marlin);
- (G) *Tetrapturus georgii* (roundscale spearfish);
- (H) *Tetrapturus belone* (Mediterranean spearfish); and
- (I) *Tetrapturus pfluegeri* (longbill spearfish); and

(2) does not include the species *Xiphias gladius* (swordfish).

Approved October 5, 2012.

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LEGISLATIVE HISTORY—H.R. 2706:

HOUSE REPORTS: No. 112–656 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 10, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–184  
112th Congress

An Act

Oct. 5, 2012  
[H.R. 3556]

To designate the new United States courthouse in Buffalo, New York, as the  
“Robert H. Jackson United States Courthouse”.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse at 2 Niagara Square, Buffalo, New York shall be known and designated as the “Robert H. Jackson United States Courthouse”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Robert H. Jackson United States Courthouse”.

Approved October 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 3556:**

HOUSE REPORTS: No. 112–456 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 23, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–185  
112th Congress

An Act

To confirm full ownership rights for certain United States astronauts to artifacts  
from the astronauts' space missions.

Oct. 5, 2012

[H.R. 4158]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. DEFINITION OF ARTIFACT.**

For purposes of this Act, the term “artifact” means, with respect to an astronaut described in section 2(a), any expendable item utilized in missions for the Mercury, Gemini, or Apollo programs through the completion of the Apollo-Soyuz Test Project not expressly required to be returned to the National Aeronautics and Space Administration at the completion of the mission and other expendable, disposable, or personal-use items utilized by such astronaut during participation in any such program. The term includes personal logs, checklists, flight manuals, prototype and proof test articles used in training, and disposable flight hardware salvaged from jettisoned lunar modules. The term does not include lunar rocks and other lunar material.

**SEC. 2. FULL OWNERSHIP OF ARTIFACTS.**

(a) **IN GENERAL.**—A United States astronaut who participated in any of the Mercury, Gemini, or Apollo programs through the completion of the Apollo-Soyuz Test Project, who received an artifact during his participation in any such program, shall have full ownership of and clear title to such artifact.

(b) **NO FEDERAL GOVERNMENT CLAIM.**—The Federal Government shall have no claim or right to ownership, control, or use of any artifact in possession of an astronaut as described in subsection (a) or any such artifact that was subsequently transferred,

sold, or assigned to a third party by an astronaut described in subsection (a).

Approved October 5, 2012.

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LEGISLATIVE HISTORY—H.R. 4158:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 19, considered and passed House.  
Sept. 21, considered and passed Senate.





Public Law 112–186  
112th Congress

An Act

To amend title 18, United States Code, to prohibit theft of medical products, and for other purposes.

Oct. 5, 2012  
[H.R. 4223]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Strengthening and Focusing Enforcement to Deter Organized Stealing and Enhance Safety Act of 2012” or the “SAFE DOSES Act”.

Strengthening  
and Focusing  
Enforcement to  
Deter Organized  
Stealing and  
Enhance Safety  
Act of 2012.  
18 USC 1 note.

**SEC. 2. THEFT OF MEDICAL PRODUCTS.**

(a) PROHIBITED CONDUCT AND PENALTIES.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

**“§ 670. Theft of medical products**

18 USC 670.

“(a) PROHIBITED CONDUCT.—Whoever, in, or using any means or facility of, interstate or foreign commerce—

“(1) embezzles, steals, or by fraud or deception obtains, or knowingly and unlawfully takes, carries away, or conceals a pre-retail medical product;

“(2) knowingly and falsely makes, alters, forges, or counterfeits the labeling or documentation (including documentation relating to origination or shipping) of a pre-retail medical product;

“(3) knowingly possesses, transports, or traffics in a pre-retail medical product that was involved in a violation of paragraph (1) or (2);

“(4) with intent to defraud, buys, or otherwise obtains, a pre-retail medical product that has expired or been stolen;

“(5) with intent to defraud, sells, or distributes, a pre-retail medical product that is expired or stolen; or

“(6) attempts or conspires to violate any of paragraphs (1) through (5);

shall be punished as provided in subsection (c) and subject to the other sanctions provided in this section.

“(b) AGGRAVATED OFFENSES.—An offense under this section is an aggravated offense if—

“(1) the defendant is employed by, or is an agent of, an organization in the supply chain for the pre-retail medical product; or

“(2) the violation—

“(A) involves the use of violence, force, or a threat of violence or force;

“(B) involves the use of a deadly weapon;

“(C) results in serious bodily injury or death, including serious bodily injury or death resulting from the use of the medical product involved; or

“(D) is subsequent to a prior conviction for an offense under this section.

“(c) CRIMINAL PENALTIES.—Whoever violates subsection (a)—

“(1) if the offense is an aggravated offense under subsection (b)(2)(C), shall be fined under this title or imprisoned not more than 30 years, or both;

“(2) if the value of the medical products involved in the offense is \$5,000 or greater, shall be fined under this title, imprisoned for not more than 15 years, or both, but if the offense is an aggravated offense other than one under subsection (b)(2)(C), the maximum term of imprisonment is 20 years; and

“(3) in any other case, shall be fined under this title, imprisoned for not more than 3 years, or both, but if the offense is an aggravated offense other than one under subsection (b)(2)(C), the maximum term of imprisonment is 5 years.

“(d) CIVIL PENALTIES.—Whoever violates subsection (a) is subject to a civil penalty in an amount not more than the greater of—

“(1) three times the economic loss attributable to the violation; or

“(2) \$1,000,000.

“(e) DEFINITIONS.—In this section—

“(1) the term ‘pre-retail medical product’ means a medical product that has not yet been made available for retail purchase by a consumer;

“(2) the term ‘medical product’ means a drug, biological product, device, medical food, or infant formula;

“(3) the terms ‘device’, ‘drug’, ‘infant formula’, and ‘labeling’ have, respectively, the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act;

“(4) the term ‘biological product’ has the meaning given the term in section 351 of the Public Health Service Act;

“(5) the term ‘medical food’ has the meaning given the term in section 5(b) of the Orphan Drug Act; and

“(6) the term ‘supply chain’ includes manufacturer, wholesaler, repacker, own-labeled distributor, private-label distributor, jobber, broker, drug trader, transportation company, hospital, pharmacy, or security company.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding after the item relating to section 669 the following:

“670. Theft of medical products.”.

### SEC. 3. CIVIL FORFEITURE.

Section 981(a)(1)(C) of title 18, United States Code, is amended by inserting “670,” after “657,”.

### SEC. 4. PENALTIES FOR THEFT-RELATED OFFENSES.

(a) INTERSTATE OR FOREIGN SHIPMENTS BY CARRIER.—Section 659 of title 18, United States Code, is amended by adding at the end of the fifth undesignated paragraph the following: “If the offense involves a pre-retail medical product (as defined in section

670), it shall be punished under section 670 unless the penalties provided for under this section are greater.”.

(b) RACKETEERING.—

(1) TRAVEL ACT VIOLATIONS.—Section 1952 of title 18, United States Code, is amended by adding at the end the following:

“(d) If the offense under this section involves an act described in paragraph (1) or (3) of subsection (a) and also involves a pre-retail medical product (as defined in section 670), the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under subsection (a) is greater.”.

(2) MONEY LAUNDERING.—Section 1957(b)(1) of title 18, United States Code, is amended by adding at the end the following: “If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this subsection is greater.”.

(c) BREAKING OR ENTERING CARRIER FACILITIES.—Section 2117 of title 18, United States Code, is amended by adding at the end of the first undesignated paragraph the following: “If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this section is greater.”.

(d) STOLEN PROPERTY.—

(1) TRANSPORTATION OF STOLEN GOODS AND RELATED OFFENSES.—Section 2314 of title 18, United States Code, is amended by adding at the end of the sixth undesignated paragraph the following: “If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this section is greater.”.

(2) SALE OR RECEIPT OF STOLEN GOODS AND RELATED OFFENSES.—Section 2315 of title 18, United States Code, is amended by adding at the end of the fourth undesignated paragraph the following: “If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this section is greater.”.

(e) PRIORITY GIVEN TO CERTAIN INVESTIGATIONS AND PROSECUTIONS.—The Attorney General shall give increased priority to efforts to investigate and prosecute offenses under section 670 of title 18, United States Code, that involve pre-retail medical products.

18 USC 670 note.

#### **SEC. 5. AMENDMENT TO EXTEND WIRETAPPING AUTHORITY TO NEW OFFENSE.**

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating paragraph (s) as paragraph (t);

(2) by striking “or” at the end of paragraph (r); and

(3) by inserting after paragraph (r) the following:

“(s) any violation of section 670 (relating to theft of medical products); or”.

**SEC. 6. REQUIRED RESTITUTION.**

Section 3663A(c)(1)(A) of title 18, United States Code, is amended—

- (1) in clause (ii), by striking “or” at the end;
- (2) in clause (iii), by striking “and” at the end and inserting “or”; and
- (3) by adding at the end the following:  
“(iv) an offense under section 670 (relating to theft of medical products); and”.

28 USC 994 note.

**SEC. 7. DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.**

Review.

(a) **IN GENERAL.**—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of offenses under section 670 of title 18, United States Code, as added by this Act, section 2118 of title 18, United States Code, or any another section of title 18, United States Code, amended by this Act, to reflect the intent of Congress that penalties for such offenses be sufficient to deter and punish such offenses, and appropriately account for the actual harm to the public from these offenses.

(b) **REQUIREMENTS.**—In carrying out this section, the United States Sentencing Commission shall—

- (1) consider the extent to which the Federal sentencing guidelines and policy statements appropriately reflect—
  - (A) the serious nature of such offenses;
  - (B) the incidence of such offenses; and
  - (C) the need for an effective deterrent and appropriate punishment to prevent such offenses;
- (2) consider establishing a minimum offense level under the Federal sentencing guidelines and policy statements for offenses covered by this Act;
- (3) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;
- (4) ensure reasonable consistency with other relevant directives, Federal sentencing guidelines and policy statements;
- (5) make any necessary conforming changes to the Federal sentencing guidelines and policy statements; and

(6) ensure that the Federal sentencing guidelines and policy statements adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

Approved October 5, 2012.

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LEGISLATIVE HISTORY—H.R. 4223:

HOUSE REPORTS: No. 112–549 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 26, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–187  
112th Congress

An Act

Oct. 5, 2012  
[H.R. 4347]

To designate the United States courthouse located at 709 West 9th Street in Juneau, Alaska, as the “Robert Boochever United States Courthouse”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse located at 709 West 9th Street in Juneau, Alaska, shall be known and designated as the “Robert Boochever United States Courthouse”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Robert Boochever United States Courthouse”.

Approved October 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 4347:**

HOUSE REPORTS: No. 112–614 (Comm. on Transportation and Infrastructure).  
CONGRESSIONAL RECORD, Vol. 158 (2012):  
July 23, considered and passed House.  
Sept. 21, considered and passed Senate.



Public Law 112–188  
112th Congress

An Act

To amend title 28, United States Code, to realign divisions within two judicial districts.

Oct. 5, 2012

[H.R. 5512]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Divisional Realignment Act of 2012”.

Divisional  
Realignment Act  
of 2012.  
28 USC 1 note.

**SEC. 2. REALIGNMENT WITHIN THE EASTERN DISTRICT OF MISSOURI.**

Section 105(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking “Iron,” and “Saint Genevieve,”; and

(2) in paragraph (3)—

(A) by inserting “Iron,” after “Dunklin,”; and

(B) by inserting “Saint Genevieve,” after “Ripley,”.

**SEC. 3. REALIGNMENT WITHIN THE NORTHERN DISTRICT OF MISSISSIPPI.**

Section 104 of title 28, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) The northern district comprises three divisions.

“(1) The Aberdeen Division comprises the counties of Alcorn, Chickasaw, Choctaw, Clay, Itawamba, Lee, Lowndes, Monroe, Oktibbeha, Prentiss, Tishomingo, Webster, and Winston.

“Court for the Aberdeen Division shall be held at Aberdeen, Ackerman, and Corinth.

“(2) The Oxford Division comprises the counties of Benton, Calhoun, DeSoto, Lafayette, Marshall, Panola, Pontotoc, Quitman, Tallahatchie, Tate, Tippah, Tunica, Union, and Yalobusha.

“Court for the Oxford Division shall be held at Oxford.

“(3) The Greenville Division comprises the counties of Attala, Bolivar, Carroll, Coahoma, Grenada, Humphreys, Leflore, Montgomery, Sunflower, and Washington.

“Court for the Greenville Division shall be held at Clarksdale, Cleveland, and Greenville.”.

126 STAT. 1434

PUBLIC LAW 112–188—OCT. 5, 2012

28 USC 104 note. **SEC. 4. EFFECTIVE DATE.**

The amendments made by this Act take effect on the 60th day after the date of the enactment of this Act.

Approved October 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 5512:**

HOUSE REPORTS: No. 112–497 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 30, considered and passed House.

Sept. 21, considered and passed Senate.





Public Law 112–189  
112th Congress

An Act

To eliminate unnecessary reporting requirements for unfunded programs under the Office of Justice Programs.

Oct. 5, 2012  
[H.R. 6189]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Reporting Efficiency Improvement Act”.

Reporting  
Efficiency  
Improvement  
Act.  
42 USC 3711  
note.

**SEC. 2. ELIMINATION OF REPORTS FOR UNFUNDED PROGRAMS UNDER THE OFFICE OF JUSTICE PROGRAMS.**

(a) DNA IDENTIFICATION GRANTS.—Section 2406 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796kk–5) is amended—

(1) by striking “(a) REPORTS TO ATTORNEY GENERAL.—”;  
and

(2) by striking subsection (b).

(b) POLICE CORPS PROGRAM.—

(1) REPEAL OF REPORT REQUIREMENT.—Section 200113 of the Police Corps Act (42 U.S.C. 14102) is repealed.

(2) CONFORMING AMENDMENT.—The Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the item relating to section 200113 in the table of contents contained in section 2 of such Act.

Approved October 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 6189:**

HOUSE REPORTS: No. 112–648 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 11, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–190  
112th Congress

An Act

Oct. 5, 2012  
[H.R. 6215]

To amend the Trademark Act of 1946 to correct an error in the provisions relating to remedies for dilution.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REMEDIES FOR DILUTION.**

(a) IN GENERAL.—Section 43(c)(6) of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (commonly referred to as the “Trademark Act of 1946”; 15 U.S.C. 1125(c)(6)), is amended by striking subparagraphs (A) and (B) and inserting the following:

“(A) is brought by another person under the common law or a statute of a State; and

“(B)(i) seeks to prevent dilution by blurring or dilution by tarnishment; or

“(ii) asserts any claim of actual or likely damage or harm to the distinctiveness or reputation of a mark, label, or form of advertisement.”.

Applicability.  
15 USC 1125  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any action commenced on or after the date of the enactment of this Act.

Approved October 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 6215:**

HOUSE REPORTS: No. 112–647 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 11, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–191  
112th Congress

An Act

To authorize certain Department of Veterans Affairs major medical facility projects, to amend title 38, United States Code, to extend certain authorities of the Secretary of Veterans Affairs, and for other purposes.

Oct. 5, 2012

[H.R. 6375]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “VA Major Construction Authorization and Expiring Authorities Extension Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

VA Major  
Construction  
Authorization  
and Expiring  
Authorities  
Extension Act  
of 2012.  
38 USC 101 note.

- Sec. 1. Short title; table of contents.
- Sec. 2. References to title 38, United States Code.
- Sec. 3. Scoring of budgetary effects.

**TITLE I—CONSTRUCTION AUTHORIZATIONS**

- Sec. 101. Authorization of fiscal year 2013 major medical facility projects.
- Sec. 102. Authorization of major medical facility project in Miami, Florida.
- Sec. 103. Authorization of appropriations.

**TITLE II—EXTENSIONS OF CERTAIN EXPIRING AUTHORITIES**

- Sec. 201. Extension of authority to calculate the net value of real property securing a defaulted loan for purposes of liquidation.
- Sec. 202. Extension of authority for operation of the Department of Veterans Affairs regional office in Manila, the Republic of the Philippines.
- Sec. 203. Extension of authority to provide treatment, rehabilitation, and certain other services for seriously mentally ill and homeless veterans.
- Sec. 204. Extension of authority to provide expanded services to homeless veterans.
- Sec. 205. Extension of authority to provide housing assistance for homeless veterans.
- Sec. 206. Extension of authority for the Advisory Committee on Homeless Veterans.
- Sec. 207. Extension of authority for the performance of medical disability examinations by contract physicians.

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**SEC. 3. SCORING OF BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the

Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

## **TITLE I—CONSTRUCTION AUTHORIZATIONS**

### **SEC. 101. AUTHORIZATION OF FISCAL YEAR 2013 MAJOR MEDICAL FACILITY PROJECTS.**

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2013 in the amount specified for each project:

(1) Construction of a mental health building at the Department of Veterans Affairs Medical Center, Seattle, Washington, in an amount not to exceed \$222,000,000.

(2) Construction of a spinal cord injury center at the Department of Veterans Affairs Medical Center, Dallas, Texas, in an amount not to exceed \$155,200,000.

### **SEC. 102. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECT IN MIAMI, FLORIDA.**

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out the major medical facility project described in subsection (b) in an amount not to exceed a total of \$41,000,000.

(b) PROJECT DESCRIBED.—The major medical facility project described in this subsection is the renovation of the surgical suite and operating rooms at the Department of Veterans Affairs Medical Center, Miami, Florida.

### **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2013 or the year in which funds are appropriated for the Construction, Major Projects, account \$377,200,000 for the projects authorized in section 101.

(b) LIMITATION.—In addition to any limitations under section 8104 of title 38, United States Code, or other provision of law that apply to the projects authorized in section 101 and 102, such projects may only be carried out using—

(1) funds appropriated for fiscal year 2013 pursuant to the authorization of appropriations in subsection (a) of this section;

(2) funds available for Construction, Major Projects, for a fiscal year before fiscal year 2013 that remain available for obligation;

(3) funds available for Construction, Major Projects, for a fiscal year after fiscal year 2013 that remain available for obligation;

(4) funds appropriated for Construction, Major Projects, for fiscal year 2013 for a category of activity not specific to a project;

(5) funds appropriated for Construction, Major Projects, for a fiscal year before 2013 for a category of activity not specific to a project; and

(6) funds appropriated for Construction, Major Projects, for a fiscal year after 2013 for a category of activity not specific to a project.

## **TITLE II—EXTENSIONS OF CERTAIN EXPIRING AUTHORITIES**

### **SEC. 201. EXTENSION OF AUTHORITY TO CALCULATE THE NET VALUE OF REAL PROPERTY SECURING A DEFAULTED LOAN FOR PURPOSES OF LIQUIDATION.**

Section 3732(c)(11) is amended by striking “October 1, 2012” and inserting “October 1, 2013”.

### **SEC. 202. EXTENSION OF AUTHORITY FOR OPERATION OF THE DEPARTMENT OF VETERANS AFFAIRS REGIONAL OFFICE IN MANILA, THE REPUBLIC OF THE PHILIPPINES.**

38 USC 315 note.

Section 315(b) is amended by striking “December 31, 2012” and inserting “December 31, 2013”. Such section 315 shall be carried out as amended by this section notwithstanding the date described in section 151 of the Continuing Appropriations Resolution, 2013.

### **SEC. 203. EXTENSION OF AUTHORITY TO PROVIDE TREATMENT, REHABILITATION, AND CERTAIN OTHER SERVICES FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.**

Section 2031(b) is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

### **SEC. 204. EXTENSION OF AUTHORITY TO PROVIDE EXPANDED SERV- ICES TO HOMELESS VETERANS.**

Section 2033(d) is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

### **SEC. 205. EXTENSION OF AUTHORITY TO PROVIDE HOUSING ASSIST- ANCE FOR HOMELESS VETERANS.**

Section 2041(c) is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

### **SEC. 206. EXTENSION OF AUTHORITY FOR THE ADVISORY COMMITTEE ON HOMELESS VETERANS.**

Section 2066(d) is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

**SEC. 207. EXTENSION OF AUTHORITY FOR THE PERFORMANCE OF  
MEDICAL DISABILITY EXAMINATIONS BY CONTRACT  
PHYSICIANS.**

Section 704(c) of the Veterans Benefits Act of 2003 (38 U.S.C. 5101 note) is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

Approved October 5, 2012.

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**LEGISLATIVE HISTORY—H.R. 6375:**

**CONGRESSIONAL RECORD**, Vol. 158 (2012):

Sept. 19, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–192  
112th Congress

An Act

To provide flexibility with respect to United States support for assistance provided by international financial institutions for Burma, and for other purposes.

Oct. 5, 2012  
[H.R. 6431]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

50 USC 1701  
note.

**SECTION 1. INTERNATIONAL FINANCIAL INSTITUTIONS.**

Upon a determination by the President that it is in the national interest of the United States to support assistance for Burma, the Secretary of the Treasury may instruct the United States Executive Director at any international financial institution to vote in favor of the provision of assistance for Burma by the institution, notwithstanding any other provision of law. The President shall provide the appropriate congressional committees with a written notice of any such determination.

President.  
Determination.

Notification.

**SEC. 2. CONSULTATION AND NOTIFICATION REQUIREMENT.**

(a) Prior to making the determination contained in section 1, the Secretary of State and the Secretary of the Treasury each shall consult with the appropriate congressional committees on assistance to be provided to Burma by an international financial institution, and the national interests served by such assistance.

(b) The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution that the United States Executive Director may not vote in favor of any provision of assistance by the institution to Burma until at least 15 days has elapsed from the date on which the President has provided notice pursuant to section 1.

Time period.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) The term “appropriate congressional committees” means the Committees on Foreign Relations, Banking, Housing, and Urban Affairs, and Appropriations of the Senate, and the Committees on Financial Services, Foreign Affairs, and Appropriations of the House of Representatives.

(2) The term “assistance” means any loan or financial or technical assistance, or any other use of funds.

(3) The term “international financial institution” shall have the same meaning as contained in section 7029(d) of division I of Public Law 112–74.

Approved October 5, 2012.

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LEGISLATIVE HISTORY—H.R. 6431:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 19, considered and passed House.

Sept. 21, considered and passed Senate.





Public Law 112–193  
112th Congress

An Act

To make corrections with respect to Food and Drug Administration user fees.

Oct. 5, 2012

[H.R. 6433]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

FDA User Fee  
Corrections Act  
of 2012.  
21 USC 301 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “FDA User Fee Corrections Act of 2012”.

**SEC. 2. CORRECTIONS TO FDA USER FEES.**

(a) Section 502(aa) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(aa)) is amended by striking “744A(a)(4)” and inserting “744B(a)(4)”.

(b) Subchapter C of title VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379f et seq.) is amended—

(1) in section 738(i)(2)(A)(ii), by striking “shall only be available” and inserting “shall be available”; 21 USC 379j.

(2) in sections 744B(a)(2)(E)(ii)(II), 744B(a)(3)(C)(ii)(III), 744B(a)(4)(D)(i)(II), and 744B(a)(4)(D)(ii)(II), by inserting “for such year” after “obligation of fees” each place it appears; and 21 USC 379j–42.

(3) in section 744B(i)(2)(C)—

(A) by inserting a comma after “September 30, 2013”;

and

(B) by striking the comma after “for fiscal year 2013”.

(c)(1) Notwithstanding section 744B(a)(2)(E)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j–42(a)(2)(E)(ii)), the fee authorized under section 744B(a)(2) of such Act for fiscal year 2013 shall be due 30 calendar days after publication of the notice provided for in section 744B(a)(2)(C)(i) of such Act.

Deadline.  
21 USC 379j–42  
note.

(2) Notwithstanding section 744B(a)(3)(C)(ii) of such Act, the fee authorized under section 744B(a)(3) of such Act for fiscal year 2013 shall be due on the later of—

(A) the date of submission of the abbreviated new drug application or prior approval supplement for which such fee applies; or

(B) 30 calendar days after publication of the notice referred to in section 744B(a)(3)(B)(i) of such Act.

(3) Notwithstanding section 744B(a)(4)(D)(i) of such Act, the fee authorized under section 744B(a)(4) of such Act for fiscal year

2013 shall be due not later than 45 days after the publication of the notice under section 744B(a)(4)(C)(i) of such Act.

Approved October 5, 2012.

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LEGISLATIVE HISTORY—H.R. 6433:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 19, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 112–194  
112th Congress

An Act

To prevent abuse of Government charge cards.

Oct. 5, 2012

[S. 300]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Government Charge Card Abuse Prevention Act of 2012”.

Government  
Charge Card  
Abuse Prevention  
Act of 2012.  
41 USC 101 note.

**SEC. 2. MANAGEMENT OF PURCHASE CARDS.**

(a) GOVERNMENT-WIDE SAFEGUARDS AND INTERNAL CONTROLS.—

(1) IN GENERAL.—Chapter 19 of title 41, United States Code, is amended by adding at the end the following new section:

**“§ 1909. Management of purchase cards**

41 USC 1909.

“(a) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that issues and uses purchase cards and convenience checks shall establish and maintain safeguards and internal controls to ensure the following:

“(1) There is a record in each executive agency of each holder of a purchase card issued by the agency for official use, annotated with the limitations on single transactions and total transactions that are applicable to the use of each such card or check by that purchase card holder.

Records.

“(2) Each purchase card holder and individual issued a convenience check is assigned an approving official other than the card holder with the authority to approve or disapprove transactions.

“(3) The holder of a purchase card and each official with authority to authorize expenditures charged to the purchase card are responsible for—

“(A) reconciling the charges appearing on each statement of account for that purchase card with receipts and other supporting documentation; and

“(B) forwarding a summary report to the certifying official in a timely manner of information necessary to enable the certifying official to ensure that the Federal Government ultimately pays only for valid charges that are consistent with the terms of the applicable Government-wide purchase card contract entered into by the Administrator of General Services.

“(4) Any disputed purchase card charge, and any discrepancy between a receipt and other supporting documentation

and the purchase card statement of account, is resolved in the manner prescribed in the applicable Government-wide purchase card contract entered into by the Administrator of General Services.

“(5) Payments on purchase card accounts are made promptly within prescribed deadlines to avoid interest penalties.

Reviews.  
Records.

“(6) Rebates and refunds based on prompt payment, sales volume, or other actions by the agency on purchase card accounts are reviewed for accuracy and properly recorded as a receipt to the agency that pays the monthly bill.

Records.

“(7) Records of each purchase card transaction (including records on associated contracts, reports, accounts, and invoices) are retained in accordance with standard Government policies on the disposition of records.

Reviews.

“(8) Periodic reviews are performed to determine whether each purchase card holder has a need for the purchase card.

“(9) Appropriate training is provided to each purchase card holder and each official with responsibility for overseeing the use of purchase cards issued by the executive agency.

“(10) The executive agency has specific policies regarding the number of purchase cards issued by various component organizations and categories of component organizations, the credit limits authorized for various categories of card holders, and categories of employees eligible to be issued purchase cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase card holders.

“(11) The executive agency uses effective systems, techniques, and technologies to prevent or identify illegal, improper, or erroneous purchases.

“(12) The executive agency invalidates the purchase card of each employee who—

“(A) ceases to be employed by the agency, immediately upon termination of the employment of the employee; or

“(B) transfers to another unit of the agency, immediately upon the transfer of the employee unless the agency determines that the units are covered by the same purchase card authority.

“(13) The executive agency takes steps to recover the cost of any illegal, improper, or erroneous purchase made with a purchase card or convenience check by an employee, including, as necessary, through salary offsets.

Review.

“(b) GUIDANCE.—The Director of the Office of Management and Budget shall review existing guidance and, as necessary, prescribe additional guidance governing the implementation of the requirements of subsection (a) by executive agencies.

“(c) PENALTIES FOR VIOLATIONS.—

“(1) IN GENERAL.—The head of each executive agency shall provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of the agency violate agency policies implementing the guidance required by subsection (b) or make illegal, improper, or erroneous purchases with purchase cards or convenience checks.

“(2) DISMISSAL.—Penalties prescribed for employee misuse of purchase cards or convenience checks shall include dismissal of the employee, as appropriate.

“(3) **REPORTS ON VIOLATIONS.**—The guidance prescribed under subsection (b) shall direct each head of an executive agency with more than \$10,000,000 in purchase card spending annually, and each Inspector General of such an executive agency, on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by paragraph (1) by employees of such executive agency. At a minimum, the report shall set forth the following:

“(A) A summary description of confirmed violations involving misuse of a purchase card following completion of a review by the agency or by the Inspector General of the agency.

“(B) A summary description of all adverse personnel action, punishment, or other action taken based on each violation.

“(d) **RISK ASSESSMENTS AND AUDITS.**—The Inspector General of each executive agency shall— Reports.

“(1) conduct periodic assessments of the agency purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase card or convenience check transactions;

“(2) perform analysis or audits, as necessary, of purchase card transactions designed to identify—

“(A) potentially illegal, improper, or erroneous uses of purchase cards;

“(B) any patterns of such uses; and

“(C) categories of purchases that could be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices (excluding transactions made under card-based strategic sourcing arrangements);

“(3) report to the head of the executive agency concerned on the results of such analysis or audits; and

“(4) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of purchase card and convenience check transactions or programs for compilation and transmission by the Director to Congress and the Comptroller General.

“(e) **RELATIONSHIP TO DEPARTMENT OF DEFENSE PURCHASE CARD REGULATIONS.**—The requirements of this section shall not apply to the Department of Defense. See section 2784 of title 10 for provisions relating to management of purchase cards in the Department.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 19 of title 41, United States Code, is amended by adding at the end the following new item:

“1909. Management of purchase cards.”.

(b) **CONFORMING AMENDMENTS TO DEPARTMENT OF DEFENSE PURCHASE CARD PROVISIONS.**—Subsection (b) of section 2784 of title 10, United States Code, is amended—

(1) by moving paragraph (8) to the end of the subsection and redesignating that paragraph as paragraph (14);

(2) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

“(2) That each purchase card holder and individual issued a convenience check is assigned an approving official other than the card holder with the authority to approve or disapprove transactions.”;

(4) by adding after paragraph (10) the following new paragraphs:

“(11) That the Department of Defense uses effective systems, techniques, and technologies to prevent or identify potential fraudulent purchases.

“(12) That the Department of Defense takes appropriate steps to invalidate the purchase card of each card holder who—

“(A) in the case of an employee of the Department—

“(i) ceases to be employed by the Department, immediately upon termination of the employment of the employee; or

“(ii) transfers to another unit of the Department, immediately upon the transfer of the employee unless the Secretary of Defense determines that the units are covered by the same purchase card authority; and

“(B) in the case of a member of the armed forces, is separated or released from active duty or full-time National Guard duty.

“(13) That the Department of Defense takes steps to recover the cost of any illegal, improper, or erroneous purchase made with a purchase card or convenience check by an employee or member of the armed forces, including, as necessary, through salary offsets.”; and

(5) by adding at the end the following new paragraph:

“(15) That the Inspector General of the Department of Defense conducts periodic audits or reviews of purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments and that the findings of such audits or reviews, along with recommendations to prevent abuse of purchase cards or convenience checks, are reported to the Director of the Office of Management and Budget and Congress.”.

Audits.  
Recommendations.  
Reports.

41 USC 1909  
note.

(c) DEADLINE FOR GUIDANCE ON MANAGEMENT OF PURCHASE CARDS.—The Director of the Office of Management and Budget shall prescribe the guidance required by section 1909(b) of title 41, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act.

### SEC. 3. MANAGEMENT OF TRAVEL CARDS.

Section 2 of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 5 U.S.C. 5701 note) is amended by adding at the end the following new subsection:

“(h) MANAGEMENT OF TRAVEL CHARGE CARDS.—

“(1) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that has employees that use travel charge cards shall establish and maintain the following internal control activities to ensure the proper, efficient, and effective use of such travel charge cards:

“(A) There is a record in each executive agency of each holder of a travel charge card issued on behalf of the agency for official use, annotated with the limitations on amounts that are applicable to the use of each such card by that travel charge card holder.

Record.

“(B) Rebates and refunds based on prompt payment, sales volume, or other actions by the agency on travel charge card accounts are monitored for accuracy and properly recorded as a receipt of the agency that employs the card holder.

“(C) Periodic reviews are performed to determine whether each travel charge card holder has a need for the travel charge card.

Reviews.

“(D) Appropriate training is provided to each travel charge card holder and each official with responsibility for overseeing the use of travel charge cards issued by the executive agency.

“(E) Each executive agency has specific policies regarding travel charge cards issued for various component organizations and categories of component organizations, the credit limits authorized for various categories of card holders, and categories of employees eligible to be issued travel charge cards, and designs those policies to minimize the financial risk to the Federal Government of the issuance of the travel charge cards and to ensure the integrity of travel charge card holders.

“(F) Each executive agency has policies to ensure its contractual arrangement with each travel charge card issuing contractor contains a requirement that the creditworthiness of an individual be evaluated before the individual is issued a travel charge card, and that no individual be issued a travel charge card if that individual is found not creditworthy as a result of the evaluation (except that this paragraph shall not preclude issuance of a restricted use, prepaid, declining balance, controlled-spend, or stored value card when the individual lacks a credit history or has a credit score below the minimum credit score established by the Director of the Office of Management and Budget). The Director of the Office of Management and Budget shall establish a minimum credit score for determining the creditworthiness of an individual based on rigorous statistical analysis of the population of card holders and historical behaviors. Notwithstanding any other provision of law, such evaluation shall include an assessment of an individual’s consumer report from a consumer reporting agency as those terms are defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a).

Evaluation.

Assessment.

“(G) Each executive agency uses effective systems, techniques, and technologies to prevent or identify improper purchases.

“(H) Each executive agency ensures that the travel charge card of each employee who ceases to be employed by the agency is invalidated immediately upon termination of the employment of the employee (or, in the case of a member of the uniformed services, upon separation or release from active duty or full-time National Guard duty).

	<p>“(I) Each executive agency shall ensure that, where appropriate, travel card payments are issued directly to the travel card-issuing bank for credit to the employee’s individual travel card account.</p>
Deadline. Review.	<p>“(2) GUIDANCE ON MANAGEMENT OF TRAVEL CHARGE CARDS.—Not later than 180 days after the date of the enactment of the Government Charge Card Abuse Prevention Act of 2012, the Director of the Office of Management and Budget shall review the existing guidance and, as necessary, prescribe additional guidance for executive agencies governing the implementation of the requirements in paragraph (1).</p>
Recommendations. Reports.	<p>“(3) INSPECTOR GENERAL AUDIT.—The Inspector General of each executive agency with more than \$10,000,000 in travel card spending shall conduct periodic audits or reviews of travel card programs to analyze risks of illegal, improper, or erroneous purchases and payments. The findings of such audits or reviews along with recommendations to prevent improper use of travel cards shall be reported to the Director of the Office of Management and Budget and Congress.</p> <p>“(4) PENALTIES FOR VIOLATIONS.—Consistent with the guidance prescribed under paragraph (2), each executive agency shall provide for appropriate adverse personnel actions to be imposed in cases in which employees of the executive agency fail to comply with applicable travel charge card terms and conditions or applicable agency regulations or commit fraud with respect to a travel charge card, including removal in appropriate cases.</p> <p>“(5) DEFINITIONS.—In this subsection:</p> <p>“(A) EXECUTIVE AGENCY.—The term ‘executive agency’ means an agency as that term is defined in subparagraphs (A) and (B) of section 5701(1) of title 5, United States Code.</p> <p>“(B) TRAVEL CHARGE CARD.—The term ‘travel charge card’ means any Federal contractor-issued travel charge card that is individually billed to each card holder.”.</p>
5 USC 5701 note.	<p><b>SEC. 4. MANAGEMENT OF CENTRALLY BILLED ACCOUNTS.</b></p> <p>(a) REQUIRED INTERNAL CONTROLS FOR CENTRALLY BILLED ACCOUNTS.—The head of an executive agency that has employees who use a travel charge card that is billed directly to the United States Government shall establish and maintain the following internal control activities:</p> <p>(1) The executive agency shall ensure that officials with the authority to approve official travel verify that centrally billed account charges are not reimbursed to an employee.</p> <p>(2) The executive agency shall dispute unallowable and erroneous charges and track the status of the disputed transactions to ensure appropriate resolution.</p> <p>(3) The executive agency shall submit requests to servicing airlines for refunds of fully or partially unused tickets, when entitled to such refunds, and track the status of unused tickets to ensure appropriate resolution.</p>
Verification.	
Deadline. Review.	<p>(b) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall review the existing guidance and, as necessary, prescribe additional guidance for executive agencies implementing the requirements of subsection (a).</p>



**SEC. 5. DEFINITIONS.**

5 USC 5701 note.

In this Act:

(1) **EXECUTIVE AGENCY.**—The term “executive agency” has the meaning given such term in section 133 of title 41, United States Code.

(2) **EMPLOYEE.**—The term “employee” has the meaning given such term in section 2(d)(3) of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 5 U.S.C. 5701 note).

**SEC. 6. CONSTRUCTION.**

5 USC 5701 note.

(a) **EXECUTIVE AGENCY ACCOUNTING.**—Nothing in this Act, or the amendments made by this Act, shall be construed to excuse the head of an executive agency from the responsibilities set out in section 3512 of title 31, United States Code, or in the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

(b) **PERSONAL INFORMATION.**—Nothing in this Act, or the amendments made by this Act, shall be construed to require the disclosure of personally identifying information that is otherwise protected from disclosure under section 552a of title 5, United States Code (popularly known as the Privacy Act of 1974).

Approved October 5, 2012.

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**LEGISLATIVE HISTORY—S. 300:**

**HOUSE REPORTS:** No. 112–376, Pt. 1 (Comm. on Oversight and Government Reform).

**SENATE REPORTS:** No. 112–37 (Comm. on Homeland Security and Governmental Affairs).

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): July 22, considered and passed Senate.

Vol. 158 (2012): July 31, Aug. 1, considered and passed House, amended.  
Sept. 21, Senate concurred in House amendment.



Public Law 112–195  
112th Congress

An Act

Oct. 5, 2012  
[S. 710]

To amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system.

Hazardous Waste  
Electronic  
Manifest  
Establishment  
Act.  
42 USC 6901  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Hazardous Waste Electronic Manifest Establishment Act”.

**SEC. 2. HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM.**

(a) IN GENERAL.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following:

42 USC 6939g.

**“SEC. 3024. HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM.**

“(a) DEFINITIONS.—In this section:

“(1) BOARD.—The term ‘Board’ means the Hazardous Waste Electronic Manifest System Advisory Board established under subsection (f).

“(2) FUND.—The term ‘Fund’ means the Hazardous Waste Electronic Manifest System Fund established by subsection (d).

“(3) PERSON.—The term ‘person’ includes an individual, corporation (including a Government corporation), company, association, firm, partnership, society, joint stock company, trust, municipality, commission, Federal agency, State, political subdivision of a State, or interstate body.

“(4) SYSTEM.—The term ‘system’ means the hazardous waste electronic manifest system established under subsection (b).

“(5) USER.—The term ‘user’ means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that—

“(A) is required to use a manifest to comply with any Federal or State requirement to track the shipment, transportation, and receipt of hazardous waste or other material that is shipped from the site of generation to an off-site facility for treatment, storage, disposal, or recycling; and

“(B)(i) elects to use the system to complete and transmit an electronic manifest format; or

“(ii) submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper

copy), in accordance with such regulations as the Administrator may promulgate to require such a submission.

“(b) ESTABLISHMENT.—Not later than 3 years after the date of enactment of this section, the Administrator shall establish a hazardous waste electronic manifest system that may be used by any user. Deadline.

“(c) USER FEES.—

“(1) IN GENERAL.—In accordance with paragraph (4), the Administrator may impose on users such reasonable service fees as the Administrator determines to be necessary to pay costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing data from any paper manifest submitted to the system after the date on which the system enters operation.

“(2) COLLECTION OF FEES.—The Administrator shall—

“(A) collect the fees described in paragraph (1) from the users in advance of, or as reimbursement for, the provision by the Administrator of system-related services; and

“(B) deposit the fees in the Fund.

“(3) FEE STRUCTURE.—

“(A) IN GENERAL.—The Administrator, in consultation with information technology vendors, shall determine through the contract award process described in subsection (e) the fee structure that is necessary to recover the full cost to the Administrator of providing system-related services, including— Determination.

“(i) contractor costs relating to—

“(I) materials and supplies;

“(II) contracting and consulting;

“(III) overhead;

“(IV) information technology (including costs of hardware, software, and related services);

“(V) information management;

“(VI) collection of service fees;

“(VII) reporting and accounting; and

“(VIII) project management; and

“(ii) costs of employment of direct and indirect Government personnel dedicated to establishing, managing, and maintaining the system.

“(B) ADJUSTMENTS IN FEE AMOUNT.—

“(i) IN GENERAL.—The Administrator, in consultation with the Board, shall increase or decrease the amount of a service fee determined under the fee structure described in subparagraph (A) to a level that will—

“(I) result in the collection of an aggregate amount for deposit in the Fund that is sufficient and not more than reasonably necessary to cover current and projected system-related costs (including any necessary system upgrades); and

“(II) minimize, to the maximum extent practicable, the accumulation of unused amounts in the Fund.

“(ii) EXCEPTION FOR INITIAL PERIOD OF OPERATION.—The requirement described in clause (i)(II) shall not apply to any additional fees that accumulate

in the Fund, in an amount that does not exceed \$2,000,000, during the 3-year period beginning on the date on which the system enters operation.

“(iii) TIMING OF ADJUSTMENTS.—Adjustments to service fees described in clause (i) shall be made—

“(I) initially, at the time at which initial development costs of the system have been recovered by the Administrator such that the service fee may be reduced to reflect the elimination of the system development component of the fee; and

“(II) periodically thereafter, upon receipt and acceptance of the findings of any annual accounting or auditing report under subsection (d)(3), if the report discloses a significant disparity for a fiscal year between the funds collected from service fees under this subsection for the fiscal year and expenditures made for the fiscal year to provide system-related services.

“(4) CREDITING AND AVAILABILITY OF FEES.—Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts.

“(d) HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ‘Hazardous Waste Electronic Manifest System Fund’, consisting of such amounts as are deposited in the Fund under subsection (c)(2)(B).

“(2) EXPENDITURES FROM FUND.—

“(A) IN GENERAL.—Only to the extent provided in advance in appropriations Acts, on request by the Administrator, the Secretary of the Treasury shall transfer from the Fund to the Administrator amounts appropriated to pay costs incurred in developing, operating, maintaining, and upgrading the system under subsection (c).

“(B) USE OF FUNDS BY ADMINISTRATOR.—Fees collected by the Administrator and deposited in the Fund under this section shall be available to the Administrator subject to appropriations Acts for use in accordance with this section without fiscal year limitation.

“(C) OVERSIGHT OF FUNDS.—The Administrator shall carry out all necessary measures to ensure that amounts in the Fund are used only to carry out the goals of establishing, operating, maintaining, upgrading, managing, supporting, and overseeing the system.

“(3) ACCOUNTING AND AUDITING.—

“(A) ACCOUNTING.—For each 2-fiscal-year period, the Administrator shall prepare and submit to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives a report that includes—

“(i) an accounting of the fees paid to the Administrator under subsection (c) and disbursed from the Fund for the period covered by the report, as reflected by financial statements provided in accordance with—

Time period.  
Reports.

“(I) the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838) and amendments made by that Act; and

“(II) the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410) and amendments made by that Act; and

“(ii) an accounting describing actual expenditures from the Fund for the period covered by the report for costs described in subsection (c)(1).

“(B) AUDITING.—

“(i) IN GENERAL.—For the purpose of section 3515(c) of title 31, United States Code, the Fund shall be considered a component of an Executive agency.

“(ii) COMPONENTS OF AUDIT.—The annual audit required in accordance with sections 3515(b) and 3521 of title 31, United States Code, of the financial statements of activities carried out using amounts from the Fund shall include an analysis of—

“(I) the fees collected and disbursed under this section;

“(II) the reasonableness of the fee structure in place as of the date of the audit to meet current and projected costs of the system;

“(III) the level of use of the system by users; and

“(IV) the success to date of the system in operating on a self-sustaining basis and improving the efficiency of tracking waste shipments and transmitting waste shipment data.

“(iii) FEDERAL RESPONSIBILITY.—The Inspector General of the Environmental Protection Agency shall—

“(I) conduct the annual audit described in clause (ii); and

“(II) submit to the Administrator a report that describes the findings and recommendations of the Inspector General resulting from the audit.

Deadline.  
Reports.

“(e) CONTRACTS.—

“(1) AUTHORITY TO ENTER INTO CONTRACTS FUNDED BY SERVICE FEES.—After consultation with the Secretary of Transportation, the Administrator may enter into 1 or more information technology contracts with entities determined to be appropriate by the Administrator (referred to in this subsection as ‘contractors’) for the provision of system-related services.

“(2) TERM OF CONTRACT.—A contract awarded under this subsection shall have a term of not more than 10 years.

“(3) ACHIEVEMENT OF GOALS.—The Administrator shall ensure, to the maximum extent practicable, that a contract awarded under this subsection—

“(A) is performance-based;

“(B) identifies objective outcomes; and

“(C) contains performance standards that may be used to measure achievement and goals to evaluate the success of a contractor in performing under the contract and the right of the contractor to payment for services under the contract, taking into consideration that a primary measure

of successful performance shall be the development of a hazardous waste electronic manifest system that—

“(i) meets the needs of the user community (including States that rely on data contained in manifests);

“(ii) attracts sufficient user participation and service fee revenues to ensure the viability of the system;

“(iii) decreases the administrative burden on the user community; and

“(iv) provides the waste receipt data applicable to the biennial reports required by section 3002(a)(6).

“(4) PAYMENT STRUCTURE.—Each contract awarded under this subsection shall include a provision that specifies—

“(A) the service fee structure of the contractor that will form the basis for payments to the contractor; and

“(B) the fixed-share ratio of monthly service fee revenues from which the Administrator shall reimburse the contractor for system-related development, operation, and maintenance costs.

“(5) CANCELLATION AND TERMINATION.—

“(A) IN GENERAL.—If the Administrator determines that sufficient funds are not made available for the continuation in a subsequent fiscal year of a contract entered into under this subsection, the Administrator may cancel or terminate the contract.

“(B) NEGOTIATION OF AMOUNTS.—The amount payable in the event of cancellation or termination of a contract entered into under this subsection shall be negotiated with the contractor at the time at which the contract is awarded.

“(6) NO EFFECT ON OWNERSHIP.—Regardless of whether the Administrator enters into a contract under this subsection, the system shall be owned by the Federal Government.

“(f) HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM ADVISORY BOARD.—

Deadline.

“(1) ESTABLISHMENT.—Not later than 3 years after the date of enactment of this section, the Administrator shall establish a board to be known as the ‘Hazardous Waste Electronic Manifest System Advisory Board’.

“(2) COMPOSITION.—The Board shall be composed of 9 members, of which—

“(A) 1 member shall be the Administrator (or a designee), who shall serve as Chairperson of the Board; and

“(B) 8 members shall be individuals appointed by the Administrator—

“(i) at least 2 of whom shall have expertise in information technology;

“(ii) at least 3 of whom shall have experience in using or represent users of the manifest system to track the transportation of hazardous waste under this subtitle (or an equivalent State program); and

“(iii) at least 3 of whom shall be a State representative responsible for processing those manifests.

“(3) DUTIES.—The Board shall meet annually to discuss, evaluate the effectiveness of, and provide recommendations to the Administrator relating to, the system.

“(g) REGULATIONS.—

“(1) PROMULGATION.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, after consultation with the Secretary of Transportation, the Administrator shall promulgate regulations to carry out this section. Deadline.

“(B) INCLUSIONS.—The regulations promulgated pursuant to subparagraph (A) may include such requirements as the Administrator determines to be necessary to facilitate the transition from the use of paper manifests to the use of electronic manifests, or to accommodate the processing of data from paper manifests in the electronic manifest system, including a requirement that users of paper manifests submit to the system copies of the paper manifests for data processing purposes.

“(C) REQUIREMENTS.—The regulations promulgated pursuant to subparagraph (A) shall ensure that each electronic manifest provides, to the same extent as paper manifests under applicable Federal and State law, for—

“(i) the ability to track and maintain legal accountability of—

“(I) the person that certifies that the information provided in the manifest is accurately described; and

“(II) the person that acknowledges receipt of the manifest;

“(ii) if the manifest is electronically submitted, State authority to access paper printout copies of the manifest from the system; and

“(iii) access to all publicly available information contained in the manifest.

“(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation promulgated by the Administrator under paragraph (1) and in accordance with section 3003 relating to electronic manifesting of hazardous waste shall take effect in each State as of the effective date specified in the regulation.

“(3) ADMINISTRATION.—The Administrator shall carry out regulations promulgated under this subsection in each State unless the State program is fully authorized to carry out such regulations in lieu of the Administrator.

“(h) REQUIREMENT OF COMPLIANCE WITH RESPECT TO CERTAIN STATES.—In any case in which the State in which waste is generated, or the State in which waste will be transported to a designated facility, requires that the waste be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the State in which the facility is located—

“(1) complete the facility portion of the applicable manifest;

“(2) sign and date the facility certification; and

“(3) submit to the system a final copy of the manifest for data processing purposes.

“(i) AUTHORIZATION FOR START-UP ACTIVITIES.—There are authorized to be appropriated \$2,000,000 for each of fiscal years 2013 through 2015 for start-up activities to carry out this section, to be offset by collection of user fees under subsection (c) such that all such appropriated funds are offset by fees as provided in subsection (c).”.

Appropriations  
authorization.

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. 6901) is amended by inserting at the end of the items relating to subtitle C the following:

“Sec. 3024. Hazardous waste electronic manifest system.”.

Approved October 5, 2012.

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LEGISLATIVE HISTORY—S. 710:

HOUSE REPORTS: No. 112–654 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 112–20 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Aug. 2, considered and passed Senate.

Vol. 158 (2012): Sept. 11, considered and passed House, amended.

Sept. 21, Senate concurred in House amendment.





Public Law 112–196  
112th Congress

An Act

To amend section 31311 of title 49, United States Code, to permit States to issue commercial driver’s licenses to members of the Armed Forces whose duty station is located in the State.

Oct. 19, 2012  
[S. 3624]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Military Commercial Driver’s License Act of 2012”.

Military  
Commercial  
Driver’s License  
Act of 2012.  
49 USC 30101  
note.

**SEC. 2. DOMICILE REQUIREMENT FOR COMMERCIAL DRIVER’S LICENSE.**

Section 31311(a)(12) of title 49, United States Code, is amended to read as follows:

“(12)(A) Except as provided in subparagraphs (B) and (C), the State may issue a commercial driver’s license only to an individual who operates or will operate a commercial motor vehicle and is domiciled in the State.

“(B) Under regulations prescribed by the Secretary, the State may issue a commercial driver’s license to an individual who—

Regulations.

“(i) operates or will operate a commercial motor vehicle; and

“(ii) is not domiciled in a State that issues commercial driver’s licenses.

“(C) The State may issue a commercial driver’s license to an individual who—

“(i) operates or will operate a commercial motor vehicle;

“(ii) is a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary; and

“(iii) is not domiciled in the State, but whose temporary or permanent duty station is located in the State.”.

Approved October 19, 2012.

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LEGISLATIVE HISTORY—S. 3624

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 21, considered and passed Senate.

Sept. 28, considered and passed House.



Public Law 112–197  
112th Congress

An Act

To authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area, and for other purposes.

Nov. 27, 2012  
[H.R. 2606]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “New York City Natural Gas Supply Enhancement Act”.

New York City  
Natural Gas  
Supply  
Enhancement  
Act.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **PERMITTEE.**—The term “permittee” means the Transcontinental Gas Pipeline Company, LLC, (Transco), its successors or assigns.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

**SEC. 3. AUTHORIZATION FOR PERMIT.**

(a) **IN GENERAL.**—The Secretary may issue permits for rights-of-way or other necessary authorizations to allow the permittee to construct, operate, and maintain a natural gas pipeline and related facilities within the Gateway National Recreation Area in New York, as described in Federal Regulatory Commission Docket No. PF09–8.

(b) **TERMS AND CONDITIONS.**—A permit issued under this section shall be—

(1) consistent with the laws and regulations generally applicable to utility rights-of-way within units of the National Park System; and

(2) subject to such terms and conditions as the Secretary deems appropriate.

(c) **FEES.**—The Secretary shall charge a fee for any permit issued under this section. The fee shall be based on fair market value and shall also provide for recovery of costs incurred by the National Park Service associated with the processing, issuance, and monitoring of the permit. The Secretary shall retain any fees associated with the recovery of costs.

(d) **TERM.**—Any permit issued under this section shall be for a term of 10 years. The permit may be renewed at the discretion of the Secretary in accordance with this section.

**SEC. 4. LEASE OF HISTORIC BUILDINGS AT FLOYD BENNETT FIELD.**

(a) **IN GENERAL.**—The Secretary may enter into a non-competitive lease with the permittee to allow the occupancy and use of

buildings and associated property at Floyd Bennett Field within the Gateway National Recreation Area to house meter and regulating equipment and other equipment necessary to the operation of the natural gas pipeline described in section 3(a).

(b) **TERMS AND CONDITIONS.**—A lease entered into under this section shall—

(1) be in accordance with section 3(k) of the National Park System General Authorities Act (16 U.S.C. 1a–2(k)), except that the proceeds from rental payments may be used for infrastructure needs, resource protection and restoration, and visitor services at Gateway National Recreation Area; and

(2) provide for the restoration and maintenance of the buildings and associated property in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and applicable regulations and programmatic agreements.

**SEC. 5. ENFORCEMENT.**

The Secretary may impose citations or fines, or suspend or revoke any authority under a permit or lease issued in accordance with this Act for failure to comply with, or a violation of any term or condition of such permit or lease.

Approved November 27, 2012.

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**LEGISLATIVE HISTORY—H.R. 2606:**

HOUSE REPORTS: No. 112–373 (Comm. on Natural Resources).  
CONGRESSIONAL RECORD, Vol. 158 (2012):

Feb. 6, 7, considered and passed House.

Sept. 21, considered and passed Senate, amended.

Nov. 14, House concurred in Senate amendment.



Public Law 112–198  
112th Congress

An Act

To increase, effective as of December 1, 2012, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

Nov. 27, 2012  
[H.R. 4114]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2012”.

Veterans’  
Compensation  
Cost-of-Living  
Adjustment Act  
of 2012.  
38 USC 101 note.

**SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.**

38 USC 1114  
note.

(a) **RATE ADJUSTMENT.**—Effective on December 1, 2012, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2012, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

Effective date.

(b) **AMOUNTS TO BE INCREASED.**—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) **WARTIME DISABILITY COMPENSATION.**—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) **ADDITIONAL COMPENSATION FOR DEPENDENTS.**—Each of the dollar amounts under section 1115(1) of such title.

(3) **CLOTHING ALLOWANCE.**—The dollar amount under section 1162 of such title.

(4) **DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.**—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) **DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.**—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) **DETERMINATION OF INCREASE.**—

(1) **PERCENTAGE.**—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2012, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) **ROUNDING.**—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

38 USC 1114  
note.  
Federal Register,  
publication.

**SEC. 3. PUBLICATION OF ADJUSTED RATES.**

The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased under that section, not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2013.

Approved November 27, 2012.

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**LEGISLATIVE HISTORY—H.R. 4114:**

HOUSE REPORTS: No. 112–486 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 9, considered and passed House.

Nov. 13, considered and passed Senate.



Public Law 112–199  
112th Congress

An Act

To amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

Nov. 27, 2012

[S. 743]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Whistleblower Protection Enhancement Act of 2012”.

Whistleblower  
Protection  
Enhancement  
Act of 2012.  
5 USC 101 note.

**TITLE I—PROTECTION OF CERTAIN DIS-  
CLOSURES OF INFORMATION BY FED-  
ERAL EMPLOYEES**

**SEC. 101. CLARIFICATION OF DISCLOSURES COVERED.**

(a) IN GENERAL.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)(i), by striking “a violation” and inserting “any violation”; and

(2) in subparagraph (B)(i), by striking “a violation” and inserting “any violation (other than a violation of this section)”.

(b) PROHIBITED PERSONNEL PRACTICES UNDER SECTION 2302(b)(9).—

(1) TECHNICAL AND CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(A) in subsections (a)(3), (b)(4)(A), and (b)(4)(B)(i) of section 1214 and in subsections (a), (e)(1), and (i) of section 1221, by inserting “or section 2302(b)(9) (A)(i), (B), (C), or (D)” after “section 2302(b)(8)” each place it appears; and

(B) in section 2302(a)(2)(C)(i), by inserting “or section 2302(b)(9) (A)(i), (B), (C), or (D)” after “(b)(8)”.

(2) OTHER REFERENCES.—(A) Title 5, United States Code, is amended in subsection (b)(4)(B)(i) of section 1214 and in subsection (e)(1) of section 1221 by inserting “or protected activity” after “disclosure” each place it appears.

(B) Section 2302(b)(9) of title 5, United States Code, is amended—

(i) by striking subparagraph (A) and inserting the following:

“(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation—

“(i) with regard to remedying a violation of paragraph (8); or

“(ii) other than with regard to remedying a violation of paragraph (8);”;

(ii) in subparagraph (B), by inserting “(i) or (ii)” after “subparagraph (A)”.

(C) Section 2302 of title 5, United States Code, is amended by adding at the end the following:

“(f)(1) A disclosure shall not be excluded from subsection (b)(8) because—

“(A) the disclosure was made to a supervisor or to a person who participated in an activity that the employee or applicant reasonably believed to be covered by subsection (b)(8)(A)(i) and (ii);

“(B) the disclosure revealed information that had been previously disclosed;

“(C) of the employee’s or applicant’s motive for making the disclosure;

“(D) the disclosure was not made in writing;

“(E) the disclosure was made while the employee was off duty; or

“(F) of the amount of time which has passed since the occurrence of the events described in the disclosure.

“(2) If a disclosure is made during the normal course of duties of an employee, the disclosure shall not be excluded from subsection (b)(8) if any employee who has authority to take, direct others to take, recommend, or approve any personnel action with respect to the employee making the disclosure, took, failed to take, or threatened to take or fail to take a personnel action with respect to that employee in reprisal for the disclosure.”.

#### **SEC. 102. DEFINITIONAL AMENDMENTS.**

Section 2302(a)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking “and” at the end;

(2) in subparagraph (C)(iii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(D) ‘disclosure’ means a formal or informal communication or transmission, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee or applicant providing the disclosure reasonably believes that the disclosure evidences—

“(i) any violation of any law, rule, or regulation; or

“(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”.

#### **SEC. 103. REBUTTABLE PRESUMPTION.**

Section 2302(b) of title 5, United States Code, is amended by amending the matter following paragraph (12) to read as follows: “This subsection shall not be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress. For purposes of paragraph (8), (i) any presumption relating to the performance of a duty by an employee whose conduct is the subject of a disclosure as defined under subsection (a)(2)(D) may be rebutted

Determination.



by substantial evidence, and (ii) a determination as to whether an employee or applicant reasonably believes that such employee or applicant has disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee or applicant could reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.”.

**SEC. 104. PERSONNEL ACTIONS AND PROHIBITED PERSONNEL PRACTICES.**

(a) **PERSONNEL ACTION.**—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (x), by striking “and” after the semicolon; and

(2) by redesignating clause (xi) as clause (xii) and inserting after clause (x) the following:

“(xi) the implementation or enforcement of any non-disclosure policy, form, or agreement; and”.

(b) **PROHIBITED PERSONNEL PRACTICE.**—

(1) **IN GENERAL.**—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking “or” at the end;

(B) in paragraph (12), by striking the period and inserting “; or”; and

(C) by inserting after paragraph (12) the following:

“(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: ‘These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.’”.

(2) **AGENCY WEBSITES.**—Agencies making use of any non-disclosure policy, form, or agreement shall also post the statement required under section 2302(b)(13) of title 5, United States Code (as added by this Act) on the agency website, accompanied by the specific list of controlling Executive orders and statutory provisions.

5 USC 2302 note.

(3) **NONDISCLOSURE POLICY, FORM, OR AGREEMENT IN EFFECT BEFORE THE EFFECTIVE DATE.**—With respect to a non-disclosure policy, form, or agreement that was in effect before the effective date of this Act, but that does not contain the statement required under section 2302(b)(13) of title 5, United States Code (as added by this Act) for implementation or enforcement—

5 USC 2302 note.

(A) it shall not be a prohibited personnel practice to enforce that policy, form, or agreement with regard to a current employee if the agency gives such employee notice of the statement; and

(B) it shall not be a prohibited personnel practice to enforce that policy, form, or agreement after the effective date of this Act with regard to a former employee if the agency complies with paragraph (2) of this subsection.

(c) RETALIATORY INVESTIGATIONS.—

(1) AGENCY INVESTIGATION.—Section 1214 of title 5, United States Code, is amended by adding at the end the following:

“(h) Any corrective action ordered under this section to correct a prohibited personnel practice may include fees, costs, or damages reasonably incurred due to an agency investigation of the employee, if such investigation was commenced, expanded, or extended in retaliation for the disclosure or protected activity that formed the basis of the corrective action.”.

(2) DAMAGES.—Section 1221(g) of title 5, United States Code, is amended by adding at the end the following:

“(4) Any corrective action ordered under this section to correct a prohibited personnel practice may include fees, costs, or damages reasonably incurred due to an agency investigation of the employee, if such investigation was commenced, expanded, or extended in retaliation for the disclosure or protected activity that formed the basis of the corrective action.”.

**SEC. 105. EXCLUSION OF AGENCIES BY THE PRESIDENT.**

Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

“(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

Determination.

“(II) as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, provided that the determination be made prior to a personnel action; or”.

**SEC. 106. DISCIPLINARY ACTION.**

Section 1215(a)(3) of title 5, United States Code, is amended to read as follows:

“(3)(A) A final order of the Board may impose—

Time period.

“(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

“(ii) an assessment of a civil penalty not to exceed \$1,000; or

“(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

“(B) In any case brought under paragraph (1) in which the Board finds that an employee has committed a prohibited personnel practice under section 2302(b)(8), or 2302(b)(9) (A)(i), (B), (C), or (D), the Board may impose disciplinary action if the Board finds that the activity protected under section 2302(b)(8), or 2302(b)(9)

(A)(i), (B), (C), or (D) was a significant motivating factor, even if other factors also motivated the decision, for the employee's decision to take, fail to take, or threaten to take or fail to take a personnel action, unless that employee demonstrates, by a preponderance of the evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.”.

#### SEC. 107. REMEDIES.

(a) ATTORNEY FEES.—Section 1204(m)(1) of title 5, United States Code, is amended by striking “agency involved” and inserting “agency where the prevailing party was employed or had applied for employment at the time of the events giving rise to the case”.

(b) DAMAGES.—Sections 1214(g)(2) and 1221(g)(1)(A)(ii) of title 5, United States Code, are amended by striking all after “travel expenses,” and inserting “any other reasonable and foreseeable consequential damages, and compensatory damages (including interest, reasonable expert witness fees, and costs).” each place it appears.

#### SEC. 108. JUDICIAL REVIEW.

(a) IN GENERAL.—Section 7703(b) of title 5, United States Code, is amended by striking the matter preceding paragraph (2) and inserting the following:

“(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2) of this subsection, a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review shall be filed within 60 days after the Board issues notice of the final order or decision of the Board.

Deadlines.  
Notices.

“(B) During the 2-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2012, a petition to review a final order or final decision of the Board that raises no challenge to the Board's disposition of allegations of a prohibited personnel practice described in section 2302(b) other than practices described in section 2302(b)(8), or 2302(b)(9) (A)(i), (B), (C), or (D) shall be filed in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction. Notwithstanding any other provision of law, any petition for review shall be filed within 60 days after the Board issues notice of the final order or decision of the Board.”.

Time period.

(b) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703(d) of title 5, United States Code, is amended to read as follows:

“(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director may obtain review of any final order or decision of the Board by filing, within 60 days after the Board issues notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in the discretion of the Director, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless

Applicability.  
Deadlines.  
Notices.  
Determinations.

the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

Time period.

“(2) During the 2-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2012, this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management that raises no challenge to the Board’s disposition of allegations of a prohibited personnel practice described in section 2302(b) other than practices described in section 2302(b)(8), or 2302(b)(9) (A)(i), (B), (C), or (D). The Director may obtain review of any final order or decision of the Board by filing, within 60 days after the Board issues notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction if the Director determines, in the discretion of the Director, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board’s decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the court of appeals.”.

**SEC. 109. PROHIBITED PERSONNEL PRACTICES AFFECTING THE TRANSPORTATION SECURITY ADMINISTRATION.**

(a) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended—

(1) by redesignating sections 2304 and 2305 as sections 2305 and 2306, respectively; and

(2) by inserting after section 2303 the following:

**“§ 2304. Prohibited personnel practices affecting the Transportation Security Administration**

“(a) IN GENERAL.—Notwithstanding any other provision of law, any individual holding or applying for a position within the Transportation Security Administration shall be covered by—

“(1) the provisions of section 2302(b) (1), (8), and (9);

“(2) any provision of law implementing section 2302(b) (1), (8), or (9) by providing any right or remedy available to an employee or applicant for employment in the civil service; and

“(3) any rule or regulation prescribed under any provision of law referred to in paragraph (1) or (2).

“(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any rights, apart from those described in subsection (a), to which an individual described in subsection (a) might otherwise be entitled under law.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 23 of title 5, United States Code, is amended by striking the items relating to sections 2304 and 2305, respectively, and inserting the following:

“2304. Prohibited personnel practices affecting the Transportation Security Administration.

“2305. Responsibility of the Government Accountability Office.

“2306. Coordination with certain other provisions of law.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this section. 5 USC 2304 note.

**SEC. 110. DISCLOSURE OF CENSORSHIP RELATED TO RESEARCH, ANALYSIS, OR TECHNICAL INFORMATION.** 5 USC 2302 note.

(a) **DEFINITIONS.**—In this subsection—

(1) the term “agency” has the meaning given under section 2302(a)(2)(C) of title 5, United States Code;

(2) the term “applicant” means an applicant for a covered position;

(3) the term “censorship related to research, analysis, or technical information” means any effort to distort, misrepresent, or suppress research, analysis, or technical information;

(4) the term “covered position” has the meaning given under section 2302(a)(2)(B) of title 5, United States Code;

(5) the term “employee” means an employee in a covered position in an agency; and

(6) the term “disclosure” has the meaning given under section 2302(a)(2)(D) of title 5, United States Code.

(b) **PROTECTED DISCLOSURE.**—

(1) **IN GENERAL.**—Any disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information—

(A) shall come within the protections of section 2302(b)(8)(A) of title 5, United States Code, if—

(i) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

(I) any violation of law, rule, or regulation;

or

(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

(ii) such disclosure is not specifically prohibited by law or such information is not specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs; and

(B) shall come within the protections of section 2302(b)(8)(B) of title 5, United States Code, if—

(i) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

(I) any violation of law, rule, or regulation;

or

(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

(ii) the disclosure is made to the Special Counsel, or to the Inspector General of an agency or another person designated by the head of the agency to receive such disclosures, consistent with the protection of sources and methods.

(2) **DISCLOSURES NOT EXCLUDED.**—A disclosure shall not be excluded from paragraph (1) for any reason described under section 2302(f)(1) or (2) of title 5, United States Code.

(3) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to imply any limitation on the protections of employees and applicants afforded by any other provision of law, including protections with respect to any disclosure of information believed to be evidence of censorship related to research, analysis, or technical information.

**SEC. 111. CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.**

Section 214(c) of the Homeland Security Act of 2002 (6 U.S.C. 133(c)) is amended by adding at the end the following: “For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 2302(b)(8) of title 5, United States Code.”.

**SEC. 112. ADVISING EMPLOYEES OF RIGHTS.**

Section 2302(c) of title 5, United States Code, is amended by inserting “, including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures” after “chapter 12 of this title”.

**SEC. 113. SPECIAL COUNSEL AMICUS CURIAE APPEARANCE.**

Section 1212 of title 5, United States Code, is amended by adding at the end the following:

“(h)(1) The Special Counsel is authorized to appear as amicus curiae in any action brought in a court of the United States related to section 2302(b) (8) or (9), or as otherwise authorized by law. In any such action, the Special Counsel is authorized to present the views of the Special Counsel with respect to compliance with section 2302(b) (8) or (9) and the impact court decisions would have on the enforcement of such provisions of law.

“(2) A court of the United States shall grant the application of the Special Counsel to appear in any such action for the purposes described under subsection (a).”.

**SEC. 114. SCOPE OF DUE PROCESS.**

(a) **SPECIAL COUNSEL.**—Section 1214(b)(4)(B)(ii) of title 5, United States Code, is amended by inserting “, after a finding that a protected disclosure was a contributing factor,” after “ordered if”.

(b) **INDIVIDUAL ACTION.**—Section 1221(e)(2) of title 5, United States Code, is amended by inserting “, after a finding that a protected disclosure was a contributing factor,” after “ordered if”.

5 USC 2302 note.

**SEC. 115. NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.**

(a) **IN GENERAL.**—

(1) REQUIREMENT.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: “These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”.

(2) AGENCY WEBSITES.—Agencies making use of any nondisclosure policy, form, or agreement shall also post the statement required under paragraph (1) on the agency website, accompanied by the specific list of controlling Executive orders and statutory provisions.

(3) ENFORCEABILITY.—

(A) IN GENERAL.—Any nondisclosure policy, form, or agreement described under paragraph (1) that does not contain the statement required under paragraph (1) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(B) NONDISCLOSURE POLICY, FORM, OR AGREEMENT IN EFFECT BEFORE THE EFFECTIVE DATE.—With respect to a nondisclosure policy, form, or agreement that was in effect before the effective date of this Act, but that does not contain the statement required under paragraph (1) for implementation or enforcement—

(i) it shall not be a prohibited personnel practice to enforce that policy, form, or agreement with regard to a current employee if the agency gives such employee notice of the statement; and

(ii) it shall not be a prohibited personnel practice to enforce that policy, form, or agreement after the effective date of this Act with regard to a former employee if the agency complies with paragraph (2).

(b) PERSONS OTHER THAN GOVERNMENT EMPLOYEES.—Notwithstanding subsection (a), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such policy, form, or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure policy, form, or agreement shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law, consistent with the protection of sources and methods.

**SEC. 116. REPORTING REQUIREMENTS.****(a) GOVERNMENT ACCOUNTABILITY OFFICE.—**

(1) **REPORT.**—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives on the implementation of this title.

(2) **CONTENTS.**—The report under this subsection shall include—

(A) an analysis of any changes in the number of cases filed with the Merit Systems Protection Board alleging violations of section 2302(b)(8) or (9) of title 5, United States Code, since the effective date of this Act;

(B) the outcome of the cases described under subparagraph (A), including whether or not the Merit Systems Protection Board, the United States Court of Appeals for the Federal Circuit, or any other court determined the allegations to be frivolous or malicious as well as a recommendation whether Congress should grant the Merit Systems Protection Board summary judgment authority for cases described under subparagraph (A);

(C) a recommendation regarding whether Congress should grant jurisdiction for some subset of cases described under subparagraph (A) to be decided by a district court of the United States and an evaluation of the impact that would have on the Merit Systems Protection Board and the Federal court system; and

(D) any other matter as determined by the Comptroller General.

**(b) MERIT SYSTEMS PROTECTION BOARD.—**

(1) **IN GENERAL.**—Each report submitted annually by the Merit Systems Protection Board under section 1116 of title 31, United States Code, shall, with respect to the period covered by such report, include as an addendum the following:

(A) Information relating to the outcome of cases decided by the Merit Systems Protection Board during the period covered by such report in which violations of section 2302(b)(8) or (9)(A)(i), (B)(i), (C), or (D) of title 5, United States Code, were alleged.

(B) The number of such cases filed in the regional and field offices, and the number of petitions for review filed in such cases, during the period covered by such report, and the outcomes of any such cases or petitions for review (irrespective of when filed) decided during such period.

(2) **FIRST REPORT.**—The first report described under paragraph (1) submitted after the date of enactment of this Act shall include an addendum required under that paragraph that covers the period beginning on the effective date of this Act and ending at the end of the fiscal year in which such effective date occurs.

**SEC. 117. WHISTLEBLOWER PROTECTION OMBUDSMAN.**

(a) **IN GENERAL.**—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking subsection (d) and inserting the following:

31 USC 1116  
note.

Time period.



“(d)(1) Each Inspector General shall, in accordance with Appointments. applicable laws and regulations governing the civil service—

“(A) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment;

“(B) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations; and

“(C) designate a Whistleblower Protection Ombudsman who shall educate agency employees— Designation.

“(i) about prohibitions on retaliation for protected disclosures; and

“(ii) who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures.

“(2) The Whistleblower Protection Ombudsman shall not act as a legal representative, agent, or advocate of the employee or former employee.

“(3) For the purposes of this section, the requirement of the designation of a Whistleblower Protection Ombudsman under paragraph (1)(C) shall not apply to—

“(A) any agency that is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))); or

“(B) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counter intelligence activities.”. Determination. President.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8D(j) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by striking “section 3(d)(1)” and inserting “section 3(d)(1)(A)”; and

(2) by striking “section 3(d)(2)” and inserting “section 3(d)(1)(B)”.

(c) SUNSET.—

(1) IN GENERAL.—The amendments made by this section shall cease to have effect on the date that is 5 years after the date of enactment of this Act.

(2) RETURN TO PRIOR AUTHORITY.—Upon the date described in paragraph (1), section 3(d) and section 8D(j) of the Inspector General Act of 1978 (5 U.S.C. App.) shall read as such sections read on the day before the date of enactment of this Act.

5 USC app. 3 note.

## TITLE II—SAVINGS CLAUSE; EFFECTIVE DATE

### SEC. 201. SAVINGS CLAUSE.

5 USC 2302 note.

Nothing in this Act shall be construed to imply any limitation on any protections afforded by any other provision of law to employees and applicants.

5 USC 1204 note. **SEC. 202. EFFECTIVE DATE.**

Except as otherwise provided in section 109, this Act shall take effect 30 days after the date of enactment of this Act.

Approved November 27, 2012.

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**LEGISLATIVE HISTORY—S. 743 (H.R. 3289):**

**HOUSE REPORTS:** No. 112–508, Pt. 1 (Comm. on Oversight and Government Reform) accompanying H.R. 3289.

**SENATE REPORTS:** No. 112–155 (Comm. on Homeland Security and Governmental Affairs).

**CONGRESSIONAL RECORD**, Vol. 158 (2012):

May 8, considered and passed Senate.

Sept. 28, considered and passed House, amended.

Nov. 13, Senate concurred in House amendment.



Public Law 112–200  
112th Congress

An Act

To prohibit operators of civil aircraft of the United States from participating in the European Union’s emissions trading scheme, and for other purposes.

Nov. 27, 2012  
[S. 1956]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “European Union Emissions Trading Scheme Prohibition Act of 2011”.

European Union  
Emissions  
Trading Scheme  
Prohibition Act  
of 2011.  
49 USC 40101  
note.  
49 USC 40101  
note.

**SEC. 2. PROHIBITION ON PARTICIPATION IN THE EUROPEAN UNION’S EMISSIONS TRADING SCHEME.**

(a) **IN GENERAL.**—The Secretary of Transportation shall prohibit an operator of a civil aircraft of the United States from participating in the emissions trading scheme unilaterally established by the European Union in EU Directive 2003/87/EC of October 13, 2003, as amended, in any case in which the Secretary determines the prohibition to be, and in a manner that is, in the public interest, taking into account—

Determination.

- (1) the impacts on U.S. consumers, U.S. carriers, and U.S. operators;
- (2) the impacts on the economic, energy, and environmental security of the United States; and
- (3) the impacts on U.S. foreign relations, including existing international commitments.

(b) **PUBLIC HEARING.**—After determining that a prohibition under this section may be in the public interest, the Secretary must hold a public hearing at least 30 days before imposing any prohibition.

Deadline.

(c) **REASSESSMENT OF DETERMINATION OF PUBLIC INTEREST.**—The Secretary—

- (1) may reassess a determination under subsection (a) that a prohibition under that subsection is in the public interest at any time after making such a determination; and
- (2) shall reassess such a determination after—
  - (A) any amendment by the European Union to the EU Directive referred to in subsection (a); or
  - (B) the adoption of any international agreement pursuant to section 3(1).
  - (C) enactment of a public law or issuance of a final rule after formal agency rulemaking, in the United State to address aircraft emissions.

49 USC 40101  
note.

**SEC. 3. NEGOTIATIONS.**

(a) **IN GENERAL.**—The Secretary of Transportation, the Administrator of the Federal Aviation Administration, and other appropriate officials of the United States Government—

(1) should, as appropriate, use their authority to conduct international negotiations, including using their authority to conduct international negotiations to pursue a worldwide approach to address aircraft emissions, including the environmental impact of aircraft emissions; and

(2) shall, as appropriate and except as provided in subsection (b), take other actions under existing authorities that are in the public interest necessary to hold operators of civil aircraft of the United States harmless from the emissions trading scheme referred to under section 2.

(b) **EXCLUSION OF PAYMENT OF TAXES AND PENALTIES.**—Actions taken under subsection (a)(2) may not include the obligation or expenditure of any amounts in the Airport and Airway Trust Fund established under section 9905 of the Internal Revenue Code of 1986, or amounts otherwise made available to the Department of Transportation or any other Federal agency pursuant to appropriations Acts, for the payment of any tax or penalty imposed on an operator of civil aircraft of the United States pursuant to the emissions trading scheme referred to under section 2.

49 USC 40101  
note.

**SEC. 4. DEFINITION OF CIVIL AIRCRAFT OF THE UNITED STATES.**

In this Act, the term “civil aircraft of the United States” has the meaning given the term under section 40102(a) of title 49, United States Code.

Approved November 27, 2012.

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**LEGISLATIVE HISTORY—S. 1956 (H.R. 2594):**

**HOUSE REPORTS:** No. 112–232, Pt. 1 (Comm. on Transportation and Infrastructure) accompanying H.R. 2594.

**SENATE REPORTS:** No. 112–195 (Comm. on Commerce, Science, and Transportation).

**CONGRESSIONAL RECORD**, Vol. 158 (2012):

Sept. 21, considered and passed Senate.

Nov. 13, considered and passed House.



Public Law 112–201  
112th Congress

An Act

To require the Secretary of the Treasury to mint coins in commemoration of Mark Twain.

Dec. 4, 2012  
[H.R. 2453]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Mark Twain Commemorative Coin Act”.

Mark Twain  
Commemorative  
Coin Act.  
31 USC 5112  
note.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

31 USC 5112  
note.

(1) Samuel Clemens—better known to the world as Mark Twain—was a unique American voice whose literary work has had a lasting effect on our Nation’s history and culture.

(2) Mark Twain remains one of the best known Americans in the world with over 6,500 editions of his books translated into 75 languages.

(3) Mark Twain’s literary and educational legacy remains strong even today, with nearly every book he wrote still in print, including *The Adventures of Tom Sawyer* and *Adventures of Huckleberry Finn*—both of which have never gone out of print since they were first published over a century ago.

(4) In the past 2 decades alone, there have been more than 100 books published and over 250 doctoral dissertations written on Mark Twain’s life and work.

(5) Even today, Americans seek to know more about the life and work of Mark Twain, as people from around the world and across all 50 States annually flock to National Historic Landmarks like the Mark Twain House & Museum in Hartford, CT, and the Mark Twain Boyhood Home & Museum in Hannibal, MO.

(6) Mark Twain’s work is remembered today for addressing the complex social issues facing America at the turn of the century, including the legacy of the Civil War, race relations, and the economic inequalities of the “Gilded Age”.

(7) Today Mark Twain’s work lives on through educational institutions throughout the United States, such as the Mark Twain Project at the Bancroft Library of the University of California, Berkeley, California, and the Center for Mark Twain Studies at Elmira College, in Elmira, New York.

31 USC 5112  
note.

**SEC. 3. COIN SPECIFICATIONS.**

(a) **DENOMINATIONS.**—The Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall mint and issue the following coins:

(1) **\$5 GOLD COINS.**—Not more than 100,000 \$5 coins, which shall—

- (A) weigh 8.359 grams;
- (B) have a diameter of 0.850 inches; and
- (C) contain 90 percent gold and 10 percent alloy.

(2) **\$1 SILVER COINS.**—Not more than 350,000 \$1 coins, which shall—

- (A) weigh 26.73 grams;
- (B) have a diameter of 1.500 inches; and
- (C) contain 90 percent silver and 10 percent copper.

(b) **LEGAL TENDER.**—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) **NUMISMATIC ITEMS.**—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

31 USC 5112  
note.

**SEC. 4. DESIGN OF COINS.**

(a) **DESIGN REQUIREMENTS.**—

(1) **IN GENERAL.**—The design of the coins minted under this Act shall be emblematic of the life and legacy of Mark Twain.

(2) **DESIGNATION AND INSCRIPTIONS.**—On each coin minted under this Act there shall be—

- (A) a designation of the value of the coin;
- (B) an inscription of the year “2016”; and
- (C) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(b) **SELECTION.**—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts and the Board of the Mark Twain House and Museum; and

(2) reviewed by the Citizens Coinage Advisory Committee.

31 USC 5112  
note.

**SEC. 5. ISSUANCE OF COINS.**

(a) **QUALITY OF COINS.**—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) **MINT FACILITY.**—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) **PERIOD FOR ISSUANCE.**—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2016.

31 USC 5112  
note.

**SEC. 6. SALE OF COINS.**

(a) **SALE PRICE.**—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

- (1) the face value of the coins;
- (2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

#### SEC. 7. SURCHARGES.

31 USC 5112  
note.

(a) IN GENERAL.—All sales of coins issued under this Act shall include a surcharge of—

- (1) \$35 per coin for the \$5 coin; and
- (2) \$10 per coin for the \$1 coin.

(b) DISTRIBUTION.—Subject to section 5134(f)(1) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary as follows:

(1) One-quarter of the surcharges, to the Mark Twain House & Museum in Hartford, Connecticut, to support the continued restoration of the Mark Twain house and grounds, and ensure continuing growth and innovation in museum programming to research, promote and educate on the legacy of Mark Twain.

(2) One-quarter of the surcharges, to the University of California, Berkeley, California, for the benefit of the Mark Twain Project at the Bancroft Library to support programs to study and promote the legacy of Mark Twain.

(3) One-quarter of the surcharges, to Elmira College, New York, to be used for research and education purposes.

(4) One-quarter of the surcharges, to the Mark Twain Boyhood Home and Museum in Hannibal, Missouri, to preserve historical sites related to Mark Twain and help support programs to study and promote his legacy.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of each of the organizations referred to in paragraphs (1), (2), (3), and (4) of subsection (b) as may be related to the expenditures of amounts paid under such subsection.

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

#### SEC. 8. NO NET COST.

31 USC 5112  
note.

The Secretary shall take such actions as may be necessary to ensure that—

- (1) minting and issuing coins under this Act will not result in any net cost to the United States Government; and

(2) no funds, including applicable surcharges, are disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

Approved December 4, 2012.

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LEGISLATIVE HISTORY—H.R. 2453:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Apr. 16, 18, considered and passed House.

Sept. 21, considered and passed Senate, amended.

Nov. 14, 15, House considered and concurred in Senate amendments.





Public Law 112–202  
112th Congress

An Act

To amend section 353 of the Public Health Service Act with respect to suspension, revocation, and limitation of laboratory certification.

Dec. 4, 2012  
[H.R. 6118]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Taking Essential Steps for Testing Act of 2012”.

Taking Essential  
Steps for Testing  
Act of 2012.  
42 USC 201 note.

**SEC. 2. SUSPENSION, REVOCATION, AND LIMITATION OF LABORATORY CERTIFICATION.**

Section 353 of the Public Health Service Act (42 U.S.C. 263a) is amended—

(1) in subsection (d)(1)(E), by inserting “, except that no proficiency testing sample shall be referred to another laboratory for analysis as prohibited under subsection (i)(4)” before the period at the end; and

(2) in subsection (i)—

(A) in paragraph (3), by inserting before the period at the end of the first sentence the following: “, except that if the revocation occurs pursuant to paragraph (4) the Secretary may substitute intermediate sanctions under subsection (h) instead of the 2-year prohibition against ownership or operation which would otherwise apply under this paragraph”; and

(B) in paragraph (4), by striking “shall” the first place it appears and inserting “may”.

Approved December 4, 2012.

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LEGISLATIVE HISTORY—H.R. 6118 (S. 3391):

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 19, considered and passed House.

Nov. 14, considered and passed Senate.



Public Law 112–203  
112th Congress

An Act

Dec. 4, 2012  
[H.R. 6131]

To extend the Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2006, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF THE U.S. SAFE WEB ACT OF 2006.**

Section 13 of the U.S. SAFE WEB Act of 2006 (Public Law 109–455; 15 U.S.C. 44 note) is amended to read as follows:

**“SEC. 13. SUNSET.**

Repeal.

“Effective September 30, 2020, this Act, and the amendments made by this Act, are repealed, and any provision of law amended by this Act shall be amended to read as if this Act had not been enacted into law.”.

Approved December 4, 2012.

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**LEGISLATIVE HISTORY—H.R. 6131:**

HOUSE REPORTS: No. 112–653 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 11, considered and passed House.

Nov. 14, considered and passed Senate.



Public Law 112–204  
112th Congress

An Act

To amend the American Recovery and Reinvestment Act of 2009 and the Emergency Economic Stabilization Act of 2008 to consolidate certain CBO reporting requirements.

Dec. 4, 2012  
[H.R. 6570]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONSOLIDATION OF CERTAIN CBO REPORTING REQUIREMENTS RELATING TO ARRA AND TARP.**

(a) ARRA-RELATED REPORTS.—

(1) IN GENERAL.—Section 1512(e) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 288) is amended by amending the second sentence to read as follows: “Such comments on all reports for calendar quarters in a year shall be due 45 days after the report for the last calendar quarter of the year is submitted.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to comments on reports submitted on or after October 1, 2012.

(3) REPEALER.—Effective on January 1, 2016, section 1512(e) of the American Recovery and Reinvestment Act of 2009 is repealed.

(b) TARP-RELATED REPORTS.—

(1) IN GENERAL.—Section 202 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5252) is amended—

(A) in subsection (a), by striking “semiannually” and inserting “annually”; and

(B) by adding at the end the following new subsection:

“(e) SUNSET.—Notwithstanding the previous provisions of this section, the reporting and comment requirements under this section shall terminate with the annual period on the last day of which all troubled assets acquired by the Secretary under section 101 have been sold or transferred out of the ownership or control of the Federal Government.”.

12 USC 5252  
note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect the first day after the date of enactment of this Act.

Approved December 4, 2012.

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LEGISLATIVE HISTORY—H.R. 6570:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 14, considered and passed House.

Nov. 15, considered and passed Senate.



Public Law 112–205  
112th Congress

An Act

To establish a Border Enforcement Security Task Force program to enhance border security by fostering coordinated efforts among Federal, State, and local border and law enforcement officials to protect United States border cities and communities from trans-national crime, including violence associated with drug trafficking, arms smuggling, illegal alien trafficking and smuggling, violence, and kidnapping along and across the international borders of the United States, and for other purposes.

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Dec. 7, 2012  
[H.R. 915]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Jaime Zapata Border Enforcement Security Task Force Act”.

**SEC. 2. FINDINGS AND DECLARATION OF PURPOSES.**

Congress finds the following:

(1) The Department of Homeland Security’s (DHS) over-riding mission is to lead a unified national effort to protect the United States. United States Immigration and Customs Enforcement (ICE) is the largest investigative agency within DHS and is charged with enforcing a wide array of laws, including laws related to securing the border and combating criminal smuggling.

(2) Mexico’s northern border with the United States has experienced a dramatic surge in border crime and violence in recent years due to intense competition between Mexican drug cartels and criminal smuggling organizations that employ predatory tactics to realize their profits.

(3) Law enforcement agencies at the United States northern border also face challenges from transnational smuggling organizations.

(4) In response, DHS has partnered with Federal, State, local, tribal, and foreign law enforcement counterparts to create the Border Enforcement Security Task Force (BEST) initiative as a comprehensive approach to addressing border security threats. These multi-agency teams are designed to increase information-sharing and collaboration among the participating law enforcement agencies.

(5) BEST teams incorporate personnel from ICE, United States Customs and Border Protection (CBP), the Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATFE), the Federal Bureau of Investigation (FBI), the United States Coast Guard (USCG), and the U.S. Attorney’s Office (USAO), along with other key Federal, State and local law enforcement agencies.

Jaime Zapata  
Border  
Enforcement  
Security Task  
Force Act.  
6 USC 101 note.  
6 USC 240 note.

(6) Foreign law enforcement agencies participating in BEST include Mexico’s Secretaria de Seguridad Publica (SSP), the Canada Border Services Agency (CBSA), the Ontario Provincial Police (OPP), and the Royal Canadian Mounted Police (RCMP).

**SEC. 3. BORDER ENFORCEMENT SECURITY TASK FORCE.**

(a) **IN GENERAL.**—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following:

6 USC 240 note.

**“SEC. 432. BORDER ENFORCEMENT SECURITY TASK FORCE.**

“(a) **ESTABLISHMENT.**—There is established within the Department a program to be known as the Border Enforcement Security Task Force (referred to in this section as ‘BEST’).

“(b) **PURPOSE.**—The purpose of BEST is to establish units to enhance border security by addressing and reducing border security threats and violence by—

“(1) facilitating collaboration among Federal, State, local, tribal, and foreign law enforcement agencies to execute coordinated activities in furtherance of border security, and homeland security; and

“(2) enhancing information-sharing, including the dissemination of homeland security information among such agencies.

“(c) **COMPOSITION AND ESTABLISHMENT OF UNITS.**—

“(1) **COMPOSITION.**—BEST units may be comprised of personnel from—

“(A) U.S. Immigration and Customs Enforcement;

“(B) U.S. Customs and Border Protection;

“(C) the United States Coast Guard;

“(D) other Department personnel, as appropriate

“(E) other Federal agencies, as appropriate;

“(F) appropriate State law enforcement agencies;

“(G) foreign law enforcement agencies, as appropriate;

“(H) local law enforcement agencies from affected border cities and communities; and

“(I) appropriate tribal law enforcement agencies.

“(2) **ESTABLISHMENT OF UNITS.**—The Secretary is authorized to establish BEST units in jurisdictions in which such units can contribute to BEST missions, as appropriate. Before establishing a BEST unit, the Secretary shall consider—

“(A) whether the area in which the BEST unit would be established is significantly impacted by cross-border threats;

“(B) the availability of Federal, State, local, tribal, and foreign law enforcement resources to participate in the BEST unit;

“(C) the extent to which border security threats are having a significant harmful impact in the jurisdiction in which the BEST unit is to be established, and other jurisdictions in the country; and

“(D) whether or not an Integrated Border Enforcement Team already exists in the area in which the BEST unit would be established.

“(3) **DUPLICATION OF EFFORTS.**—In determining whether to establish a new BEST unit or to expand an existing BEST unit in a given jurisdiction, the Secretary shall ensure that the BEST unit under consideration does not duplicate the

efforts of other existing interagency task forces or centers within that jurisdiction.

“(d) OPERATION.—After determining the jurisdictions in which to establish BEST units under subsection (c)(2), and in order to provide Federal assistance to such jurisdictions, the Secretary may—

“(1) direct the assignment of Federal personnel to BEST, subject to the approval of the head of the department or agency that employs such personnel; and

“(2) take other actions to assist Federal, State, local, and tribal entities to participate in BEST, including providing financial assistance, as appropriate, for operational, administrative, and technological costs associated with the participation of Federal, State, local, and tribal law enforcement agencies in BEST.

“(e) REPORT.—Not later than 180 days after the date on which BEST is established under this section, and annually thereafter for the following 5 years, the Secretary shall submit a report to Congress that describes the effectiveness of BEST in enhancing border security and reducing the drug trafficking, arms smuggling, illegal alien trafficking and smuggling, violence, and kidnapping along and across the international borders of the United States, as measured by crime statistics, including violent deaths, incidents of violence, and drug-related arrests.”.

(b) CLERICAL AMENDMENT.—The table of contents under section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by inserting after the item relating to section 431 the following:

“Sec. 432. Border Enforcement Security Task Force.”.

Approved December 7, 2012.

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LEGISLATIVE HISTORY—H.R. 915:

HOUSE REPORTS: No. 112–268 (Comm. on Homeland Security).

SENATE REPORTS: No. 112–206 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 30, considered and passed House.

Sept. 21, considered and passed Senate, amended.

Nov. 27, House concurred in Senate amendment.



Public Law 112–206  
112th Congress

An Act

Dec. 7, 2012  
[H.R. 6063]

To amend title 18, United States Code, with respect to child pornography and child exploitation offenses.

Child Protection  
Act of 2012.  
18 USC 1 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Child Protection Act of 2012”.

**SEC. 2. ENHANCED PENALTIES FOR POSSESSION OF CHILD PORNOGRAPHY.**

(a) CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252(b)(2) of title 18, United States Code, is amended by inserting after “but if” the following: “any visual depiction involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if”.

(b) CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(b)(2) of title 18, United States Code, is amended by inserting after “but, if” the following: “any image of child pornography involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if”.

**SEC. 3. PROTECTION OF CHILD WITNESSES.**

(a) CIVIL ACTION TO RESTRAIN HARASSMENT OF A VICTIM OR WITNESS.—Section 1514 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “or its own motion,” after “attorney for the Government,”; and

(ii) by inserting “or investigation” after “Federal criminal case” each place it appears;

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following:

“(2) In the case of a minor witness or victim, the court shall issue a protective order prohibiting harassment or intimidation of the minor victim or witness if the court finds evidence that the conduct at issue is reasonably likely to adversely affect the willingness of the minor witness or victim to testify

Courts.  
Protective order.



or otherwise participate in the Federal criminal case or investigation. Any hearing regarding a protective order under this paragraph shall be conducted in accordance with paragraphs (1) and (3), except that the court may issue an ex parte emergency protective order in advance of a hearing if exigent circumstances are present. If such an ex parte order is applied for or issued, the court shall hold a hearing not later than 14 days after the date such order was applied for or is issued.”;

Hearings.  
Deadline.

(D) in paragraph (4), as so redesignated, by striking “(and not by reference to the complaint or other document)”;

and  
(E) in paragraph (5), as so redesignated, in the second sentence, by inserting before the period at the end the following: “, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness”; and

(2) by striking subsection (c) and inserting the following:

“(c) Whoever knowingly and intentionally violates or attempts to violate an order issued under this section shall be fined under this title, imprisoned not more than 5 years, or both.

Penalties.

“(d)(1) As used in this section—

Definitions.

“(A) the term ‘course of conduct’ means a series of acts over a period of time, however short, indicating a continuity of purpose;

“(B) the term ‘harassment’ means a serious act or course of conduct directed at a specific person that—

“(i) causes substantial emotional distress in such person; and

“(ii) serves no legitimate purpose;

“(C) the term ‘immediate family member’ has the meaning given that term in section 115 and includes grandchildren;

“(D) the term ‘intimidation’ means a serious act or course of conduct directed at a specific person that—

“(i) causes fear or apprehension in such person; and

“(ii) serves no legitimate purpose;

“(E) the term ‘restricted personal information’ has the meaning give that term in section 119;

“(F) the term ‘serious act’ means a single act of threatening, retaliatory, harassing, or violent conduct that is reasonably likely to influence the willingness of a victim or witness to testify or participate in a Federal criminal case or investigation; and

“(G) the term ‘specific person’ means a victim or witness in a Federal criminal case or investigation, and includes an immediate family member of such a victim or witness.

“(2) For purposes of subparagraphs (B)(ii) and (D)(ii) of paragraph (1), a court shall presume, subject to rebuttal by the person, that the distribution or publication using the Internet of a photograph of, or restricted personal information regarding, a specific person serves no legitimate purpose, unless that use is authorized by that specific person, is for news reporting purposes, is designed to locate that specific person (who has been reported to law enforcement as a missing person), or is part of a government-authorized effort to locate a fugitive or person of interest in a criminal, antiterrorism, or national security investigation.”.

Courts.

Review.  
28 USC 994 note.

(b) **SENTENCING GUIDELINES.**—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements to ensure—

(1) that the guidelines provide an additional penalty increase above the sentence otherwise applicable in Part J of Chapter 2 of the Guidelines Manual if the defendant was convicted of a violation of section 1591 of title 18, United States Code, or chapters 109A, 109B, 110, or 117 of title 18, United States Code; and

(2) if the offense described in paragraph (1) involved causing or threatening to cause physical injury to a person under 18 years of age, in order to obstruct the administration of justice, an additional penalty increase above the sentence otherwise applicable in Part J of Chapter 2 of the Guidelines Manual.

**SEC. 4. SUBPOENAS TO FACILITATE THE ARREST OF FUGITIVE SEX OFFENDERS.**

(a) **ADMINISTRATIVE SUBPOENAS.**—

(1) **IN GENERAL.**—Section 3486(a)(1) of title 18, United States Code, is amended—

(A) in subparagraph (A)—

(i) in clause (i), by striking “or” at the end;

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

“(ii) an unregistered sex offender conducted by the United States Marshals Service, the Director of the United States Marshals Service; or”; and

(B) in subparagraph (D)—

(i) by striking “paragraph, the term” and inserting the following: “paragraph—

“(i) the term”;

(ii) by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(ii) the term ‘sex offender’ means an individual required to register under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.).”.

(2) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 3486(a) of title 18, United States Code, is amended—

(A) in paragraph (6)(A), by striking “United State” and inserting “United States”;

(B) in paragraph (9), by striking “(1)(A)(ii)” and inserting “(1)(A)(iii)”; and

(C) in paragraph (10), by striking “paragraph (1)(A)(ii)” and inserting “paragraph (1)(A)(iii)”.

(b) **JUDICIAL SUBPOENAS.**—Section 566(e)(1) of title 28, United States Code, is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(C) issue administrative subpoenas in accordance with section 3486 of title 18, solely for the purpose of investigating unregistered sex offenders (as defined in such section 3486).”.

**SEC. 5. INCREASE IN FUNDING LIMITATION FOR TRAINING COURSES FOR ICAC TASK FORCES.**

Section 102(b)(4)(B) of the PROTECT Our Children Act of 2008 (42 U.S.C. 17612(b)(4)(B)) is amended by striking “\$2,000,000” and inserting “\$4,000,000”.

**SEC. 6. NATIONAL COORDINATOR FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION.**

Section 101(d)(1) of the PROTECT Our Children Act of 2008 (42 U.S.C. 17611(d)(1)) is amended—

(1) by striking “to be responsible” and inserting the following: “with experience in investigating or prosecuting child exploitation cases as the National Coordinator for Child Exploitation Prevention and Interdiction who shall be responsible”; and

(2) by adding at the end the following: “The National Coordinator for Child Exploitation Prevention and Interdiction shall be a position in the Senior Executive Service.”.

**SEC. 7. REAUTHORIZATION OF ICAC TASK FORCES.**

Section 107(a) of the PROTECT Our Children Act of 2008 (42 U.S.C. 17617(a)) is amended—

(1) in paragraph (4), by striking “and”;

(2) in paragraph (5), by striking the period at the end; and

(3) by inserting after paragraph (5) the following:

“(6) \$60,000,000 for fiscal year 2014;

“(7) \$60,000,000 for fiscal year 2015;

“(8) \$60,000,000 for fiscal year 2016;

“(9) \$60,000,000 for fiscal year 2017; and

“(10) \$60,000,000 for fiscal year 2018.”.

**SEC. 8. CLARIFICATION OF “HIGH-PRIORITY SUSPECT”.**

Section 105(e)(1)(B)(i) of the PROTECT Our Children Act of 2008 (42 U.S.C. 17615(e)(1)(B)(i)) is amended by striking “the volume” and all that follows through “or other”.

**SEC. 9. REPORT TO CONGRESS.**

Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the status of the Attorney General’s establishment of the National Internet Crimes Against

Children Data System required to be established under section 105 of the PROTECT Our Children Act of 2008 (42 U.S.C. 17615).

Approved December 7, 2012.

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LEGISLATIVE HISTORY—H.R. 6063:

HOUSE REPORTS: No. 112–638 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 31, Aug. 1, considered and passed House.

Nov. 26, considered and passed Senate.



Public Law 112–207  
112th Congress

An Act

To change the effective date for the Internet publication of certain financial disclosure forms.

Dec. 7, 2012

[H.R. 6634]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CHANGED EFFECTIVE DATE FOR FINANCIAL DISCLOSURE FORMS OF CERTAIN OFFICERS AND EMPLOYEES.**

Section 1(a) of the Act entitled “An Act to change the effective date for the internet publication of certain information to prevent harm to the national security or endangering the military officers and civilian employees to whom the publication requirement applies, and for other purposes”, approved September 28, 2012 (Public Law 112–178; 5 U.S.C. App. 105 note) is amended by striking “December 8, 2012” and inserting “April 15, 2013”.

**SEC. 2. EFFECTIVE DATE.**

The amendment made by section 1 shall take effect on December 8, 2012.

5 USC app. 105  
note.

Approved December 7, 2012.

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**LEGISLATIVE HISTORY—H.R. 6634:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 5, considered and passed House.

Dec. 6, considered and passed Senate.



Public Law 112–208  
112th Congress

An Act

Dec. 14, 2012  
[H.R. 6156]

To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to products of the Russian Federation and Moldova and to require reports on the compliance of the Russian Federation with its obligations as a member of the World Trade Organization, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Russia and  
Moldova  
Jackson-Vanik  
Repeal and  
Sergei Magnitsky  
Rule of Law  
Accountability  
Act of 2012.  
19 USC 2101  
note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 101. Findings.

Sec. 102. Termination of application of title IV of the Trade Act of 1974 to products of the Russian Federation.

Sec. 201. Reports on implementation by the Russian Federation of obligations as a member of the World Trade Organization and enforcement actions by the United States Trade Representative.

Sec. 202. Promotion of the rule of law in the Russian Federation to support United States trade and investment.

Sec. 203. Reports on laws, policies, and practices of the Russian Federation that discriminate against United States digital trade.

Sec. 204. Efforts to reduce barriers to trade imposed by the Russian Federation.

Sec. 301. Findings.

Sec. 302. Termination of application of title IV of the Trade Act of 1974 to products of Moldova.

**TITLE IV—SERGEI MAGNITSKY RULE OF LAW ACCOUNTABILITY ACT OF  
2012**

Sec. 401. Short title.

Sec. 402. Findings; sense of Congress.

Sec. 403. Definitions.

Sec. 404. Identification of persons responsible for the detention, abuse, and death of Sergei Magnitsky and other gross violations of human rights.

Sec. 405. Inadmissibility of certain aliens.

Sec. 406. Financial measures.

Sec. 407. Report to Congress.

# **TITLE I—PERMANENT NORMAL TRADE RELATIONS FOR THE RUSSIAN FED- ERATION**

19 USC 2434  
note.

## **SEC. 101. FINDINGS.**

Congress finds the following:

(1) The Russian Federation allows its citizens the right and opportunity to emigrate, free of any heavy tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of those citizens to emigrate to the country of their choice.

(2) The Russian Federation has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) since 1994.

(3) The Russian Federation has received normal trade relations treatment since concluding a bilateral trade agreement with the United States that entered into force in 1992.

(4) On December 16, 2011, the Ministerial Conference of the World Trade Organization invited the Russian Federation to accede to the World Trade Organization.

## **SEC. 102. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO PRODUCTS OF THE RUSSIAN FEDERATION.**

(a) **PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.**—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to the Russian Federation; and

(2) after making a determination under paragraph (1) with respect to the Russian Federation, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation.

(b) **EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.**—The extension of nondiscriminatory treatment to the products of the Russian Federation pursuant to subsection (a) shall be effective not sooner than the effective date of the accession of the Russian Federation to the World Trade Organization.

(c) **TERMINATION OF APPLICABILITY OF TITLE IV.**—On and after the effective date under subsection (b) of the extension of nondiscriminatory treatment to the products of the Russian Federation, title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply to the Russian Federation.

19 USC 2434  
note.

## **TITLE II—TRADE ENFORCEMENT MEASURES RELATING TO THE RUSSIAN FEDERATION**

### **SEC. 201. REPORTS ON IMPLEMENTATION BY THE RUSSIAN FEDERATION OF OBLIGATIONS AS A MEMBER OF THE WORLD TRADE ORGANIZATION AND ENFORCEMENT ACTIONS BY THE UNITED STATES TRADE REPRESENTATIVE.**

#### **(a) REPORTS ON IMPLEMENTATION.—**

(1) **IN GENERAL.**—Not later than one year after the effective date under section 102(b) of the extension of nondiscriminatory treatment to the products of the Russian Federation, and annually thereafter, the United States Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report assessing the following:

(A) The extent to which the Russian Federation is implementing the WTO Agreement (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)) and the following agreements annexed to that Agreement:

(i) The Agreement on the Application of Sanitary and Phytosanitary Measures (referred to in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3))).

(ii) The Agreement on Trade-Related Aspects of Intellectual Property Rights (referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15))).

(B) The progress made by the Russian Federation in acceding to, and the extent to which the Russian Federation is implementing, the following:

(i) The Ministerial Declaration on Trade in Information Technology Products of the World Trade Organization, agreed to at Singapore December 13, 1996 (commonly referred to as the “Information Technology Agreement”) (or a successor agreement).

(ii) The Agreement on Government Procurement (referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17))).

#### **(2) PLAN FOR ACTION BY TRADE REPRESENTATIVE.—**

(A) **IN GENERAL.**—If, in preparing a report required by paragraph (1), the Trade Representative believes that the Russian Federation is not fully implementing an agreement specified in subparagraph (A) or (B) of that paragraph or that the Russian Federation is not making adequate progress in acceding to an agreement specified in subparagraph (B) of that paragraph, the Trade Representative shall, except as provided in subparagraph (B) of this paragraph, include in the report a description of the actions the Trade Representative plans to take to encourage the Russian Federation to improve its implementation of the agreement or increase its progress in acceding to the agreement, as the case may be.

(B) **CLASSIFIED INFORMATION.**—If any information regarding a planned action referred to in subparagraph



(A) is classifiable under Executive Order No. 13526 (75 Fed. Reg. 707; relating to classified national security information) or a subsequent Executive order, the Trade Representative shall report that information to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives by—

(i) including the information in a classified annex to the report required by paragraph (1); or

(ii) consulting with the Committee on Finance and the Committee on Ways and Means with respect to the information instead of including the information in the report or a classified annex to the report.

(3) PUBLIC COMMENTS.—

(A) IN GENERAL.—In developing the report required by paragraph (1), the Trade Representative shall provide an opportunity for the public to comment, including by holding a public hearing.

(B) PUBLICATION IN FEDERAL REGISTER.—The Trade Representative shall publish notice of the opportunity to comment and hearing required by subparagraph (A) in the Federal Register.

Notice.

(b) REPORT ON ENFORCEMENT ACTIONS TAKEN BY TRADE REPRESENTATIVE.—Not later than 180 days after the effective date under section 102(b) of the extension of nondiscriminatory treatment to the products of the Russian Federation, and annually thereafter, the United States Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report describing the enforcement actions taken by the Trade Representative against the Russian Federation to ensure the full compliance of the Russian Federation with its obligations as a member of the World Trade Organization, including obligations under agreements with members of the Working Party on the accession of the Russian Federation to the World Trade Organization.

**SEC. 202. PROMOTION OF THE RULE OF LAW IN THE RUSSIAN FEDERATION TO SUPPORT UNITED STATES TRADE AND INVESTMENT.**

(a) REPORTS ON PROMOTION OF RULE OF LAW.—Not later than one year after the effective date under section 102(b) of the extension of nondiscriminatory treatment to the products of the Russian Federation, and annually thereafter, the United States Trade Representative and the Secretary of State shall jointly submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report—

(1) on the measures taken by the Trade Representative and the Secretary and the results achieved during the year preceding the submission of the report with respect to promoting the rule of law in the Russian Federation, including with respect to—

(A) strengthening formal protections for United States investors in the Russian Federation, including through the negotiation of a new bilateral investment treaty;

(B) advocating for United States investors in the Russian Federation, including by promoting the claims of United States investors in Yukos Oil Company;

(C) encouraging all countries that are parties to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organisation for Economic Co-operation and Development, done at Paris December 17, 1997 (commonly referred to as the “OECD Anti-Bribery Convention”), including the Russian Federation, to fully implement their commitments under the Convention to prevent overseas business bribery by the nationals of those countries;

(D) promoting a customs administration, tax administration, and judiciary in the Russia Federation that are free of corruption; and

(E) increasing cooperation between the United States and the Russian Federation to expand the capacity for civil society organizations to monitor, investigate, and report on suspected instances of corruption; and

(2) that discloses the status of any pending petition for espousal filed with the Secretary by a United States investor in the Russian Federation.

(b) ANTI-BRIBERY REPORTING AND ASSISTANCE.—

(1) IN GENERAL.—The Secretary of Commerce shall establish and maintain a dedicated phone hotline and secure website, accessible from within and outside the Russian Federation, for the purpose of allowing United States entities—

(A) to report instances of bribery, attempted bribery, or other forms of corruption in the Russian Federation that impact or potentially impact their operations; and

(B) to request the assistance of the United States with respect to issues relating to corruption in the Russian Federation.

(2) REPORT REQUIRED.—

(A) IN GENERAL.—Not later than one year after the effective date under section 102(b) of the extension of non-discriminatory treatment to the products of the Russian Federation, and annually thereafter, the Secretary of Commerce shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the following:

(i) The number of instances in which bribery, attempted bribery, or other forms of corruption have been reported using the hotline or website established pursuant to paragraph (1).

(ii) A description of the regions in the Russian Federation in which those instances are alleged to have occurred.

(iii) A summary of actions taken by the United States to provide assistance to United States entities pursuant to paragraph (1)(B).

(iv) A description of the efforts taken by the Secretary to inform United States entities conducting business in the Russian Federation or considering conducting business in the Russian Federation of the availability of assistance through the hotline and website.

(B) CONFIDENTIALITY.—The Secretary shall not include in the report required by subparagraph (A) the identity

Communications  
and tele-  
communications.  
Web site.

of a United States entity that reports instances of bribery, attempted bribery, or other forms of corruption in the Russian Federation or requests assistance pursuant to paragraph (1).

**SEC. 203. REPORTS ON LAWS, POLICIES, AND PRACTICES OF THE RUSSIAN FEDERATION THAT DISCRIMINATE AGAINST UNITED STATES DIGITAL TRADE.**

Section 181(a) of the Trade Act of 1974 (19 U.S.C. 2241(a)) is amended—

- (1) by redesignating paragraph (3) as paragraph (4); and
- (2) by inserting after paragraph (2) the following:

“(3) INCLUSION OF CERTAIN DISCRIMINATORY LAWS, POLICIES, AND PRACTICES OF THE RUSSIAN FEDERATION.—For calendar year and each succeeding calendar year, the Trade Representative shall include in the analyses and estimates under paragraph (1) an identification and analysis of any laws, policies, or practices of the Russian Federation that deny fair and equitable market access to United States digital trade.”.

**SEC. 204. EFFORTS TO REDUCE BARRIERS TO TRADE IMPOSED BY THE RUSSIAN FEDERATION.**

The United States Trade Representative shall continue to pursue the reduction of barriers to trade imposed by the Russian Federation on articles exported from the United States to the Russian Federation through efforts—

- (1) to negotiate a bilateral agreement under which the Russian Federation will accept the sanitary and phytosanitary measures of the United States as equivalent to the sanitary and phytosanitary measures of the Russian Federation; and
- (2) to obtain the adoption by the Russian Federation of an action plan for providing greater protections for intellectual property rights than the protections required by the Agreement on Trade-Related Aspects of Intellectual Property Rights (referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15))).

**TITLE III—PERMANENT NORMAL  
TRADE RELATIONS FOR MOLDOVA**

19 USC 2434  
note.

**SEC. 301. FINDINGS.**

Congress finds the following:

(1) Moldova allows its citizens the right and opportunity to emigrate, free of any heavy tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of those citizens to emigrate to the country of their choice.

(2) Moldova has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) since 1997.

(3) Moldova acceded to the World Trade Organization on July 26, 2001.

**SEC. 302. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO PRODUCTS OF MOLDOVA.**

(a) **PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NON-DISCRIMINATORY TREATMENT.**—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Moldova; and

(2) after making a determination under paragraph (1) with respect to Moldova, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova.

(b) **TERMINATION OF APPLICABILITY OF TITLE IV.**—On and after the date on which the President extends nondiscriminatory treatment to the products of Moldova pursuant to subsection (a), title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply to Moldova.

Sergei Magnitsky  
Rule of Law  
Accountability  
Act of 2012.  
22 USC 5811  
note.

**TITLE IV—SERGEI MAGNITSKY RULE OF LAW ACCOUNTABILITY ACT OF 2012****SEC. 401. SHORT TITLE.**

This title may be cited as the “Sergei Magnitsky Rule of Law Accountability Act of 2012”.

**SEC. 402. FINDINGS; SENSE OF CONGRESS.**

(a) **FINDINGS.**—Congress finds the following:

(1) The United States aspires to a mutually beneficial relationship with the Russian Federation based on respect for human rights and the rule of law, and supports the people of the Russian Federation in their efforts to realize their full economic potential and to advance democracy, human rights, and the rule of law.

(2) The Russian Federation—

(A) is a member of the United Nations, the Organization for Security and Co-operation in Europe, the Council of Europe, and the International Monetary Fund;

(B) has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the United Nations Convention against Corruption; and

(C) is bound by the legal obligations set forth in the European Convention on Human Rights.

(3) States voluntarily commit themselves to respect obligations and responsibilities through the adoption of international agreements and treaties, which must be observed in good faith in order to maintain the stability of the international order. Human rights are an integral part of international law, and lie at the foundation of the international order. The protection of human rights, therefore, particularly in the case of a country that has incurred obligations to protect human rights under an international agreement to which it is a party, is not left exclusively to the internal affairs of that country.

(4) Good governance and anti-corruption measures are instrumental in the protection of human rights and in achieving

sustainable economic growth, which benefits both the people of the Russian Federation and the international community through the creation of open and transparent markets.

(5) Systemic corruption erodes trust and confidence in democratic institutions, the rule of law, and human rights protections. This is the case when public officials are allowed to abuse their authority with impunity for political or financial gains in collusion with private entities.

(6) The Russian nongovernmental organization INDEM has estimated that bribes by individuals and businesses in the Russian Federation amount to hundreds of billions of dollars a year, an increasing share of the country's gross domestic product.

(7) Sergei Leonidovich Magnitsky died on November 16, 2009, at the age of 37, in Matrosskaya Tishina Prison in Moscow, Russia, and is survived by a mother, a wife, and 2 sons.

(8) On July 6, 2011, Russian President Dmitry Medvedev's Human Rights Council announced the results of its independent investigation into the death of Sergei Magnitsky. The Human Rights Council concluded that Sergei Magnitsky's arrest and detention was illegal; he was denied access to justice by the courts and prosecutors of the Russian Federation; he was investigated by the same law enforcement officers whom he had accused of stealing Hermitage Fund companies and illegally obtaining a fraudulent \$230,000,000 tax refund; he was denied necessary medical care in custody; he was beaten by 8 guards with rubber batons on the last day of his life; and the ambulance crew that was called to treat him as he was dying was deliberately kept outside of his cell for one hour and 18 minutes until he was dead. The report of the Human Rights Council also states the officials falsified their accounts of what happened to Sergei Magnitsky and, 18 months after his death, no officials had been brought to trial for his false arrest or the crime he uncovered. The impunity continued in April 2012, when Russian authorities dropped criminal charges against Larisa Litvinova, the head doctor at the prison where Magnitsky died.

(9) The systematic abuse of Sergei Magnitsky, including his repressive arrest and torture in custody by officers of the Ministry of the Interior of the Russian Federation that Mr. Magnitsky had implicated in the embezzlement of funds from the Russian Treasury and the misappropriation of 3 companies from his client, Hermitage Capital Management, reflects how deeply the protection of human rights is affected by corruption.

(10) The politically motivated nature of the persecution of Mr. Magnitsky is demonstrated by—

(A) the denial by all state bodies of the Russian Federation of any justice or legal remedies to Mr. Magnitsky during the nearly 12 full months he was kept without trial in detention; and

(B) the impunity since his death of state officials he testified against for their involvement in corruption and the carrying out of his repressive persecution.

(11) The Public Oversight Commission of the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention, an organization empowered by

Russian law to independently monitor prison conditions, concluded on December 29, 2009, “A man who is kept in custody and is being detained is not capable of using all the necessary means to protect either his life or his health. This is a responsibility of a state which holds him captive. Therefore, the case of Sergei Magnitsky can be described as a breach of the right to life. The members of the civic supervisory commission have reached the conclusion that Magnitsky had been experiencing both psychological and physical pressure in custody, and the conditions in some of the wards of Butyrka can be justifiably called torturous. The people responsible for this must be punished.”.

(12) Sergei Magnitsky’s experience, while particularly illustrative of the negative effects of official corruption on the rights of an individual citizen, appears to be emblematic of a broader pattern of disregard for the numerous domestic and international human rights commitments of the Russian Federation and impunity for those who violate basic human rights and freedoms.

(13) The second trial, verdict, and sentence against former Yukos executives Mikhail Khodorkovsky and Platon Lebedev evoke serious concerns about the right to a fair trial and the independence of the judiciary in the Russian Federation. The lack of credible charges, intimidation of witnesses, violations of due process and procedural norms, falsification or withholding of documents, denial of attorney-client privilege, and illegal detention in the Yukos case are highly troubling. The Council of Europe, Freedom House, and Amnesty International, among others, have concluded that they were charged and imprisoned in a process that did not follow the rule of law and was politically influenced. Furthermore, senior officials of the Government of the Russian Federation, including First Deputy Prime Minister Igor Shuvalov, have acknowledged that the arrest and imprisonment of Khodorkovsky were politically motivated.

(14) According to Freedom House’s 2011 report entitled “The Perpetual Battle: Corruption in the Former Soviet Union and the New EU Members”, “[t]he highly publicized cases of Sergei Magnitsky, a 37-year-old lawyer who died in pretrial detention in November 2009 after exposing a multimillion-dollar fraud against the Russian taxpayer, and Mikhail Khodorkovsky, the jailed business magnate and regime critic who was sentenced at the end of 2010 to remain in prison through 2017, put an international spotlight on the Russian state’s contempt for the rule of law \* \* \*. By silencing influential and accomplished figures such as Khodorkovsky and Magnitsky, the Russian authorities have made it abundantly clear that anyone in Russia can be silenced.”.

(15) The tragic and unresolved murders of Nustap Abdurakhmanov, Maksharip Aushev, Natalya Estemirova, Akhmed Hadjimagomedov, Umar Israilov, Paul Klebnikov, Anna Politkovskaya, Saihadji Saihadjiev, and Magomed Y. Yevloyev, the death in custody of Vera Trifonova, the disappearances of Mokhmdalsalakh Masaev and Said-Saleh Ibragimov, the torture of Ali Israilov and Islam Umarpashaev, the near-fatal beatings of Mikhail Beketov, Oleg Kashin, Arkadiy Lander, and Mikhail Vinyukov, and the harsh and ongoing

imprisonment of Mikhail Khodorkovsky, Alexei Kozlov, Platon Lebedev, and Fyodor Mikheev further illustrate the grave danger of exposing the wrongdoing of officials of the Government of the Russian Federation, including Chechen leader Ramzan Kadyrov, or of seeking to obtain, exercise, defend, or promote internationally recognized human rights and freedoms.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should continue to strongly support, and provide assistance to, the efforts of the Russian people to establish a vibrant democratic political system that respects individual liberties and human rights, including by enhancing the provision of objective information through all relevant media, such as Radio Liberty and the internet. The Russian Government's suppression of dissent and political opposition, the limitations it has imposed on civil society and independent media, and the deterioration of economic and political freedom inside Russia are of profound concern to the United States Government and to the American people.

#### SEC. 403. DEFINITIONS.

In this title:

(1) ADMITTED; ALIEN.—The terms “admitted” and “alien” have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Armed Services, the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate.

(3) FINANCIAL INSTITUTION.—The term “financial institution” has the meaning given that term in section 5312 of title 31, United States Code.

(4) UNITED STATES PERSON.—The term “United States person” means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

#### SEC. 404. IDENTIFICATION OF PERSONS RESPONSIBLE FOR THE DETENTION, ABUSE, AND DEATH OF SERGEI MAGNITSKY AND OTHER GROSS VIOLATIONS OF HUMAN RIGHTS.

Deadlines.  
President.  
Determinations.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a list of each person who the President determines, based on credible information—

List.

(1) is responsible for the detention, abuse, or death of Sergei Magnitsky, participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky, financially benefitted from the detention, abuse, or death of

Sergei Magnitsky, or was involved in the criminal conspiracy uncovered by Sergei Magnitsky;

(2) is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking—

(A) to expose illegal activity carried out by officials of the Government of the Russian Federation; or

(B) to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia; or

(3) acted as an agent of or on behalf of a person in a matter relating to an activity described in paragraph (1) or (2).

(b) UPDATES.—The President shall submit to the appropriate congressional committees an update of the list required by subsection (a) as new information becomes available.

(c) FORM.—

(1) IN GENERAL.—The list required by subsection (a) shall be submitted in unclassified form.

(2) EXCEPTION.—The name of a person to be included in the list required by subsection (a) may be submitted in a classified annex only if the President—

(A) determines that it is vital for the national security interests of the United States to do so;

(B) uses the annex in such a manner consistent with congressional intent and the purposes of this Act; and

(C) 15 days prior to submitting the name in a classified annex, provides to the appropriate congressional committees notice of, and a justification for, including or continuing to include each person in the classified annex despite any publicly available credible information indicating that the person engaged in an activity described in paragraph (1), (2), or (3) of subsection (a).

(3) CONSIDERATION OF DATA FROM OTHER COUNTRIES AND NONGOVERNMENTAL ORGANIZATIONS.—In preparing the list required by subsection (a), the President shall consider information provided by the chairperson and ranking member of each of the appropriate congressional committees and credible data obtained by other countries and nongovernmental organizations, including organizations inside Russia, that monitor the human rights abuses of the Government of the Russian Federation.

(4) PUBLIC AVAILABILITY.—The unclassified portion of the list required by subsection (a) shall be made available to the public and published in the Federal Register.

(d) REMOVAL FROM LIST.—A person may be removed from the list required by subsection (a) if the President determines and reports to the appropriate congressional committees not less than 15 days prior to the removal of the person from the list that—

(1) credible information exists that the person did not engage in the activity for which the person was added to the list;

(2) the person has been prosecuted appropriately for the activity in which the person engaged; or

Notice.

Federal Register,  
publication.



(3) the person has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activities in which the person engaged, and has credibly committed to not engage in the types of activities specified in paragraphs (1) through (3) of subsection (a).

(e) REQUESTS BY CHAIRPERSON AND RANKING MEMBER OF APPROPRIATE CONGRESSIONAL COMMITTEES.—

(1) IN GENERAL.—Not later than 120 days after receiving a written request from the chairperson and ranking member of one of the appropriate congressional committees with respect to whether a person meets the criteria for being added to the list required by subsection (a), the President shall submit a response to the chairperson and ranking member of the committee which made the request with respect to the status of the person.

(2) FORM.—The President may submit a response required by paragraph (1) in classified form if the President determines that it is necessary for the national security interests of the United States to do so.

(3) REMOVAL.—If the President removes from the list required by subsection (a) a person who has been placed on the list at the request of the chairperson and ranking member of one of the appropriate congressional committees, the President shall provide the chairperson and ranking member with any information that contributed to the removal decision. The President may submit such information in classified form if the President determines that such is necessary for the national security interests of the United States.

(f) NONAPPLICABILITY OF CONFIDENTIALITY REQUIREMENT WITH RESPECT TO VISA RECORDS.—The President shall publish the list required by subsection (a) without regard to the requirements of section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States.

Publication.

**SEC. 405. INADMISSIBILITY OF CERTAIN ALIENS.**

(a) INELIGIBILITY FOR VISAS.—An alien is ineligible to receive a visa to enter the United States and ineligible to be admitted to the United States if the alien is on the list required by section 404(a).

(b) CURRENT VISAS REVOKED.—The Secretary of State shall revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), the visa or other documentation of any alien who would be ineligible to receive such a visa or documentation under subsection (a) of this section.

(c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

(1) IN GENERAL.—The Secretary of State may waive the application of subsection (a) or (b) in the case of an alien if—

(A) the Secretary determines that such a waiver—  
(i) is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, or other applicable international obligations of the United States; or

Determination.

(ii) is in the national security interests of the United States; and

Notice. (B) prior to granting such a waiver, the Secretary provides to the appropriate congressional committees notice of, and a justification for, the waiver.

Deadline. (2) TIMING FOR CERTAIN WAIVERS.—Notification under subparagraph (B) of paragraph (1) shall be made not later than 15 days prior to granting a waiver under such paragraph if the Secretary grants such waiver in the national security interests of the United States in accordance with subparagraph (A)(ii) of such paragraph.

(d) REGULATORY AUTHORITY.—The Secretary of State shall prescribe such regulations as are necessary to carry out this section.

#### SEC. 406. FINANCIAL MEASURES.

President. (a) FREEZING OF ASSETS.—

(1) IN GENERAL.—The President shall exercise all powers granted by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (except that the requirements of section 202 of such Act (50 U.S.C. 1701) shall not apply) to the extent necessary to freeze and prohibit all transactions in all property and interests in property of a person who is on the list required by section 404(a) of this Act if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

Determination. (2) EXCEPTION.—Paragraph (1) shall not apply to persons included on the classified annex under section 404(c)(2) if the President determines that such an exception is vital for the national security interests of the United States.

Determination. (b) WAIVER FOR NATIONAL SECURITY INTERESTS.—The Secretary of the Treasury may waive the application of subsection (a) if the Secretary determines that such a waiver is in the national security interests of the United States. Not less than 15 days prior to granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

Deadline. Notice. (c) ENFORCEMENT.—

(1) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of such section.

Deadline. Regulations. Certification. (2) REQUIREMENTS FOR FINANCIAL INSTITUTIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe or amend regulations as needed to require each financial institution that is a United States person and has within its possession or control assets that are property or interests in property of a person who is on the list required by section 404(a) if such property and interests in property are in the United States to certify to the Secretary that, to the best of the knowledge of the financial institution, the financial institution has frozen all

assets within the possession or control of the financial institution that are required to be frozen pursuant to subsection (a).

(d) **REGULATORY AUTHORITY.**—The Secretary of the Treasury shall issue such regulations, licenses, and orders as are necessary to carry out this section.

**SEC. 407. REPORT TO CONGRESS.**

Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report on—

(1) the actions taken to carry out this title, including—

(A) the number of persons added to or removed from the list required by section 404(a) during the year preceding the report, the dates on which such persons have been added or removed, and the reasons for adding or removing them; and

(B) if few or no such persons have been added to that list during that year, the reasons for not adding more such persons to the list; and

(2) efforts by the executive branch to encourage the governments of other countries to impose sanctions that are similar to the sanctions imposed under this title.

Approved December 14, 2012.

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**LEGISLATIVE HISTORY—H.R. 6156:**

HOUSE REPORTS: No. 112–632 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 16, considered and passed House.

Dec. 5, 6, considered and passed Senate.



Public Law 112–209  
112th Congress

An Act

Dec. 18, 2012  
[H.R. 3187]

March of Dimes  
Commemorative  
Coin Act of 2012.  
31 USC 5112  
note.

To require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “March of Dimes Commemorative Coin Act of 2012”.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) President Franklin Roosevelt’s personal struggle with polio led him to create the National Foundation for Infantile Paralysis (now known as the March of Dimes) on January 3, 1938, at a time when polio was on the rise.

(2) The Foundation established patient aid programs and funded research for polio vaccines developed by Jonas Salk, MD, and Albert Sabin, MD.

(3) Tested in a massive field trial in 1954 that involved 1.8 million schoolchildren known as “polio pioneers”, the Salk vaccine was licensed for use on April 12, 1955 as “safe, effective, and potent”. The Salk and Sabin polio vaccines funded by the March of Dimes ended the polio epidemic in the United States.

(4) With its original mission accomplished, the Foundation turned its focus to preventing birth defects, prematurity, and infant mortality in 1958. The Foundation began to fund research into the genetic, prenatal, and environmental causes of over 3,000 birth defects.

(5) The Foundation’s investment in research has led to 13 scientists winning the Nobel Prize since 1954, including Dr. James Watson’s discovery of the double helix.

(6) Virginia Apgar, MD, creator of the Apgar Score, helped develop the Foundation’s mission for birth defects prevention; joining the Foundation as the head of its new birth defects division in 1959.

(7) In the 1960s, the Foundation created over 100 birth defects treatment centers, and then turned its attention to assisting in the development of Neonatal Intensive Care Units, or NICUs.

(8) With March of Dimes support, a Committee on Perinatal Health released *Toward Improving the Outcome of Pregnancy* in 1976, which included recommendations that led to the regionalization of perinatal health care in the United States.

(9) Since 1998, the March of Dimes has advocated for and witnessed the passage of the Birth Defects Prevention Act, Children’s Health Act, PREEMIE Act, and Newborn Screening Save Lives Act.

(10) In 2003, the March of Dimes launched a Prematurity Campaign to increase awareness about and reduce the incidence of preterm birth, infant mortality, birth defects, and lifelong disabilities and disorders.

(11) The March of Dimes actively promotes programs for and funds research into newborn screening, pulmonary surfactant therapy, maternal nutrition, smoking cessation, folic acid consumption to prevent neural tube defects, increased access to maternity care, and similar programs to improve maternal and infant health.

### SEC. 3. COIN SPECIFICATIONS.

(a) **\$1 SILVER COINS.**—In recognition and celebration of the founding and proud service of the March of Dimes, the Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall mint and issue not more than 500,000 \$1 coins, which shall—

- (1) weigh 26.73 grams;
- (2) have a diameter of 1.500 inches; and
- (3) contain 90 percent silver and 10 percent copper.

(b) **LEGAL TENDER.**—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) **NUMISMATIC ITEMS.**—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

### SEC. 4. DESIGN OF COINS.

(a) **DESIGN REQUIREMENTS.**—

(1) **IN GENERAL.**—The design of the coins minted under this Act shall be emblematic of the mission and programs of the March of Dimes, and its distinguished record of generating Americans’ support to protect our children’s health.

(2) **DESIGNATION AND INSCRIPTIONS.**—On each coin minted under this Act, there shall be—

- (A) a designation of the value of the coin;
- (B) an inscription of the year “2015”; and
- (C) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(b) **SELECTION.**—The design for the coins minted under this Act shall—

(1) contain motifs that represent the past, present, and future of the March of Dimes and its role as champion for all babies, such designs to be consistent with the traditions and heritage of the March of Dimes;

(2) be selected by the Secretary, after consultation with the March of Dimes and the Commission of Fine Arts; and

(3) be reviewed by the Citizens Coin Advisory Committee.

### SEC. 5. ISSUANCE.

(a) **QUALITY OF COINS.**—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) **MINT FACILITY.**—For the coins minted under this Act, at least 1 facility of the United States Mint shall be used to strike

proof quality coins, while at least 1 other such facility shall be used to strike the uncirculated quality coins.

(c) **PERIOD FOR ISSUANCE.**—The Secretary of the Treasury may issue coins minted under this Act only during the 1-year period beginning on January 1, 2015.

#### **SEC. 6. SALE OF COINS.**

(a) **SALE PRICE.**—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

- (1) the face value of the coins;
- (2) the surcharge provided in section 7(a) with respect to such coins; and
- (3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) **BULK SALES.**—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) **PREPAID ORDERS.**—

(1) **IN GENERAL.**—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) **DISCOUNT.**—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

#### **SEC. 7. SURCHARGES.**

(a) **IN GENERAL.**—All sales of coins minted under this Act shall include a surcharge of \$10 per coin.

(b) **DISTRIBUTION.**—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the March of Dimes to help finance research, education, and services aimed at improving the health of women, infants, and children.

(c) **AUDITS.**—The March of Dimes shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (b).

(d) **LIMITATION.**—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code. The Secretary may issue guidance to carry out this subsection.

#### **SEC. 8. FINANCIAL ASSURANCES.**

The Secretary shall take such actions as may be necessary to ensure that—

(1) minting and issuing coins under this Act will not result in any net cost to the United States Government; and

(2) no funds, including applicable surcharges, shall be disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

**SEC. 9. BUDGET COMPLIANCE.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

Approved December 18, 2012.

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**LEGISLATIVE HISTORY—H.R. 3187:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Aug. 1, considered and passed House.

Dec. 10, considered and passed Senate.



Public Law 112–210  
112th Congress

An Act

Dec. 18, 2012  
[H.R. 6582]

American Energy  
Manufacturing  
Technical  
Corrections Act.  
42 USC 6201  
note.

To allow for innovations and alternative technologies that meet or exceed desired energy efficiency goals, and to make technical corrections to existing Federal energy efficiency laws to allow American manufacturers to remain competitive.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “American Energy Manufacturing Technical Corrections Act”.

**SEC. 2. INNOVATIVE COMPONENT TECHNOLOGIES.**

Section 342(f) of the Energy Policy and Conservation Act (42 U.S.C. 6313(f)) is amended—

(1) in paragraph (1), by striking “paragraphs (2) through (5)” and inserting “paragraphs (2) through (6)”; and

(2) by adding at the end the following new paragraph:

“(6) INNOVATIVE COMPONENT TECHNOLOGIES.—Subparagraph (C) of paragraph (1) shall not apply to a walk-in cooler or walk-in freezer component if the component manufacturer has demonstrated to the satisfaction of the Secretary that the component reduces energy consumption at least as much as if such subparagraph were to apply. In support of any demonstration under this paragraph, a manufacturer shall provide to the Secretary all data and technical information necessary to fully evaluate its application.”.

**SEC. 3. UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.**

Section 325(e) of the Energy Policy and Conservation Act (42 U.S.C. 6295(e)) is amended by adding at the end the following:

“(5) UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.—

“(A) DEFINITIONS.—In this paragraph:

“(i) COVERED WATER HEATER.—The term ‘covered water heater’ means—

“(I) a water heater; and

“(II) a storage water heater, instantaneous water heater, and unfired hot water storage tank (as defined in section 340).

“(ii) FINAL RULE.—The term ‘final rule’ means the final rule published under this paragraph.

“(B) PUBLICATION OF FINAL RULE.—Not later than 1 year after the date of enactment of this paragraph, the

Deadline.



Secretary shall publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters.

“(C) PURPOSE.—The purpose of the final rule shall be to replace with a uniform efficiency descriptor—

“(i) the energy factor descriptor for water heaters established under this subsection; and

“(ii) the thermal efficiency and standby loss descriptors for storage water heaters, instantaneous water heaters, and unfired water storage tanks established under section 342(a)(5).

“(D) EFFECT OF FINAL RULE.—

“(i) IN GENERAL.—Notwithstanding any other provision of this title, effective beginning on the effective date of the final rule, the efficiency standard for covered water heaters shall be denominated according to the efficiency descriptor established by the final rule.

“(ii) EFFECTIVE DATE.—The final rule shall take effect 1 year after the date of publication of the final rule under subparagraph (B).

“(E) CONVERSION FACTOR.—

“(i) IN GENERAL.—The Secretary shall develop a mathematical conversion factor for converting the measurement of efficiency for covered water heaters from the test procedures in effect on the date of enactment of this paragraph to the new energy descriptor established under the final rule.

“(ii) APPLICATION.—The conversion factor shall apply to models of covered water heaters affected by the final rule and tested prior to the effective date of the final rule.

“(iii) EFFECT ON EFFICIENCY REQUIREMENTS.—The conversion factor shall not affect the minimum efficiency requirements for covered water heaters otherwise established under this title.

“(iv) USE.—During the period described in clause (v), a manufacturer may apply the conversion factor established by the Secretary to rerate existing models of covered water heaters that are in existence prior to the effective date of the rule described in clause (v)(II) to comply with the new efficiency descriptor.

“(v) PERIOD.—Clause (iv) shall apply during the period—

“(I) beginning on the date of publication of the conversion factor in the Federal Register; and

“(II) ending on the later of 1 year after the date of publication of the conversion factor, or December 31, 2015.

“(F) EXCLUSIONS.—The final rule may exclude a specific category of covered water heaters from the uniform efficiency descriptor established under this paragraph if the Secretary determines that the category of water heaters—

“(i) does not have a residential use and can be clearly described in the final rule; and

“(ii) are effectively rated using the thermal efficiency and standby loss descriptors applied (as of the

Applicability.

Federal Register,  
publication.

date of enactment of this paragraph) to the category under section 342(a)(5).

“(G) OPTIONS.—The descriptor set by the final rule may be—

“(i) a revised version of the energy factor descriptor in use as of the date of enactment of this paragraph;

“(ii) the thermal efficiency and standby loss descriptors in use as of that date;

“(iii) a revised version of the thermal efficiency and standby loss descriptors;

“(iv) a hybrid of descriptors; or

“(v) a new approach.

“(H) APPLICATION.—The efficiency descriptor and accompanying test method established under the final rule shall apply, to the maximum extent practicable, to all water heating technologies in use as of the date of enactment of this paragraph and to future water heating technologies.

“(I) PARTICIPATION.—The Secretary shall invite interested stakeholders to participate in the rulemaking process used to establish the final rule.

Contracts.

“(J) TESTING OF ALTERNATIVE DESCRIPTORS.—In establishing the final rule, the Secretary shall contract with the National Institute of Standards and Technology, as necessary, to conduct testing and simulation of alternative descriptors identified for consideration.

Compliance.

“(K) EXISTING COVERED WATER HEATERS.—A covered water heater shall be considered to comply with the final rule on and after the effective date of the final rule and with any revised labeling requirements established by the Federal Trade Commission to carry out the final rule if the covered water heater—

“(i) was manufactured prior to the effective date of the final rule; and

“(ii) complied with the efficiency standards and labeling requirements in effect prior to the final rule.”.

#### **SEC. 4. SERVICE OVER THE COUNTER, SELF-CONTAINED, MEDIUM TEMPERATURE COMMERCIAL REFRIGERATORS.**

Section 342(c) of the Energy Policy and Conservation Act (42 U.S.C. 6313(c)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (C) as subparagraph (E); and

(B) by inserting after subparagraph (B) the following:

Definition.

“(C) The term ‘service over the counter, self-contained, medium temperature commercial refrigerator’ or ‘(SOC-SC-M)’ means a medium temperature commercial refrigerator—

“(i) with a self-contained condensing unit and equipped with sliding or hinged doors in the back intended for use by sales personnel, and with glass or other transparent material in the front for displaying merchandise; and

“(ii) that has a height not greater than 66 inches and is intended to serve as a counter for transactions between sales personnel and customers.

- “(D) The term ‘TDA’ means the total display area (ft<sup>2</sup>) of the refrigerated case, as defined in AHRI Standard 1200.”; Definition.
- (2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and
- (3) by inserting after paragraph (3) the following:
- “(4)(A) Each SOC–SC–M manufactured on or after January 1, 2012, shall have a total daily energy consumption (in kilowatt hours per day) of not more than  $0.6 \times \text{TDA} + 1.0$ . Deadlines.  
Determinations.  
Regulations.
- “(B) Not later than 3 years after the date of enactment of this paragraph, the Secretary shall—
- “(i) determine whether the standard established under subparagraph (A) should be amended; and
- “(ii) if the Secretary determines that such standard should be amended, issue a final rule establishing an amended standard.
- “(C) If the Secretary issues a final rule pursuant to subparagraph (B) establishing an amended standard, the final rule shall provide that the amended standard shall apply to products manufactured on or after the date that is— Applicability.  
Publication.
- “(i) 3 years after the date on which the final amended standard is published; or
- “(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.”.

#### SEC. 5. SMALL DUCT HIGH VELOCITY SYSTEMS AND ADMINISTRATIVE CHANGES.

(a) THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS.—Section 325(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

“(4) STANDARDS FOR THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS.—

“(A) DEFINITIONS.—In this paragraph:

“(i) SMALL DUCT, HIGH VELOCITY SYSTEM.—The term ‘small duct, high velocity system’ means a heating and cooling product that contains a blower and indoor coil combination that—

“(I) is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling; and

“(II) when applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

“(ii) THROUGH-THE-WALL CENTRAL AIR CONDITIONER; THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMP.—The terms ‘through-the-wall central air conditioner’ and ‘through-the-wall central air conditioning heat pump’ mean a central air conditioner or heat pump, respectively, that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and—

“(I) is not weatherized;

“(II) is clearly and permanently marked for installation only through an exterior wall;

“(III) has a rated cooling capacity no greater than 30,000 Btu/hr;

“(IV) exchanges all of its outdoor air across a single surface of the equipment cabinet; and

“(V) has a combined outdoor air exchange area of less than 800 square inches (split systems) or less than 1,210 square inches (single packaged systems) as measured on the surface area described in subclause (IV).

“(iii) REVISION.—The Secretary may revise the definitions contained in this subparagraph through publication of a final rule.

“(B) SMALL-DUCT HIGH-VELOCITY SYSTEMS.—

“(i) SEASONAL ENERGY EFFICIENCY RATIO.—The seasonal energy efficiency ratio for small-duct high-velocity systems shall be not less than—

“(I) 11.00 for products manufactured on or after January 23, 2006; and

“(II) 12.00 for products manufactured on or after January 1, 2015.

“(ii) HEATING SEASONAL PERFORMANCE FACTOR.—The heating seasonal performance factor for small-duct high-velocity systems shall be not less than—

“(I) 6.8 for products manufactured on or after January 23, 2006; and

“(II) 7.2 for products manufactured on or after January 1, 2015.

“(C) SUBSEQUENT RULEMAKINGS.—The Secretary shall conduct subsequent rulemakings for through-the-wall central air conditioners, through-the-wall central air conditioning heat pumps, and small duct, high velocity systems as part of any rulemaking under this section used to review or revise standards for other central air conditioners and heat pumps.”.

(b) DUTY TO REVIEW COMMERCIAL EQUIPMENT.—Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) is amended—

(1) in subparagraph (A)(i), by inserting “the standard levels or design requirements applicable under that standard to” immediately before “any small commercial”; and

(2) in subparagraph (C)—

(A) in clause (i)—

(i) by striking “Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part,” and inserting “Every 6 years,”; and

(ii) by inserting after “the Secretary shall” the following: “conduct an evaluation of each class of covered equipment and shall”; and

(B) by adding at the end the following:

“(vi) For any covered equipment as to which more than 6 years has elapsed since the issuance of the most recent final rule establishing or amending a standard for the product as of the date of enactment

Evaluation.

Notice.  
Publication.  
Deadline.

of this clause, the first notice required under clause (i) shall be published by December 31, 2013.”.

(c) PETITION FOR AMENDED STANDARDS.—Section 325(n) of the Energy Policy and Conservation Act (42 U.S.C. 6295(n)) is amended—

- (1) by redesignating paragraph (3) as paragraph (5); and
- (2) by inserting after paragraph (2) the following:

“(3) NOTICE OF DECISION.—Not later than 180 days after the date of receiving a petition, the Secretary shall publish in the Federal Register a notice of, and explanation for, the decision of the Secretary to grant or deny the petition.

Deadline.  
Federal Register,  
publication.

“(4) NEW OR AMENDED STANDARDS.—Not later than 3 years after the date of granting a petition for new or amended standards, the Secretary shall publish in the Federal Register—

Deadline.  
Federal Register,  
publication.  
Regulations.  
Determination.

“(A) a final rule that contains the new or amended standards; or

“(B) a determination that no new or amended standards are necessary.”.

**SEC. 6. COORDINATION OF RESEARCH AND DEVELOPMENT OF ENERGY EFFICIENT TECHNOLOGIES FOR INDUSTRY.**

42 USC 6351.

(a) IN GENERAL.—As part of the research and development activities of the Industrial Technologies Program of the Department of Energy, the Secretary of Energy (referred to in this section as the “Secretary”) shall establish, as appropriate, collaborative research and development partnerships with other programs within the Office of Energy Efficiency and Renewable Energy (including the Building Technologies Program), the Office of Electricity Delivery and Energy Reliability, and the Office of Science that—

(1) leverage the research and development expertise of those programs to promote early stage energy efficiency technology development;

(2) support the use of innovative manufacturing processes and applied research for development, demonstration, and commercialization of new technologies and processes to improve efficiency (including improvements in efficient use of water), reduce emissions, reduce industrial waste, and improve industrial cost-competitiveness; and

(3) apply the knowledge and expertise of the Industrial Technologies Program to help achieve the program goals of the other programs.

(b) REPORTS.—Not later than 2 years after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to Congress a report that describes actions taken to carry out subsection (a) and the results of those actions.

**SEC. 7. REDUCING BARRIERS TO THE DEPLOYMENT OF INDUSTRIAL ENERGY EFFICIENCY.**

(a) DEFINITIONS.—In this section:

(1) INDUSTRIAL ENERGY EFFICIENCY.—The term “industrial energy efficiency” means the energy efficiency derived from commercial technologies and measures to improve energy efficiency or to generate or transmit electric power and heat, including electric motor efficiency improvements, demand response, direct or indirect combined heat and power, and waste heat recovery.

(2) INDUSTRIAL SECTOR.—The term “industrial sector” means any subsector of the manufacturing sector (as defined

in North American Industry Classification System codes 31-33 (as in effect on the date of enactment of this Act)) establishments of which have, or could have, thermal host facilities with electricity requirements met in whole, or in part, by onsite electricity generation, including direct and indirect combined heat and power or waste recovery.

(b) REPORT ON THE DEPLOYMENT OF INDUSTRIAL ENERGY EFFICIENCY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing—

(A) the results of the study conducted under paragraph (2); and

(B) recommendations and guidance developed under paragraph (3).

(2) STUDY.—The Secretary, in coordination with the industrial sector and other stakeholders, shall conduct a study of the following:

(A) The legal, regulatory, and economic barriers to the deployment of industrial energy efficiency in all electricity markets (including organized wholesale electricity markets, and regulated electricity markets), including, as applicable, the following:

(i) Transmission and distribution interconnection requirements.

(ii) Standby, back-up, and maintenance fees (including demand ratchets).

(iii) Exit fees.

(iv) Life of contract demand ratchets.

(v) Net metering.

(vi) Calculation of avoided cost rates.

(vii) Power purchase agreements.

(viii) Energy market structures.

(ix) Capacity market structures.

(x) Other barriers as may be identified by the Secretary, in coordination with the industrial sector and other stakeholders.

(B) Examples of—

(i) successful State and Federal policies that resulted in greater use of industrial energy efficiency;

(ii) successful private initiatives that resulted in greater use of industrial energy efficiency; and

(iii) cost-effective policies used by foreign countries to foster industrial energy efficiency.

(C) The estimated economic benefits to the national economy of providing the industrial sector with Federal energy efficiency matching grants of \$5,000,000,000 for 5- and 10-year periods, including benefits relating to—

(i) estimated energy and emission reductions;

(ii) direct and indirect jobs saved or created;

(iii) direct and indirect capital investment;

(iv) the gross domestic product; and

(v) trade balance impacts.

(D) The estimated energy savings available from increased use of recycled material in energy-intensive manufacturing processes.

(3) RECOMMENDATIONS AND GUIDANCE.—The Secretary, in coordination with the industrial sector and other stakeholders, shall develop policy recommendations regarding the deployment of industrial energy efficiency, including proposed regulatory guidance to States and relevant Federal agencies to address barriers to deployment.

#### SEC. 8. BEST PRACTICES FOR ADVANCED METERING.

Section 543(e) of the National Energy Conservation Policy Act (42 U.S.C. 8253(e)) is amended by striking paragraph (3) and inserting the following:

“(3) PLAN.—Not later than 180 days after the date on which guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing the manner in which the agency will implement the requirements of paragraph (1), including—

“(A) how the agency will designate personnel primarily responsible for achieving the requirements; and

“(B) a demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices (as those terms are used in paragraph (1)), are not practicable.

“(4) BEST PRACTICES REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of General Services, shall develop, and issue a report on, best practices for the use of advanced metering of energy use in Federal facilities, buildings, and equipment by Federal agencies.

“(B) COMPONENTS.—The report shall include, at a minimum—

“(i) summaries and analysis of the reports by agencies under paragraph (3);

“(ii) recommendations on standard requirements or guidelines for automated energy management systems, including—

“(I) potential common communications standards to allow data sharing and reporting;

“(II) means of facilitating continuous commissioning of buildings and evidence-based maintenance of buildings and building systems; and

“(III) standards for sufficient levels of security and protection against cyber threats to ensure systems cannot be controlled by unauthorized persons; and

“(iii) an analysis of—

“(I) the types of advanced metering and monitoring systems being piloted, tested, or installed in Federal buildings; and

“(II) existing techniques used within the private sector or other non-Federal government buildings.”.

**SEC. 9. FEDERAL ENERGY MANAGEMENT AND DATA COLLECTION STANDARD.**

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended—

(1) by redesignating the second subsection (f) (as added by section 434(a) of Public Law 110–140 (121 Stat. 1614)) as subsection (g); and

(2) in subsection (f)(7), by striking subparagraph (A) and inserting the following:

Web posting.

“(A) IN GENERAL.—For each facility that meets the criteria established by the Secretary under paragraph (2)(B), the energy manager shall use the web-based tracking system under subparagraph (B)—

Certification.

“(i) to certify compliance with the requirements for—

“(I) energy and water evaluations under paragraph (3);

“(II) implementation of identified energy and water measures under paragraph (4); and

“(III) follow-up on implemented measures under paragraph (5); and

“(ii) to publish energy and water consumption data on an individual facility basis.”.

**SEC. 10. TECHNICAL CORRECTIONS.**

(a) TITLE III OF ENERGY INDEPENDENCE AND SECURITY ACT OF 2007—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLIANCES AND LIGHTING.—

(1) Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) (as amended by section 301(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1550)) is amended—

(A) by redesignating paragraph (7) as paragraph (4); and

(B) in paragraph (4) (as so redesignated), by striking “supplies is” and inserting “supply is”.

42 USC 6314.

(2) Section 302(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1551) is amended by striking “6313(a)” and inserting “6314(a)”.

(3) Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)) is amended—

(A) in subparagraph (B)—

(i) by striking “If the Secretary” and inserting the following:

“(i) IN GENERAL.—If the Secretary”;

(ii) by striking “clause (ii)(II)” and inserting “subparagraph (A)(ii)(II)”;

(iii) by striking “clause (i)” and inserting “subparagraph (A)(i)”;

(iv) by adding at the end the following:

Determination.

“(ii) FACTORS.—In determining whether a standard is economically justified for the purposes of subparagraph (A)(ii)(II), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of



the standard exceed the burden of the proposed standard by, to the maximum extent practicable, considering—

“(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to the standard;

“(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products that are likely to result from the imposition of the standard;

“(III) the total projected quantity of energy savings likely to result directly from the imposition of the standard;

“(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

“(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

“(VI) the need for national energy conservation; and

“(VII) other factors the Secretary considers relevant.

“(iii) ADMINISTRATION.—

“(I) ENERGY USE AND EFFICIENCY.—The Secretary may not prescribe any amended standard under this paragraph that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

“(II) UNAVAILABILITY.—

“(aa) IN GENERAL.—The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes the finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States at the time of the finding of the Secretary.

“(bb) OTHER TYPES OR CLASSES.—The failure of some types (or classes) to meet the criterion established under this subclause shall not affect the determination of the Secretary on whether to prescribe a standard for the other types or classes.”; and

(B) in subparagraph (C)(iv), by striking “An amendment prescribed under this subsection” and inserting “Notwithstanding subparagraph (D), an amendment prescribed under this subparagraph”.

42 USC 6313.

(4) Section 342(a)(6)(B)(iii) of the Energy Policy and Conservation Act (as added by section 306(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1559)) is transferred and redesignated as clause (vi) of section 342(a)(6)(C) of the Energy Policy and Conservation Act (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)).

(5) Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) (as amended by section 312(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1567)) is amended—

(A) by striking “subparagraphs (B) through (G)” each place it appears and inserting “subparagraphs (B), (C), (D), (I), (J), and (K)”;

(B) by striking “part A” each place it appears and inserting “part B”;

(C) in subsection (a)—

(i) in paragraph (8), by striking “and” at the end;

(ii) in paragraph (9), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(10) section 327 shall apply with respect to the equipment described in section 340(1)(L) beginning on the date on which a final rule establishing an energy conservation standard is issued by the Secretary, except that any State or local standard prescribed or enacted for the equipment before the date on which the final rule is issued shall not be preempted until the energy conservation standard established by the Secretary for the equipment takes effect.”;

(D) in subsection (b)(1), by striking “section 325(p)(5)” and inserting “section 325(p)(4)”; and

(E) in subsection (h)(3), by striking “section 342(f)(3)” and inserting “section 342(f)(4)”.

(6) Section 321(30)(D)(i)(III) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(D)(i)(III)) (as amended by section 321(a)(1)(A) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended by inserting before the semicolon the following: “or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens”.

(7) Section 321(30)(T) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(T)) (as amended by section 321(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended—

(A) in clause (i)—

(i) by striking the comma after “household appliance” and inserting “and”; and

(ii) by striking “and is sold at retail,”; and

(B) in clause (ii), by inserting “when sold at retail,” before “is designated”.

(8) Section 325(l)(4)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)(4)(A)) (as amended by section 321(a)(3)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1581)) is amended by striking “only”.

(9) Section 327(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)(B)) (as amended by section

Applicability.  
Effective date.

321(d)(3) of the Energy Independence and Security Act of 2007 (121 Stat. 1585)) is amended—

(A) in clause (i), by inserting “and” after the semicolon at the end;

(B) in clause (ii), by striking “; and” and inserting a period; and

(C) by striking clause (iii).

(10) Section 321(30)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(C)(ii)) (as amended by section 322(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1587)) is amended by inserting a period after “40 watts or higher”.

(11) Section 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1588) is amended by striking “6995(i)” and inserting “6295(i)”. 42 USC 6295.

(12) Section 325(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1596) is amended by striking “6924(c)” and inserting “6294(c)”. 42 USC 6294.

(13) This subsection and the amendments made by this subsection take effect as if included in the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1492). Effective date. 42 USC 6291 note.

(b) ENERGY POLICY ACT OF 2005.—

(1) Section 325(g)(8)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(8)(C)(ii)) (as added by section 135(c)(2)(B) of the Energy Policy Act of 2005) is amended by striking “20°F” and inserting “negative 20°F”.

(2) This subsection and the amendment made by this subsection take effect as if included in the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594). Effective date. 42 USC 6295 note.

(c) ENERGY POLICY AND CONSERVATION ACT.—

(1) Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311(2)(B)) is amended—

(A) in clause (xi), by striking “and” at the end;

(B) in clause (xii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(xiii) other motors.”.

(2) Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by striking “Air-Conditioning and Refrigeration Institute” each place it appears in

paragraphs (4)(A) and (7) and inserting “Air-Conditioning, Heating, and Refrigeration Institute”.

Approved December 18, 2012.

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LEGISLATIVE HISTORY—H.R. 6582:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 4, considered and passed House.

Dec. 6, considered and passed Senate.



Public Law 112–211  
112th Congress

An Act

To implement the provisions of the Hague Agreement and the Patent Law Treaty.

Dec. 18, 2012

[S. 3486]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Patent Law Treaties Implementation Act of 2012”.

Patent Law  
Treaties  
Implementation  
Act of 2012.  
35 USC 1 note.

**TITLE I—HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

**SEC. 101. THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS.**

(a) IN GENERAL.—Title 35, United States Code, is amended by adding at the end the following:

**“PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

“CHAPTER  
“38. International design applications ..... Sec. 381.

**“CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS**

“Sec.  
“381. Definitions.  
“382. Filing international design applications.  
“383. International design application.  
“384. Filing date.  
“385. Effect of international design application.  
“386. Right of priority.  
“387. Relief from prescribed time limits.  
“388. Withdrawn or abandoned international design application.  
“389. Examination of international design application.  
“390. Publication of international design application.

**“§ 381. Definitions**

35 USC 381.

“(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

“(1) the term ‘treaty’ means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

“(2) the term ‘regulations’—

“(A) when capitalized, means the Common Regulations under the treaty; and

“(B) when not capitalized, means the regulations established by the Director under this title;

“(3) the terms ‘designation’, ‘designating’, and ‘designate’ refer to a request that an international registration have effect in a Contracting Party to the treaty;

“(4) the term ‘International Bureau’ means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

“(5) the term ‘effective registration date’ means the date of international registration determined by the International Bureau under the treaty;

“(6) the term ‘international design application’ means an application for international registration; and

“(7) the term ‘international registration’ means the international registration of an industrial design filed under the treaty.

“(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

35 USC 382.

### “§ 382. Filing international design applications

“(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

Fees.

“(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

“(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

“(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

“(1) in a country other than the United States;

“(2) at the International Bureau; or

“(3) with an intergovernmental organization.

35 USC 383.

### “§ 383. International design application

“In addition to any requirements pursuant to chapter 16, the international design application shall contain—

“(1) a request for international registration under the treaty;

“(2) an indication of the designated Contracting Parties;

“(3) data concerning the applicant as prescribed in the treaty and the Regulations;

“(4) copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international design application, presented in the number and manner prescribed in the treaty and the Regulations;

“(5) an indication of the product or products that constitute the industrial design or in relation to which the industrial design is to be used, as prescribed in the treaty and the Regulations;

“(6) the fees prescribed in the treaty and the Regulations; and

“(7) any other particulars prescribed in the Regulations.

**“§ 384. Filing date**

35 USC 384.

“(a) IN GENERAL.—Subject to subsection (b), the filing date of an international design application in the United States shall be the effective registration date. Notwithstanding the provisions of this part, any international design application designating the United States that otherwise meets the requirements of chapter 16 may be treated as a design application under chapter 16.

“(b) REVIEW.—An applicant may request review by the Director of the filing date of the international design application in the United States. The Director may determine that the filing date of the international design application in the United States is a date other than the effective registration date. The Director may establish procedures, including the payment of a surcharge, to review the filing date under this section. Such review may result in a determination that the application has a filing date in the United States other than the effective registration date.

**“§ 385. Effect of international design application**

35 USC 385.

“An international design application designating the United States shall have the effect, for all purposes, from its filing date determined in accordance with section 384, of an application for patent filed in the Patent and Trademark Office pursuant to chapter 16.

**“§ 386. Right of priority**

35 USC 386.

“(a) NATIONAL APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172, a national application shall be entitled to the right of priority based on a prior international design application that designated at least 1 country other than the United States.

“(b) PRIOR FOREIGN APPLICATION.—In accordance with the conditions and requirements of subsections (a) through (d) of section 119 and section 172 and the treaty and the Regulations, an international design application designating the United States shall be entitled to the right of priority based on a prior foreign application, a prior international application as defined in section 351(c) designating at least 1 country other than the United States, or a prior international design application designating at least 1 country other than the United States.

“(c) PRIOR NATIONAL APPLICATION.—In accordance with the conditions and requirements of section 120, an international design application designating the United States shall be entitled to the benefit of the filing date of a prior national application, a prior international application as defined in section 351(c) designating

the United States, or a prior international design application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international design application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application as defined in section 351(c) which designated but did not originate in the United States or a prior international design application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

35 USC 387.

**“§ 387. Relief from prescribed time limits**

“An applicant’s failure to act within prescribed time limits in connection with requirements pertaining to an international design application may be excused as to the United States upon a showing satisfactory to the Director of unintentional delay and under such conditions, including a requirement for payment of the fee specified in section 41(a)(7), as may be prescribed by the Director.

35 USC 388.

**“§ 388. Withdrawn or abandoned international design application**

“Subject to sections 384 and 387, if an international design application designating the United States is withdrawn, renounced or canceled or considered withdrawn or abandoned, either generally or as to the United States, under the conditions of the treaty and the Regulations, the designation of the United States shall have no effect after the date of withdrawal, renunciation, cancellation, or abandonment and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 386(c) was made in a national application, or an international design application designating the United States, or a claim for benefit under section 365(c) was made in an international application designating the United States, filed before the date of such withdrawal, renunciation, cancellation, or abandonment. However, such withdrawn, renounced, canceled, or abandoned international design application may serve as the basis for a claim of priority under subsections (a) and (b) of section 386, or under subsection (a) or (b) of section 365, if it designated a country other than the United States.

35 USC 389.

**“§ 389. Examination of international design application**

“(a) IN GENERAL.—The Director shall cause an examination to be made pursuant to this title of an international design application designating the United States.

“(b) APPLICABILITY OF CHAPTER 16.—All questions of substance and, unless otherwise required by the treaty and Regulations, procedures regarding an international design application designating the United States shall be determined as in the case of applications filed under chapter 16.

“(c) FEES.—The Director may prescribe fees for filing international design applications, for designating the United States, and for any other processing, services, or materials relating to



international design applications, and may provide for later payment of such fees, including surcharges for later submission of fees.

“(d) ISSUANCE OF PATENT.—The Director may issue a patent based on an international design application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on an application filed under chapter 16.

#### “§ 390. Publication of international design application

35 USC 390.

“The publication under the treaty of an international design application designating the United States shall be deemed a publication under section 122(b).”.

(b) CONFORMING AMENDMENT.—The table of parts at the beginning of title 35, United States Code, is amended by adding at the end the following:

“V. The Hague Agreement concerning international registration of industrial designs ..... 401”.

#### SEC. 102. CONFORMING AMENDMENTS.

Title 35, United States Code, is amended—

(1) in section 100(i)(1)(B) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking “right of priority under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date under section 120, 121, or 365(c)” and inserting “right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)”;

(2) in section 102(d)(2) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking “to claim a right of priority under section 119, 365(a), or 365(b), or to claim the benefit of an earlier filing date under section 120, 121, or 365(c)” and inserting “to claim a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b), or to claim the benefit of an earlier filing date under section 120, 121, 365(c), or 386(c)”;

(3) in section 111(b)(7)—

(A) by striking “section 119 or 365(a)” and inserting “section 119, 365(a), or 386(a)”; and

(B) by striking “section 120, 121, or 365(c)” and inserting “section 120, 121, 365(c), or 386(c)”;

(4) in section 115(g)(1) (as amended by the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284)), by striking “section 120, 121, or 365(c)” and inserting “section 120, 121, 365(c), or 386(c)”;

(5) in section 120, in the first sentence, by striking “section 363” and inserting “section 363 or 385”;

(6) in section 154—

(A) in subsection (a)—

(i) in paragraph (2), by striking “section 120, 121, or 365(c)” and inserting “section 120, 121, 365(c), or 386(c)”; and

(ii) in paragraph (3), by striking “section 119, 365(a), or 365(b)” and inserting “section 119, 365(a), 365(b), 386(a), or 386(b)”; and

(B) in subsection (d)(1), by inserting “or an international design application filed under the treaty defined

in section 381(a)(1) designating the United States under Article 5 of such treaty” after “Article 21(2)(a) of such treaty”;

(7) in section 173, by striking “fourteen years” and inserting “15 years”;

(8) in section 365(c)—

(A) in the first sentence, by striking “or a prior international application designating the United States” and inserting “, a prior international application designating the United States, or a prior international design application as defined in section 381(a)(6) designating the United States”; and

(B) in the second sentence, by inserting “or a prior international design application as defined in section 381(a)(6) which designated but did not originate in the United States” after “did not originate in the United States”; and

(9) in section 366—

(A) in the first sentence, by striking “unless a claim” and all that follows through “withdrawal.” and inserting “unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, or a claim for benefit under section 386(c) was made in an international design application designating the United States, filed before the date of such withdrawal.”; and

(B) by striking the second sentence and inserting the following: “However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b), or under section 386 (a) or (b), if it designated a country other than the United States.”.

35 USC 100 note. **SEC. 103. EFFECTIVE DATE.**

(a) IN GENERAL.—The amendments made by this title shall take effect on the later of—

(1) the date that is 1 year after the date of the enactment of this Act; or

(2) the date of entry into force of the treaty with respect to the United States.

(b) APPLICABILITY OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this title shall apply only to international design applications, international applications, and national applications filed on and after the effective date set forth in subsection (a), and patents issuing thereon.

(2) EXCEPTION.—Sections 100(i) and 102(d) of title 35, United States Code, as amended by this title, shall not apply to an application, or any patent issuing thereon, unless it is described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(c) DEFINITIONS.—For purposes of this section—

(1) the terms “treaty” and “international design application” have the meanings given those terms in section 381 of title 35, United States Code, as added by this title;

(2) the term “international application” has the meaning given that term in section 351(c) of title 35, United States Code; and

(3) the term “national application” means “national application” within the meaning of chapter 38 of title 35, United States Code, as added by this title.

## **TITLE II—PATENT LAW TREATY IMPLEMENTATION**

### **SEC. 201. PROVISIONS TO IMPLEMENT THE PATENT LAW TREATY.**

(a) APPLICATION FILING DATE.—Section 111 of title 35, United States Code, is amended—

(1) in subsection (a), by striking paragraphs (3) and (4) and inserting the following:

“(3) FEE, OATH OR DECLARATION, AND CLAIMS.—The application shall be accompanied by the fee required by law. The fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.

“(4) FILING DATE.—The filing date of an application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.”;

(2) in subsection (b), by striking paragraphs (3) and (4) and inserting the following:

“(3) FEE.—The application shall be accompanied by the fee required by law. The fee may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director. Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned.

“(4) FILING DATE.—The filing date of a provisional application shall be the date on which a specification, with or without claims, is received in the United States Patent and Trademark Office.”; and

(3) by adding at the end the following:

“(c) PRIOR FILED APPLICATION.—Notwithstanding the provisions of subsection (a), the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under subsection (a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. A copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director. A failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded

Records.

as abandoned. Such application shall be treated as having never been filed, unless—

“(1) the application is revived under section 27; and

“(2) a copy of the specification and any drawings of the previously filed application are submitted to the Director.”.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHTS.—

(1) IN GENERAL.—Chapter 2 of title 35, United States Code, is amended by adding at the end the following:

35 USC 27.

**“§ 27. Revival of applications; reinstatement of reexamination proceedings**

“The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner.”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 35, United States Code, is amended by adding at the end the following:

“27. Revival of applications; reinstatement of reexamination proceedings.”.

(c) RESTORATION OF PRIORITY RIGHT.—Title 35, United States Code, is amended—

(1) in section 119—

(A) in subsection (a)—

(i) by striking “twelve” and inserting “12”; and

(ii) by adding at the end the following: “The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.”; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by inserting after the first sentence the following: “The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under section 111(a) or section 363 within the 12-month period was unintentional.”; and

(II) in the last sentence—

(aa) by striking “including the payment of a surcharge” and inserting “including the payment of the fee specified in section 41(a)(7)”; and

(bb) by striking “during the pendency of the application”; and

(ii) in paragraph (3), by adding at the end the following: “For an application for patent filed under

section 363 in a Receiving Office other than the Patent and Trademark Office, the 12-month and additional 2-month period set forth in this subsection shall be extended as provided under the treaty and Regulations as defined in section 351.”; and

(2) in section 365(b), by adding at the end the following: “The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim for priority under the treaty and the Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the treaty and Regulations, but was filed within the additional 2-month period specified under section 119(a) or the treaty and Regulations.”.

(d) RECORDATION OF OWNERSHIP INTERESTS.—Section 261 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph by adding at the end the following: “The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.”; and

(2) in the fourth undesignated paragraph by striking “An assignment” and inserting “An interest that constitutes an assignment”.

#### SEC. 202. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 171 of title 35, United States Code, is amended—

(1) by striking “Whoever” and inserting “(a) IN GENERAL.—Whoever”;

(2) by striking “The provisions” and inserting “(b) APPLICABILITY OF THIS TITLE.—The provisions”; and

(3) by adding at the end the following:

“(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.”.

(b) RELIEF IN RESPECT OF TIME LIMITS AND REINSTATEMENT OF RIGHT.—Title 35, United States Code, is amended—

(1) in section 41—

(A) in subsection (a), by striking paragraph (7) and inserting the following:

“(7) REVIVAL FEES.—On filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the 12-month period for filing a subsequent application, \$1,700.00. The Director may refund any part of the fee specified in this paragraph, in exceptional circumstances as determined by the Director”; and

(B) in subsection (c), by striking paragraph (1) and inserting the following:

“(1) ACCEPTANCE.—The Director may accept the payment of any maintenance fee required by subsection (b) after the 6-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. The Director may

require the payment of the fee specified in subsection (a)(7) as a condition of accepting payment of any maintenance fee after the 6-month grace period. If the Director accepts payment of a maintenance fee after the 6-month grace period, the patent shall be considered as not having expired at the end of the grace period.”;

(2) in section 119(b)(2), in the second sentence, by striking “including the payment of a surcharge” and inserting “including the requirement for payment of the fee specified in section 41(a)(7)”;

(3) in section 120, in the fourth sentence, by striking “including the payment of a surcharge” and inserting “including the requirement for payment of the fee specified in section 41(a)(7)”;

(4) in section 122(b)(2)(B)(iii), in the second sentence, by striking “, unless it is shown” and all that follows through “unintentional”;

(5) in section 133, by striking “, unless it be shown” and all that follows through “unavoidable”;

(6) by striking section 151 and inserting the following:

35 USC 151.

**“§ 151. Issue of patent**

Notice.  
Fees.  
Deadline.

“(a) IN GENERAL.—If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter.

“(b) EFFECT OF PAYMENT.—Upon payment of this sum the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.”;

(7) in section 361, by striking subsection (c) and inserting the following:

“(c) International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.”;

(8) in section 364, by striking subsection (b) and inserting the following:

“(b) An applicant’s failure to act within prescribed time limits in connection with requirements pertaining to an international application may be excused as provided in the treaty and the Regulations.”; and

(9) in section 371(d), in the third sentence, by striking “, unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable”.

35 USC 27 note.

**SEC. 203. EFFECTIVE DATE.**

(a) IN GENERAL.—The amendments made by this title—

(1) shall take effect on the date that is 1 year after the date of the enactment of this Act; and

(2) shall apply to—

(A) any patent issued before, on, or after the effective date set forth in paragraph (1); and

(B) any application for patent that is pending on or filed after the effective date set forth in paragraph (1).

(b) EXCEPTIONS.—

Applicability.

(1) SECTION 201(a).—The amendments made by section 201(a) shall apply only to applications that are filed on or after the effective date set forth in subsection (a)(1). Applicability.

(2) PATENTS IN LITIGATION.—The amendments made by this title shall have no effect with respect to any patent that is the subject of litigation in an action commenced before the effective date set forth in subsection (a)(1).

Approved December 18, 2012.

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LEGISLATIVE HISTORY—S. 3486:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 21, considered and passed Senate.

Dec. 5, considered and passed House.



Public Law 112–212  
112th Congress

An Act

Dec. 20, 2012  
[H.R. 2467]

To take certain Federal lands in Mono County, California, into trust for the benefit of the Bridgeport Indian Colony.

Bridgeport  
Indian Colony  
Land Trust,  
Health, and  
Economic  
Development Act  
of 2012.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Bridgeport Indian Colony Land Trust, Health, and Economic Development Act of 2012”.

**SEC. 2. LANDS TO BE TAKEN INTO TRUST.**

(a) **IN GENERAL.**—Subject to valid existing rights and management agreements related to easements and rights-of-way, all right, title, and interest (including improvements and appurtenances) of the United States in and to the Federal lands described in subsection (b) are hereby declared to be held in trust by the United States for the benefit of the Bridgeport Indian Colony, except that the oversight and renewal of all easements and rights-of-way with the Bridgeport Public Utility District in existence on the date of the enactment of this Act shall remain the responsibility of the Bureau of Land Management.

(b) **FEDERAL LANDS DESCRIBED.**—The Federal lands referred to in subsection (a) are the approximately 39.36 acres described as follows:

(1) The South half of the South half of the Northwest quarter of the Northwest quarter of the Northeast quarter and the North half of the Southwest quarter of the Northwest quarter of the Northeast quarter of Section 21, Township 8 North, Range 23 East, Mount Diablo Meridian, containing 7.5 acres, more or less, as identified on the map titled “Bridgeport Camp Antelope Parcel” and dated July 26, 2010.

(2) Lots 1 and 2 of the Bureau of Land Management survey plat entitled “Dependent resurvey of a portion of the subdivision of Section 28, designed to restore the corners in their true original locations according to the best available evidence, and the further subdivision of Section 28 and the metes and bounds survey of a portion of the right-of-way of California State Highway No. 182, Township 5 North, Range 25 East, Mount Diablo Meridian, California” and dated February 21, 2003 containing 31.86 acres, more or less.

(c) **AVAILABILITY OF MAP.**—The maps referred to in subsection (b) shall be on file and available for public inspection at the office of the California State Director, Bureau of Land Management.

(d) **GAMING.**—Land taken into trust under this section shall not be eligible for, or considered to have been taken into trust



for, class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)).

Approved December 20, 2012.

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LEGISLATIVE HISTORY—H.R. 2467:

HOUSE REPORTS: No. 112–611 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 23, considered and passed House.

Dec. 11, considered and passed Senate.



Public Law 112–213  
112th Congress

An Act

Dec. 20, 2012  
[H.R. 2838]

To authorize appropriations for the Coast Guard for fiscal years 2013 through 2014, and for other purposes.

Coast Guard and  
Maritime  
Transportation  
Act of 2012.  
14 USC 1 note.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Coast Guard and Maritime Transportation Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—AUTHORIZATION**

Sec. 101. Authorization of appropriations.

Sec. 102. Authorized levels of military strength and training.

**TITLE II—COAST GUARD**

Sec. 201. Interference with Coast Guard transmissions.

Sec. 202. Coast Guard authority to operate and maintain Coast Guard assets.

Sec. 203. Limitation on expenditures.

Sec. 204. Academy pay, allowances, and emoluments.

Sec. 205. Policy on sexual harassment and sexual violence.

Sec. 206. Appointments of permanent commissioned officers.

Sec. 207. Selection boards; oath of members.

Sec. 208. Special selection boards; correction of errors.

Sec. 209. Prohibition of certain involuntary administrative separations.

Sec. 210. Major acquisitions.

Sec. 211. Advance procurement funding.

Sec. 212. Minor construction.

Sec. 213. Capital investment plan and annual list of projects to Congress.

Sec. 214. Aircraft accident investigations.

Sec. 215. Coast Guard Auxiliary enrollment eligibility.

Sec. 216. Repeals.

Sec. 217. Technical corrections to title 14.

Sec. 218. Acquisition workforce expedited hiring authority.

Sec. 219. Renewal of temporary early retirement authority.

Sec. 220. Response Boat-Medium procurement.

Sec. 221. National Security Cutters.

Sec. 222. Coast Guard polar icebreakers.

**TITLE III—SHIPPING AND NAVIGATION**

Sec. 301. Identification of actions to enable qualified United States flag capacity to meet national defense requirements.

Sec. 302. Limitation of liability for non-Federal vessel traffic service operators.

Sec. 303. Survival craft.

Sec. 304. Classification societies.

Sec. 305. Dockside examinations.

Sec. 306. Authority to extend the duration of medical certificates.

Sec. 307. Clarification of restrictions on American Fisheries Act vessels.

Sec. 308. Investigations by Secretary.

Sec. 309. Penalties.

- Sec. 310. United States Committee on the Marine Transportation System.
- Sec. 311. Technical correction to title 46.
- Sec. 312. Deepwater ports.

#### TITLE IV—MARITIME ADMINISTRATION AUTHORIZATION

- Sec. 401. Short title.
- Sec. 402. Authorizations of appropriations for national security aspects of the merchant marine for fiscal year 2013.
- Sec. 403. Maritime environmental and technical assistance.
- Sec. 404. Property for instructional purposes.
- Sec. 405. Short sea transportation.
- Sec. 406. Limitation of National Defense Reserve Fleet vessels to those over 1,500 gross tons.
- Sec. 407. Transfer of vessels to the National Defense Reserve Fleet.
- Sec. 408. Clarification of heading.
- Sec. 409. Mission of the Maritime Administration.
- Sec. 410. Amendments relating to the National Defense Reserve Fleet.
- Sec. 411. Requirement for barge design.
- Sec. 412. Container-on-barge transportation.
- Sec. 413. Department of Defense national strategic ports study and Comptroller General studies and reports on strategic ports.
- Sec. 414. Maritime workforce study.
- Sec. 415. Maritime Administration vessel recycling contract award practices.

#### TITLE V—PIRACY

- Sec. 501. Short title.
- Sec. 502. Training for use of force against piracy.
- Sec. 503. Security of Government-impelled cargo.
- Sec. 504. Actions taken to protect foreign-flagged vessels from piracy.

#### TITLE VI—MARINE DEBRIS

- Sec. 601. Short title.
- Sec. 602. Short title amendment; references.
- Sec. 603. Purpose.
- Sec. 604. NOAA Marine Debris Program.
- Sec. 605. Repeal of obsolete provisions.
- Sec. 606. Coordination.
- Sec. 607. Confidentiality of submitted information.
- Sec. 608. Definitions.
- Sec. 609. Severe marine debris event determination.

#### TITLE VII—MISCELLANEOUS

- Sec. 701. Distant water tuna fleet.
- Sec. 702. Technical corrections.
- Sec. 703. Extension of moratorium.
- Sec. 704. Notice of arrival.
- Sec. 705. Waivers.
- Sec. 706. National Response Center notification requirements.
- Sec. 707. Vessel determinations.
- Sec. 708. Mille Lacs Lake, Minnesota.
- Sec. 709. Transportation Worker Identification Credential process reform.
- Sec. 710. Investment amount.
- Sec. 711. Integrated cross-border maritime law enforcement operations between the United States and Canada.
- Sec. 712. Bridge permits.
- Sec. 713. Tonnage of Aqueos Acadian.
- Sec. 714. Navigability determination.
- Sec. 715. Coast Guard housing.
- Sec. 716. Assessment of needs for additional Coast Guard presence in high-latitude regions.
- Sec. 717. Potential Place of Refuge.
- Sec. 718. Merchant mariner medical evaluation program.
- Sec. 719. Determinations.
- Sec. 720. Impediments to the United States-flag registry.
- Sec. 721. Arctic deepwater seaport.
- Sec. 722. Risk assessment of transporting Canadian oil sands.

## TITLE I—AUTHORIZATION

### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for each of fiscal years 2013 and 2014 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard—

(A) \$6,882,645,000 for fiscal year 2013; and

(B) \$6,981,036,000 for fiscal year 2014;

of which \$24,500,000 is authorized each fiscal year to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)).

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto—

(A) \$1,545,312,000 for fiscal year 2013; and

(B) \$1,546,448,000 for fiscal year 2014;

to remain available until expended and of which \$20,000,000 is authorized each fiscal year to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)).

(3) For the Coast Guard Reserve program, including personnel and training costs, equipment, and services—

(A) \$138,111,000 for fiscal year 2013; and

(B) \$140,016,000 for fiscal year 2014.

(4) For environmental compliance and restoration of Coast Guard vessels, aircraft, and facilities (other than parts and equipment associated with operation and maintenance)—

(A) \$16,699,000 for fiscal year 2013; and

(B) \$16,701,000 for fiscal year 2014;

to remain available until expended.

(5) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard's mission with respect to search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness—

(A) \$19,848,000 for fiscal year 2013; and

(B) \$19,890,000 for fiscal year 2014.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Alteration of Bridges Program—

(A) \$16,000,000 for fiscal year 2013; and

(B) \$16,000,000 for fiscal year 2014.

#### **SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.**

(a) **ACTIVE DUTY STRENGTH.**—The Coast Guard is authorized an end-of-year strength for active duty personnel of 47,000 for each of fiscal years 2013 and 2014.

(b) **MILITARY TRAINING STUDENT LOADS.**—The Coast Guard is authorized average military training student loads for each of fiscal years 2013 and 2014 as follows:

(1) For recruit and special training, 2,500 student years.

(2) For flight training, 165 student years.

(3) For professional training in military and civilian institutions, 350 student years.

(4) For officer acquisition, 1,200 student years.

## TITLE II—COAST GUARD

### SEC. 201. INTERFERENCE WITH COAST GUARD TRANSMISSIONS.

Section 88 of title 14, United States Code, is amended by adding at the end the following:

“(e) An individual who knowingly and willfully operates a device with the intention of interfering with the broadcast or reception of a radio, microwave, or other signal (including a signal from a global positioning system) transmitted, retransmitted, or augmented by the Coast Guard for the purpose of maritime safety is—

“(1) guilty of a class E felony; and

“(2) subject to a civil penalty of not more than \$1,000 per day for each violation.”.

### SEC. 202. COAST GUARD AUTHORITY TO OPERATE AND MAINTAIN COAST GUARD ASSETS.

Section 93 of title 14, United States Code, is amended by adding at the end the following:

“(e) OPERATION AND MAINTENANCE OF COAST GUARD ASSETS AND FACILITIES.—All authority, including programmatic budget authority, for the operation and maintenance of Coast Guard vessels, aircraft, systems, aids to navigation, infrastructure, and other assets or facilities shall be allocated to and vested in the Coast Guard and the department in which the Coast Guard is operating.”.

### SEC. 203. LIMITATION ON EXPENDITURES.

Section 149(d) of title 14, United States Code, is amended by adding at the end the following:

“(3) The amount of funds used under this subsection may not exceed \$100,000 in any fiscal year.”.

### SEC. 204. ACADEMY PAY, ALLOWANCES, AND EMOLUMENTS.

Section 195 of title 14, United States Code, is amended—

(1) by striking “person” each place it appears and inserting “foreign national”; and

(2) by striking “pay and allowances” each place it appears and inserting “pay, allowances, and emoluments”.

### SEC. 205. POLICY ON SEXUAL HARASSMENT AND SEXUAL VIOLENCE.

(a) ESTABLISHMENT.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following:

#### “§ 200. Policy on sexual harassment and sexual violence

“(a) REQUIRED POLICY.—The Commandant of the Coast Guard shall direct the Superintendent of the Coast Guard Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

“(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence under this section shall include specification of the following:

“(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

“(2) Information about how the Coast Guard and the Academy will protect the confidentiality of victims of sexual harassment or sexual violence, including how any records,

statistics, or reports intended for public release will be formatted such that the confidentiality of victims is not jeopardized.

“(3) Procedures that cadets and other Academy personnel should follow in the case of an occurrence of sexual harassment or sexual violence, including—

“(A) if the victim chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and options for confidential reporting, including written information to be given to victims that explains how the Coast Guard and the Academy will protect the confidentiality of victims;

“(B) a specification of any other person whom the victim should contact; and

“(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

“(4) Procedures for disciplinary action in cases of criminal sexual assault involving a cadet or other Academy personnel.

“(5) Sanctions authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel, including with respect to rape, acquaintance rape, or other criminal sexual offense, whether forcible or nonforcible.

“(6) Required training on the policy for all cadets and other Academy personnel who process allegations of sexual harassment or sexual violence involving a cadet or other Academy personnel.

“(c) ASSESSMENT.—

Deadline.

“(1) IN GENERAL.—The Commandant shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment to determine the effectiveness of the policies of the Academy with respect to sexual harassment and sexual violence involving cadets or other Academy personnel.

“(2) BIENNIAL SURVEY.—For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Superintendent shall conduct a survey of cadets and other Academy personnel—

“(A) to measure—

“(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to an official of the Academy; and

“(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to an official of the Academy; and

“(B) to assess the perceptions of the cadets and other Academy personnel with respect to—

“(i) the Academy’s policies, training, and procedures on sexual harassment and sexual violence involving cadets or other Academy personnel;

“(ii) the enforcement of such policies;

“(iii) the incidence of sexual harassment and sexual violence involving cadets or other Academy personnel; and

“(iv) any other issues relating to sexual harassment and sexual violence involving cadets or other Academy personnel.

“(d) REPORT.—

“(1) IN GENERAL.—The Commandant shall direct the Superintendent to submit to the Commandant a report on sexual harassment and sexual violence involving cadets or other Academy personnel for each Academy program year.

“(2) REPORT SPECIFICATIONS.—Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

“(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the Academy program year and, of those reported cases, the number that have been substantiated.

“(B) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

“(3) BIENNIAL SURVEY.—Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that Academy program year under subsection (c)(2).

“(4) TRANSMISSION OF REPORT.—The Commandant shall transmit each report received by the Commandant under this subsection, together with the Commandant’s comments on the report, to—

“(A) the Committee on Commerce, Science, and Transportation of the Senate; and

“(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(5) FOCUS GROUPS.—

“(A) IN GENERAL.—For each Academy program year with respect to which the Superintendent is not required to conduct a survey at the Academy under subsection (c)(2), the Commandant shall require focus groups to be conducted at the Academy for the purposes of ascertaining information relating to sexual assault and sexual harassment issues at the Academy.

“(B) INCLUSION IN REPORTS.—Information derived from a focus group under subparagraph (A) shall be included in the next transmitted Commandant’s report under this subsection.

“(e) VICTIM CONFIDENTIALITY.—To the extent that information collected under the authority of this section is reported or otherwise made available to the public, such information shall be provided in a form that is consistent with applicable privacy protections under Federal law and does not jeopardize the confidentiality of victims.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 14, United States Code, is amended by inserting after the item relating to section 199 the following:

“200. Policy on sexual harassment and sexual violence.”.

**SEC. 206. APPOINTMENTS OF PERMANENT COMMISSIONED OFFICERS.**

Section 211 of title 14, United States Code, is amended by adding at the end the following:

Definition.

“(d) For the purposes of this section, the term ‘original’, with respect to the appointment of a member of the Coast Guard, refers to that member’s most recent appointment in the Coast Guard that is neither a promotion nor a demotion.”.

**SEC. 207. SELECTION BOARDS; OATH OF MEMBERS.**

Section 254 of title 14, United States Code, is amended to read as follows:

**“§ 254. Selection boards; oath of members**

“Each member of a selection board shall swear—

“(1) that the member will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Coast Guard, perform the duties imposed upon the member; and

“(2) an oath in accordance with section 635.”.

**SEC. 208. SPECIAL SELECTION BOARDS; CORRECTION OF ERRORS.**

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 262 the following:

**“§ 263. Special selection boards; correction of errors**

“(a) OFFICERS NOT CONSIDERED DUE TO ADMINISTRATIVE ERROR.—

Determination.

“(1) IN GENERAL.—If the Secretary determines that as the result of an administrative error—

“(A) an officer or former officer was not considered for selection for promotion by a selection board convened under section 251; or

“(B) the name of an officer or former officer was not placed on an all-fully-qualified-officers list; the Secretary shall convene a special selection board to determine whether such officer or former officer should be recommended for promotion and such officer or former officer shall not be considered to have failed of selection for promotion prior to the consideration of the special selection board.

“(2) EFFECT OF FAILURE TO RECOMMEND FOR PROMOTION.—If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer, whose grade is below the grade of captain and whose name was referred to that board for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

“(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—

Determination.

“(1) IN GENERAL.—In the case of an officer or former officer who was eligible for promotion, was considered for selection for promotion by a selection board convened under section 251, and was not selected for promotion by that board, the Secretary may convene a special selection board to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

“(A) an action of the selection board that considered the officer or former officer—



“(i) was contrary to law in a matter material to the decision of the board; or

“(ii) involved material error of fact or material administrative error; or

“(B) the selection board that considered the officer or former officer did not have before it for consideration material information.

“(2) EFFECT OF FAILURE TO RECOMMEND FOR PROMOTION.—

If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer, whose grade is that of commander or below and whose name was referred to that board for consideration, the officer or former officer shall be considered—

“(A) to have failed of selection for promotion with respect to the board that considered the officer or former officer prior to the consideration of the special selection board; and

“(B) to incur no additional failure of selection for promotion as a result of the action of the special selection board.

“(C) REQUIREMENTS FOR SPECIAL SELECTION BOARDS.—Each special selection board convened under this section shall—

“(1) be composed in accordance with section 252 and the members of the board shall be required to swear the oaths described in section 254;

“(2) consider the record of an applicable officer or former officer as that record, if corrected, would have appeared to the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board and that record shall be compared with a sampling of the records of—

“(A) those officers of the same grade who were recommended for promotion by such prior selection board; and

“(B) those officers of the same grade who were not recommended for promotion by such prior selection board; and

“(3) submit to the Secretary a written report in a manner consistent with sections 260 and 261. Reports.

“(d) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.—

“(1) IN GENERAL.—An officer or former officer whose name is placed on a promotion list as a result of the recommendation of a special selection board convened under this section shall be appointed, as soon as practicable, to the next higher grade in accordance with the law and policies that would have been applicable to the officer or former officer had the officer or former officer been recommended for promotion by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

“(2) EFFECT.—An officer or former officer who is promoted to the next higher grade as a result of the recommendation of a special selection board convened under this section shall have, upon such promotion, the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the active duty promotion list as the

officer or former officer would have had if the officer or former officer had been recommended for promotion to that grade by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

President.

“(3) RECORD CORRECTION.—If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not eligible for promotion or a former officer whose name was referred to the board for consideration, the Secretary may act under section 1552 of title 10 to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from the officer or former officer not being selected for promotion by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

Regulations.

“(e) APPLICATION PROCESS AND TIME LIMITS.—The Secretary shall issue regulations regarding the process by which an officer or former officer may apply to have a matter considered by a special selection board convened under this section, including time limits related to such applications.

“(f) LIMITATION OF OTHER JURISDICTION.—No official or court of the United States shall have authority or jurisdiction over any claim based in any way on the failure of an officer or former officer to be selected for promotion by a selection board convened under section 251, until—

“(1) the claim has been referred to a special selection board convened under this section and acted upon by that board; or

“(2) the claim has been rejected by the Secretary without consideration by a special selection board convened under this section.

“(g) JUDICIAL REVIEW.—

“(1) IN GENERAL.—A court of the United States may review—

“(A) a decision of the Secretary not to convene a special selection board under this section to determine if the court finds that the decision of the Secretary was arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law; and

“(B) an action of a special selection board under this section to determine if the court finds that the action of the special selection board was contrary to law or involved material error of fact or material administrative error.

“(2) REMAND AND RECONSIDERATION.—If, with respect to a review under paragraph (1), a court makes a finding described in subparagraph (A) or (B) of that paragraph, the court shall remand the case to the Secretary and the Secretary shall provide the applicable officer or former officer consideration by a new special selection board convened under this section.

“(h) DESIGNATION OF BOARDS.—The Secretary may designate a selection board convened under section 251 as a special selection board convened under this section. A selection board so designated may function in the capacity of a selection board convened under section 251 and a special selection board convened under this section.”.

(b) **SELECTION BOARDS; SUBMISSION OF REPORTS.**—Section 261(d) of title 14, United States Code, is amended by striking “selection board” and inserting “selection board, including a special selection board convened under section 263.”.

(c) **FAILURE OF SELECTION FOR PROMOTION.**—Section 262 of title 14, United States Code, is amended to read as follows:

**“§ 262. Failure of selection for promotion**

“An officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade under section 256 of this title, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.”.

(d) **CLERICAL AMENDMENT.**—The analysis for chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 262 the following:

“263. Special selection boards; correction of errors.”.

(e) **APPLICABILITY; RULE OF CONSTRUCTION.**—

(1) **APPLICABILITY.**—The amendments made by this section shall take effect on the date of enactment of this Act and the Secretary may convene a special selection board on or after that date under section 263 of title 14, United States Code, with respect to any error or other action for which such a board may be convened if that error or other action occurred on or after the date that is 1 year before the date of enactment of this Act.

President.  
Effective date.  
Time period.  
14 USC 261 note.

(2) **RULE OF CONSTRUCTION.**—Sections 271, 272, and 273 of title 14, United States Code, apply to the activities of—

14 USC 271 note.

(A) a selection board convened under section 251 of such title; and

(B) a special selection board convened under section 263 of such title.

**SEC. 209. PROHIBITION OF CERTAIN INVOLUNTARY ADMINISTRATIVE SEPARATIONS.**

(a) **IN GENERAL.**—Chapter 11 of title 14, United States Code, as amended by this Act, is further amended by inserting after section 426 the following:

**“§ 427. Prohibition of certain involuntary administrative separations**

“(a) **IN GENERAL.**—Except as provided in subsection (b), the Secretary may not authorize the involuntary administrative separation of a covered individual based on a determination that the covered individual is unsuitable for deployment or other assignment due to a medical condition of the covered individual considered by a Physical Evaluation Board during an evaluation of the covered individual that resulted in the covered individual being determined to be fit for duty.

“(b) **REEVALUATION.**—

“(1) **IN GENERAL.**—The Secretary may require a Physical Evaluation Board to reevaluate any covered individual if the Secretary determines there is reason to believe that a medical condition of the covered individual considered by a Physical

Evaluation Board during an evaluation of the covered individual renders the covered individual unsuitable for continued duty.

“(2) RETIREMENTS AND SEPARATIONS.—A covered individual who is determined, based on a reevaluation under paragraph (1), to be unfit to perform the duties of the covered individual’s office, grade, rank, or rating may be retired or separated for physical disability under this chapter.

“(c) COVERED INDIVIDUAL DEFINED.—In this section, the term ‘covered individual’ means any member of the Coast Guard who has been determined by a Physical Evaluation Board, pursuant to a physical evaluation by that board, to be fit for duty.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 11 of title 14, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 426 the following:

“427. Prohibition of certain involuntary administrative separations.”.

#### **SEC. 210. MAJOR ACQUISITIONS.**

(a) IN GENERAL.—Subchapter I of chapter 15 of title 14, United States Code, is amended by adding at the end the following:

##### **“§ 569a. Major acquisitions**

“(a) IN GENERAL.—In conjunction with the transmittal by the President to Congress of the budget of the United States for fiscal year 2014 and biennially thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of all major acquisition programs.

“(b) INFORMATION TO BE INCLUDED.—Each report under subsection (a) shall include for each major acquisition program—

“(1) a statement of the Coast Guard’s mission needs and performance goals relating to such program, including a justification for any change to those needs and goals subsequent to a report previously submitted under this section;

“(2) a justification explaining how the projected number and capabilities of assets acquired under such program meet applicable mission needs and performance goals;

“(3) an identification of any and all mission hour gaps, accompanied by an explanation of how and when the Coast Guard will close those gaps;

“(4) an identification of any changes with respect to such program, including—

“(A) any changes to the timeline for the acquisition of each new asset and the phaseout of legacy assets; and

“(B) any changes to—

“(i) the costs of new assets or legacy assets for that fiscal year or future fiscal years; or

“(ii) the total acquisition cost;

“(5) a justification explaining how any change to such program fulfills the mission needs and performance goals of the Coast Guard;

“(6) a description of how the Coast Guard is planning for the integration of each new asset acquired under such program into the Coast Guard, including needs related to shore-based infrastructure and human resources;

Reports.

“(7) an identification of how funds in the applicable fiscal year’s budget request will be allocated, including information on the purchase of specific assets;

“(8) a projection of the remaining operational lifespan and life-cycle cost of each legacy asset that also identifies any anticipated resource gaps;

“(9) a detailed explanation of how the costs of legacy assets are being accounted for within such program; and

“(10) an annual performance comparison of new assets to legacy assets.

“(c) **ADEQUACY OF ACQUISITION WORKFORCE.**—Each report under subsection (a) shall—

“(1) include information on the scope of the acquisition activities to be performed in the next fiscal year and on the adequacy of the current acquisition workforce to meet that anticipated workload;

“(2) specify the number of officers, members, and employees of the Coast Guard currently and planned to be assigned to each position designated under section 562(c) of this subchapter; and

“(3) identify positions that are or will be understaffed and actions that will be taken to correct such understaffing.

“(d) **CUTTERS NOT MAINTAINED IN CLASS.**—Each report under subsection (a) shall identify which, if any, Coast Guard cutters that have been issued a certificate of classification by the American Bureau of Shipping have not been maintained in class, with an explanation detailing the reasons why the cutters have not been maintained in class.

“(e) **MAJOR ACQUISITION PROGRAM DEFINED.**—In this section, the term ‘major acquisition program’ means an ongoing acquisition undertaken by the Coast Guard with a life-cycle cost estimate greater than or equal to \$300,000,000.”.

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 15 of title 14, United States Code, is amended by inserting after the item relating to section 569 the following:

“569a. Major acquisitions.”.

(c) **REPEALS.**—

(1) Section 408(a) of the Coast Guard and Maritime Transportation Act of 2006 (14 U.S.C. 663 note) is repealed.

(2) Title 14, United States Code, is amended—

(A) in section 562, by repealing subsection (e); and

(B) in section 573(c)(3), by repealing subparagraph (B).

#### **SEC. 211. ADVANCE PROCUREMENT FUNDING.**

(a) **IN GENERAL.**—Subchapter II of chapter 15 of title 14, United States Code, is amended by adding at the end the following:

##### **“§ 577. Advance procurement funding**

“(a) **IN GENERAL.**—With respect to any Coast Guard vessel for which amounts are appropriated and any amounts otherwise made available for vessels for the Coast Guard in any fiscal year, the Commandant of the Coast Guard may enter into a contract or place an order, in advance of a contract or order for construction of a vessel, for—

“(1) materials, parts, components, and labor for the vessel;

“(2) the advance construction of parts or components for the vessel;

“(3) protection and storage of materials, parts, or components for the vessel; and

“(4) production planning, design, and other related support services that reduce the overall procurement lead time of the vessel.

“(b) **USE OF MATERIALS, PARTS, AND COMPONENTS MANUFACTURED IN THE UNITED STATES.**—In entering into contracts and placing orders under subsection (a), the Commandant may give priority to persons that manufacture materials, parts, and components in the United States.”.

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 15 of title 14, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 576 the following:

“577. Advance procurement funding.”.

**SEC. 212. MINOR CONSTRUCTION.**

(a) **IN GENERAL.**—Section 656 of title 14, United States Code, is amended by adding at the end the following:

“(d) **MINOR CONSTRUCTION AND IMPROVEMENT.**—

“(1) **IN GENERAL.**—Subject to the reporting requirements set forth in paragraph (2), each fiscal year the Secretary may expend from amounts made available for the operating expenses of the Coast Guard not more than \$1,500,000 for minor construction and improvement projects at any location.

“(2) **REPORTING REQUIREMENTS.**—Not later than 90 days after the end of each fiscal year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on each project undertaken during the course of the preceding fiscal year for which the amount expended under paragraph (1) exceeded \$500,000.”.

(b) **CLERICAL AMENDMENTS.**—

(1) **HEADING.**—Section 656 of title 14, United States Code, as amended by this Act, is further amended by striking the section designation and heading and inserting the following:

**“§ 656. Use of certain appropriated funds”.**

(2) **ANALYSIS.**—The analysis for chapter 17 of title 14, United States Code, is amended by striking the item relating to section 656 and inserting the following:

“656. Use of certain appropriated funds.”.

**SEC. 213. CAPITAL INVESTMENT PLAN AND ANNUAL LIST OF PROJECTS TO CONGRESS.**

(a) **CAPITAL INVESTMENT PLAN.**—Section 663 of title 14, United States Code, is amended to read as follows:

**“§ 663. Capital investment plan**

“(a) **IN GENERAL.**—On the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

“(1) a capital investment plan for the Coast Guard that identifies for each capital asset for which appropriations are proposed in that budget—

“(A) the proposed appropriations included in the budget;

“(B) the total estimated cost of completion;

“(C) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

“(D) an estimated completion date at the projected funding levels; and

“(E) an acquisition program baseline, as applicable; and

“(2) a list of each unfunded priority for the Coast Guard.

“(b) UNFUNDED PRIORITY DEFINED.—In this section, the term ‘unfunded priority’ means a program or mission requirement that—

“(1) has not been selected for funding in the applicable proposed budget;

“(2) is necessary to fulfill a requirement associated with an operational need; and

“(3) the Commandant would have recommended for inclusion in the applicable proposed budget had additional resources been available or had the requirement emerged before the budget was submitted.”.

(b) ANNUAL LIST OF PROJECTS TO CONGRESS.—Section 693 of title 14, United States Code, is amended to read as follows:

**“§ 693. Annual list of projects to Congress**

“The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prioritized list of projects eligible for environmental compliance and restoration funding for each fiscal year concurrent with the President’s budget submission for that fiscal year.”.

(c) CLERICAL AND CONFORMING AMENDMENTS.—

(1) ANALYSIS FOR CHAPTER 17.—The analysis for chapter 17 of title 14, United States Code, as amended by this Act, is further amended by striking the item relating to section 663 and inserting the following:

“663. Capital investment plan.”.

(2) ANALYSIS FOR CHAPTER 19.—The analysis for chapter 19 of title 14, United States Code, is amended by striking the item relating to section 693 and inserting the following:

“693. Annual list of projects to Congress.”.

(3) COAST GUARD AUTHORIZATION ACT OF 2010.—Section 918 of the Coast Guard Authorization Act of 2010 (14 U.S.C. 663 note), and the item relating to that section in the table of contents in section 1(b) of that Act, are repealed.

Repeal.

**SEC. 214. AIRCRAFT ACCIDENT INVESTIGATIONS.**

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

**“§ 678. Aircraft accident investigations**

Records.  
Reports.

“(a) IN GENERAL.—Whenever the Commandant of the Coast Guard conducts an accident investigation of an accident involving an aircraft under the jurisdiction of the Commandant, the records and report of the investigation shall be treated in accordance with this section.

“(b) PUBLIC DISCLOSURE OF CERTAIN ACCIDENT INVESTIGATION INFORMATION.—

“(1) IN GENERAL.—Subject to paragraph (2), the Commandant, upon request, shall publicly disclose unclassified tapes, scientific reports, and other factual information pertinent to an aircraft accident investigation.

Determination.

“(2) CONDITIONS.—The Commandant shall only disclose information requested pursuant to paragraph (1) if the Commandant determines—

“(A) that such tapes, reports, or other information would be included within and releasable with the final accident investigation report; and

“(B) that release of such tapes, reports, or other information—

“(i) would not undermine the ability of accident or safety investigators to continue to conduct the investigation; and

“(ii) would not compromise national security.

“(3) RESTRICTION.—A disclosure under paragraph (1) may not be made by or through officials with responsibility for, or who are conducting, a safety investigation with respect to the accident.

“(c) OPINIONS REGARDING CAUSATION OF ACCIDENT.—Following an aircraft accident referred to in subsection (a)—

“(1) if the evidence surrounding the accident is sufficient for the investigators who conduct the accident investigation to come to an opinion as to the cause or causes of the accident, the final report of the accident investigation shall set forth the opinion of the investigators as to the cause or causes of the accident; and

“(2) if the evidence surrounding the accident is not sufficient for the investigators to come to an opinion as to the cause or causes of the accident, the final report of the accident investigation shall include a description of those factors, if any, that, in the opinion of the investigators, substantially contributed to or caused the accident.

“(d) USE OF INFORMATION IN CIVIL OR CRIMINAL PROCEEDINGS.—For purposes of any civil or criminal proceeding arising from an aircraft accident referred to in subsection (a), any opinion of the accident investigators as to the cause of, or the factors contributing to, the accident set forth in the accident investigation report may not be considered as evidence in such proceeding, nor may such report be considered an admission of liability by the United States or by any person referred to in such report.

“(e) DEFINITIONS.—For purposes of this section—

“(1) the term ‘accident investigation’ means any form of investigation by Coast Guard personnel of an aircraft accident referred to in subsection (a), other than a safety investigation; and

“(2) the term ‘safety investigation’ means an investigation by Coast Guard personnel of an aircraft accident referred to



in subsection (a) that is conducted solely to determine the cause of the accident and to obtain information that may prevent the occurrence of similar accidents.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, as amended by this Act, is further amended by adding at the end the following:

“678. Aircraft accident investigations.”.

**SEC. 215. COAST GUARD AUXILIARY ENROLLMENT ELIGIBILITY.**

(a) IN GENERAL.—Section 823 of title 14, United States Code, is amended to read as follows:

**“§ 823. Eligibility; enrollments**

“The Auxiliary shall be composed of nationals of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), and aliens lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))—

“(1) who—

“(A) are owners, sole or part, of motorboats, yachts, aircraft, or radio stations; or

“(B) by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary; and

“(2) who may be enrolled therein pursuant to applicable regulations.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 23 of title 14, United States Code, is amended by striking the item relating to section 823 and inserting the following:

“823. Eligibility; enrollments.”.

**SEC. 216. REPEALS.**

(a) DISTRICT OMBUDSMEN.—Section 55 of title 14, United States Code, and the item relating to such section in the analysis for chapter 3 of such title, are repealed.

(b) COOPERATION WITH RESPECT TO AIDS TO AIR NAVIGATION.—Section 82 of title 14, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

(c) OCEAN STATIONS.—Section 90 of title 14, United States Code, and the item relating to such section in the analysis for chapter 5 of such title, are repealed.

(d) DETAIL OF MEMBERS TO ASSIST FOREIGN GOVERNMENTS.—Section 149(a) of title 14, United States Code, is amended by striking the second and third sentences.

(e) ADVISORY COMMITTEE.—Section 193 of title 14, United States Code, and the item relating to such section in the analysis for chapter 9 of such title, are repealed.

(f) HISTORY FELLOWSHIPS.—Section 198 of title 14, United States Code, and the item relating to such section in the analysis for chapter 9 of such title, are repealed.

**SEC. 217. TECHNICAL CORRECTIONS TO TITLE 14.**

Title 14, United States Code, as amended by this Act, is further amended—

(1) by amending chapter 1 to read as follows:

**“CHAPTER 1—ESTABLISHMENT AND DUTIES**

“Sec.

“1. Establishment of Coast Guard.

“2. Primary duties.

“3. Department in which the Coast Guard operates.

“4. Secretary defined.

**“§ 1. Establishment of Coast Guard**

“The Coast Guard, established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times.

**“§ 2. Primary duties**

“The Coast Guard shall—

“(1) enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States;

“(2) engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;

“(3) administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States, covering all matters not specifically delegated by law to some other executive department;

“(4) develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, icebreaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States;

“(5) pursuant to international agreements, develop, establish, maintain, and operate icebreaking facilities on, under, and over waters other than the high seas and waters subject to the jurisdiction of the United States;

“(6) engage in oceanographic research of the high seas and in waters subject to the jurisdiction of the United States; and

“(7) maintain a state of readiness to function as a specialized service in the Navy in time of war, including the fulfillment of Maritime Defense Zone command responsibilities.

**“§ 3. Department in which the Coast Guard operates**

“(a) IN GENERAL.—The Coast Guard shall be a service in the Department of Homeland Security, except when operating as a service in the Navy.

President.

“(b) TRANSFERS.—Upon the declaration of war if Congress so directs in the declaration or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, by Executive order, transfers the Coast Guard back to the Department of Homeland Security. While operating as a service in the Navy, the Coast Guard shall be subject to the orders of the Secretary of the Navy, who may order changes in Coast Guard operations to render them uniform, to the extent such Secretary deems advisable, with Navy operations.

“(c) OPERATION AS A SERVICE IN THE NAVY.—Whenever the Coast Guard operates as a service in the Navy—

“(1) applicable appropriations of the Navy Department shall be available for the expense of the Coast Guard;

“(2) applicable appropriations of the Coast Guard shall be available for transfer to the Navy Department;

“(3) precedence between commissioned officers of corresponding grades in the Coast Guard and the Navy shall be determined by the date of rank stated by their commissions in those grades;

“(4) personnel of the Coast Guard shall be eligible to receive gratuities, medals, and other insignia of honor on the same basis as personnel in the naval service or serving in any capacity with the Navy; and

“(5) the Secretary may place on furlough any officer of the Coast Guard and officers on furlough shall receive one half of the pay to which they would be entitled if on leave of absence, but officers of the Coast Guard Reserve shall not be so placed on furlough.

#### “§ 4. Secretary defined

“In this title, the term ‘Secretary’ means the Secretary of the respective department in which the Coast Guard is operating.”;

(2) in section 95(c), by striking “of Homeland Security”;

(3) in section 259(c)(1), by striking “After selecting” and inserting “In selecting”;

(4) in section 286a(d), by striking “severance pay” each place it appears and inserting “separation pay”;

(5) in the second sentence of section 290(a), by striking “in the grade of vice admiral” and inserting “in or above the grade of vice admiral”;

(6) in section 516(a), by striking “of Homeland Security”;

(7) by amending section 564 to read as follows:

#### “§ 564. Prohibition on use of lead systems integrators

“(a) IN GENERAL.—

“(1) USE OF LEAD SYSTEMS INTEGRATOR.—The Commandant may not use a private sector entity as a lead systems integrator.

“(2) FULL AND OPEN COMPETITION.—The Commandant shall use full and open competition for any acquisition contract unless otherwise excepted in accordance with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.

“(3) NO EFFECT ON SMALL BUSINESS ACT.—Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided by and under the Small Business Act (15 U.S.C. 631 et seq.).

“(b) LIMITATION ON FINANCIAL INTEREST IN SUBCONTRACTORS.—Neither an entity performing lead systems integrator functions for a Coast Guard acquisition nor a Tier 1 subcontractor for any acquisition may have a financial interest in a subcontractor below the Tier 1 subcontractor level unless—

“(1) the subcontractor was selected by the prime contractor through full and open competition for such procurement;

“(2) the procurement was awarded by an entity performing lead systems integrator functions or a subcontractor through full and open competition;

“(3) the procurement was awarded by a subcontractor through a process over which the entity performing lead systems integrator functions or a Tier 1 subcontractor exercised no control; or

“(4) the Commandant has determined that the procurement was awarded in a manner consistent with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.”;

(8) in section 569(a), by striking “and annually thereafter,”;

(9) in the analysis for chapter 17—

(A) by striking the item relating to section 669 and inserting the following:

“669. Telephone installation and charges.”; and

(B) by striking the item relating to section 674 and inserting the following:

“674. Small boat station rescue capability.”;

(10) in section 666(a), by striking “of Homeland Security” and inserting “of the department in which the Coast Guard is operating”;

(11) in section 673(a)(3), by striking “of Homeland Security (when the Coast Guard is not operating as a service in the Navy)”;

(12) in section 674, by striking “of Homeland Security”;

(13) in section 675(a), by striking “Secretary” and all that follows through “may not” and inserting “Secretary may not”; and

(14) in the first sentence of section 740(d), by striking “that appointment” and inserting “that appointment to the Reserve”.

#### **SEC. 218. ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.**

Section 404 of the Coast Guard Authorization Act of 2010 (Public Law 111-281; 124 Stat. 2950) is amended—

(1) in subsection (a)(1), by striking “as shortage category positions;” and inserting “as positions for which there exists a shortage of candidates or there is a critical hiring need;”;

(2) in subsection (b)—

(A) by striking “paragraph” and inserting “section”; and

(B) by striking “2012.” and inserting “2015.”; and

(3) in subsection (c), by striking “section 562(d) of title 14, United States Code, as added by this title,” and inserting “section 569a of title 14, United States Code,”.

10 USC 1293  
note.

Applicability.

#### **SEC. 219. RENEWAL OF TEMPORARY EARLY RETIREMENT AUTHORITY.**

For fiscal years 2013 through 2018—

(1) notwithstanding subsection (c)(2)(A) of section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1293 note), such section shall apply to the Coast Guard in the same manner and to the same extent it applies to the Department of Defense, except that—

(A) the Secretary of Homeland Security shall implement such section with respect to the Coast Guard and, for purposes of that implementation, shall apply the applicable provisions of title 14, United States Code, relating to retirement of Coast Guard personnel; and

(B) the total number of commissioned officers who retire pursuant to this section may not exceed 200, and the total number of enlisted members who retire pursuant to this section may not exceed 300; and

(2) only appropriations available for necessary expenses for the operation and maintenance of the Coast Guard shall be expended for the retired pay of personnel who retire pursuant to this section.

#### SEC. 220. RESPONSE BOAT-MEDIUM PROCUREMENT.

(a) REQUIREMENT TO FULFILL APPROVED PROGRAM OF RECORD.—Except as provided in subsection (b), the Commandant of the Coast Guard shall maintain the schedule and requirements for the total acquisition of 180 boats as specified in the approved program of record for the Response Boat-Medium acquisition program in effect on June 1, 2012.

(b) APPLICABILITY.—Subsection (a) shall not apply on and after the date on which the Commandant submits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate such documentation as the Coast Guard Major Systems Acquisition Manual requires to justify reducing the approved program of record for Response Boat-Medium to a total acquisition of less than 180 boats.

#### SEC. 221. NATIONAL SECURITY CUTTERS.

14 USC 573 note.

(a) IN GENERAL.—

(1) MULTIYEAR AUTHORITY.—In fiscal year 2013 and each fiscal year thereafter, the Secretary of the department in which the Coast Guard is operating may enter into, in accordance with section 2306b of title 10, United States Code, a multiyear contract for the procurement of Coast Guard National Security Cutters and Government-furnished equipment associated with the National Security Cutter program.

Contracts.

(2) LIMITATION.—The Secretary may not enter into a contract under paragraph (1) until the date that is 30 days after the date the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a certification that the Secretary has made, with respect to the contract, each of the findings specified under section 2306b(a) of title 10, United States Code, and has done so in accordance with paragraph (3) of this subsection.

Time period.  
Certification.

(3) DETERMINATION OF SUBSTANTIAL SAVINGS.—For purposes of this section, in conducting an analysis with respect to substantial savings under section 2306b(a)(1) of title 10, United States Code, the Secretary—

Analysis.

(A) may not limit the analysis to a simple percentage-based metric; and

(B) shall employ a full-scale analysis of cost avoidance—

(i) based on a multiyear procurement; and

(ii) taking into account the potential benefit any accrued savings might have for future shipbuilding programs if the cost avoidance savings were subsequently utilized for further ship construction.

- (b) **CERTIFICATE TO OPERATE.**—The Commandant of the Coast Guard may not certify a sixth National Security Cutter as Ready for Operations before the Commandant has—
- Plans. (1) submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives program execution plans detailing—
- (A) how the first 3 National Security Cutters will achieve the goal of 225 days away from homeport in fiscal years following the completion of the Structural Enhancement Drydock Availability of the first 2 National Security Cutters; and
- (B) increased aerial coverage to support National Security Cutter operations; and
- Contracts. (2) awarded a contract for detailed design and construction for the Offshore Patrol Cutter.

**SEC. 222. COAST GUARD POLAR ICEBREAKERS.**

- Analysis.  
Termination  
date. (a) **IN GENERAL.**—The Secretary of the department in which the Coast Guard is operating shall conduct a business case analysis of the options for and costs of reactivating and extending the service life of the Polar Sea until at least September 30, 2022, to maintain United States polar icebreaking capabilities and fulfill the Coast Guard's high latitude mission needs, as identified in the Coast Guard's July 2010, High Latitude Study Mission Analysis Report, during the Coast Guard's recapitalization of its polar class icebreaker fleet. The analysis shall include—
- (1) an assessment of the current condition of the Polar Sea;
- (2) a determination of the Polar Sea's operational capabilities with respect to fulfilling the Coast Guard's high latitude operating requirements if renovated and reactivated;
- (3) a detailed estimate of costs with respect to reactivating and extending the service life of the Polar Sea;
- (4) a life cycle cost estimate with respect to operating and maintaining the Polar Sea for the duration of its extended service life; and
- (5) a determination of whether it is cost-effective to reactivate the Polar Sea compared with other options to provide icebreaking services as part of a strategy to maintain polar icebreaking services.
- (b) **RESTRICTIONS.**—The Secretary shall not remove any part of the Polar Sea until the Secretary submits the analysis required under subsection (a).
- (c) **DEADLINE.**—Not later than 270 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the analysis required under subsection (a).
- (d) **REQUIREMENT FOR REACTIVATION OF POLAR SEA.**—
- (1) **SERVICE LIFE EXTENSION PLAN.**—
- Determination. (A) **IN GENERAL.**—If the Secretary determines based on the analysis required under subsection (a) that it is cost-effective to reactivate the Polar Sea compared with other options to provide icebreaking services, the Secretary shall develop a service life extension plan for such reactivation, including a timetable for such reactivation.

(B) UTILIZATION OF EXISTING RESOURCES.—In the development of the plan required under subparagraph (A), the Secretary shall utilize to the greatest extent practicable recent plans, studies, assessments, and analyses regarding the Coast Guard’s icebreakers and high latitude mission needs and operating requirements.

(C) SUBMISSION.—The Secretary shall submit the plan required under subparagraph (A), if so required, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the submission of the analysis required under subsection (a). Deadline.

(2) DECOMMISSIONING; BRIDGING STRATEGY.—If the analysis required under subsection (a) is submitted in accordance with subsection (c) and the Secretary determines under subsection (a)(5) that it is not cost-effective to reactivate the Polar Sea, then not later than 180 days after the date on which the analysis is required to be submitted under subsection (c) the Commandant of the Coast Guard— Deadline.

(A) may decommission the Polar Sea; and

(B) shall submit a bridging strategy for maintaining the Coast Guard’s polar icebreaking services until at least September 30, 2022, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Termination date.

(e) RESTRICTION.—Except as provided in subsection (d), the Commandant of the Coast Guard may not—

(1) transfer, relinquish ownership of, dismantle, or recycle the Polar Sea or Polar Star;

(2) change the current homeport of either of the vessels;

or

(3) expend any funds—

(A) for any expenses directly or indirectly associated with the decommissioning of either of the vessels, including expenses for dock use or other goods and services;

(B) for any personnel expenses directly or indirectly associated with the decommissioning of either of the vessels, including expenses for a decommissioning officer;

(C) for any expenses associated with a decommissioning ceremony for either of the vessels;

(D) to appoint a decommissioning officer to be affiliated with either of the vessels; or

(E) to place either of the vessels in inactive status.

(f) DEFINITION.—For purposes of this section—

(1) the term “Polar Sea” means Coast Guard Cutter Polar Sea (WAGB 11); and

(2) the term “Polar Star” means Coast Guard Cutter Polar Star (WAGB 10).

(g) REPEAL.—This section shall cease to have effect on September 30, 2022. Termination date.

### TITLE III—SHIPPING AND NAVIGATION

#### SEC. 301. IDENTIFICATION OF ACTIONS TO ENABLE QUALIFIED UNITED STATES FLAG CAPACITY TO MEET NATIONAL DEFENSE REQUIREMENTS.

Section 501(b) of title 46, United States Code, is amended—

(1) by striking “When the head” and inserting the following:

“(1) IN GENERAL.—When the head”; and

(2) by adding at the end the following:

“(2) DETERMINATIONS.—The Maritime Administrator shall—

“(A) for each determination referred to in paragraph (1), identify any actions that could be taken to enable qualified United States flag capacity to meet national defense requirements;

Notice.

“(B) provide notice of each such determination to the Secretary of Transportation and the head of the agency referred to in paragraph (1) for which the determination is made; and

Web posting.  
Deadline.

“(C) publish each such determination on the Internet Web site of the Department of Transportation not later than 48 hours after notice of the determination is provided to the Secretary of Transportation.

“(3) NOTICE TO CONGRESS.—

Waivers.  
Deadline.

“(A) IN GENERAL.—The head of an agency referred to in paragraph (1) shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

“(i) of any request for a waiver of the navigation or vessel-inspection laws under this section not later than 48 hours after receiving such a request; and

“(ii) of the issuance of any such waiver not later than 48 hours after such issuance.

“(B) CONTENTS.—Such head of an agency shall include in each notification under subparagraph (A)(ii) an explanation of—

“(i) the reasons the waiver is necessary; and

“(ii) the reasons actions referred to in paragraph (2)(A) are not feasible.”.

#### SEC. 302. LIMITATION OF LIABILITY FOR NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.

(a) IN GENERAL.—Section 2307 of title 46, United States Code, is amended—

(1) by striking the section designation and heading and inserting the following:

#### “§ 2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots and non-Federal vessel traffic service operators”;

(2) by striking “Any pilot” and inserting the following:

“(a) COAST GUARD VESSEL TRAFFIC SERVICE PILOTS.—Any pilot”; and

(3) by adding at the end the following:



“(b) NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.—An entity operating a non-Federal vessel traffic information service or advisory service pursuant to a duly executed written agreement with the Coast Guard, and any pilot acting on behalf of such entity, is not liable for damages caused by or related to information, advice, or communication assistance provided by such entity or pilot while so operating or acting unless the acts or omissions of such entity or pilot constitute gross negligence or willful misconduct.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 23 of title 46, United States Code, is amended by striking the item relating to section 2307 and inserting the following:

“2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots and non-Federal vessel traffic service operators.”

#### SEC. 303. SURVIVAL CRAFT.

Section 3104 of title 46, United States Code, is amended—

(1) in subsection (b) by striking “January 1, 2015” and inserting “the date that is 30 months after the date on which the report described in subsection (c) is submitted”; and

(2) by adding at the end the following:

“(c) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the carriage of survival craft that ensures no part of an individual is immersed in water, which shall include—

“(1) the number of casualties, by vessel type and area of operation, as the result of immersion in water reported to the Coast Guard for each of fiscal years 1991 through 2011;

“(2) the effect the carriage of such survival craft has on—

“(A) vessel safety, including stability and safe navigation; and

“(B) survivability of individuals, including persons with disabilities, children, and the elderly;

“(3) the efficacy of alternative safety systems, devices, or measures;

“(4) the cost and cost effectiveness of requiring the carriage of such survival craft on vessels; and

“(5) the number of small businesses and nonprofit entities that would be affected by requiring the carriage of such survival craft on vessels.”

#### SEC. 304. CLASSIFICATION SOCIETIES.

Section 3316 of title 46, United States Code, is amended—

(1) in subsection (b)(2)—

(A) by striking “and” at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting “; and”; and

(C) by adding at the end the following:

“(C) if the Secretary of State determines that the foreign classification society does not provide comparable services in or for a state sponsor of terrorism.”;

(2) in subsection (d)(2)—

(A) by striking “and” at the end of subparagraph (A);

- (B) by striking the period at the end of subparagraph (B) and inserting “; and”; and
- (C) by adding at the end the following:
- “(C) the Secretary of State determines that the foreign classification society does not provide comparable services in or for a state sponsor of terrorism.”; and
- (3) by adding at the end the following:
- “(e) The Secretary shall revoke a delegation made to a classification society under subsection (b) or (d) if the Secretary of State determines that the classification society provides comparable services in or for a state sponsor of terrorism.
- “(f) In this section, the term ‘state sponsor of terrorism’ means any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism pursuant to section 6(j) of the Export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act), section 620A of the Foreign Assistance Act of 1961, section 40 of the Arms Export Control Act, or any other provision of law.”.

Revocation.  
Determination.

Definition.

#### SEC. 305. DOCKSIDE EXAMINATIONS.

- (a) IN GENERAL.—Section 4502(f) of title 46, United States Code, is amended—
- (1) in paragraph (1), by striking “and” at the end;
- (2) in paragraph (2)—
- (A) by striking “at least once every 2 years” and inserting “at least once every 5 years”; and
- (B) by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:
- “(3) shall complete the first dockside examination of a vessel under this subsection not later than October 15, 2015.”.
- (b) DATABASE.—Section 4502(g)(4) of title 46, United States Code, is amended by striking “a publicly accessible” and inserting “an”.
- (c) CERTIFICATION.—Section 4503 of title 46, United States Code, is amended—
- (1) in subsection (c), by striking “July 1, 2012.” and inserting “July 1, 2013.”;
- (2) in subsection (d)—
- (A) in paragraph (1)(B), by striking “July 1, 2012;” and inserting “July 1, 2013;”; and
- (B) in paragraph (2)—
- (i) by striking “July 1, 2012,” each place it appears and inserting “July 1, 2013;”; and
- (ii) by striking “substantial change to the dimension of or type of vessel” and inserting “major conversion”; and
- (3) by adding at the end the following:
- “(e) For the purposes of this section, the term ‘built’ means, with respect to a vessel, that the vessel’s construction has reached any of the following stages:
- “(1) The vessel’s keel is laid.
- “(2) Construction identifiable with the vessel has begun and assembly of that vessel has commenced comprising of at least 50 metric tons or one percent of the estimated mass of all structural material, whichever is less.”.

Deadline.

Definition.

(d) CONFORMING AMENDMENTS.—Chapter 51 of title 46, United States Code, is amended—

(1) in section 5102(b)(3), by striking “July 1, 2012.” and inserting “July 1, 2013.”; and

(2) in section 5103(c)—

(A) by striking “July 1, 2012,” each place it appears and inserting “July 1, 2013.”; and

(B) by striking “substantial change to the dimension of or type of the vessel” and inserting “major conversion”.

**SEC. 306. AUTHORITY TO EXTEND THE DURATION OF MEDICAL CERTIFICATES.**

(a) IN GENERAL.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

**“§ 7508. Authority to extend the duration of medical certificates**

“(a) GRANTING OF EXTENSIONS.—Notwithstanding any other provision of law, the Secretary may extend for not more than one year a medical certificate issued to an individual holding a license, merchant mariner’s document, or certificate of registry issued under chapter 71 or 73 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for medical certificates or is in response to a national emergency or natural disaster.

Determination.

“(b) MANNER OF EXTENSION.—An extension under this section may be granted to individual seamen or a specifically identified group of seamen.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 75 of title 46, United States Code, is amended by adding at the end the following:

“7508. Authority to extend the duration of medical certificates.”.

**SEC. 307. CLARIFICATION OF RESTRICTIONS ON AMERICAN FISHERIES ACT VESSELS.**

Section 12113(d)(2) of title 46, United States Code, is amended—

(1) in subparagraph (B)—

(A) by striking “that the regional” and inserting the following: “that—

“(i) the regional”;

(B) by striking the semicolon and inserting “; and”; and

(C) by adding at the end the following:

“(ii) in the case of a vessel listed in paragraphs (1) through (20) of section 208(e) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–625 et seq.), the vessel is neither participating in nor eligible to participate in the non-AFA trawl catcher processor subsector (as that term is defined under section 219(a)(7) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2887));”; and

(2) by amending subparagraph (C) to read as follows:

“(C) the vessel—

“(i) is either a rebuilt vessel or replacement vessel under section 208(g) of the American Fisheries Act

(title II of division C of Public Law 105–277; 112 Stat. 2681–627);

“(ii) is eligible for a fishery endorsement under this section; and

“(iii) in the case of a vessel listed in paragraphs (1) through (20) of section 208(e) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–625 et seq.), is neither participating in nor eligible to participate in the non-AFA trawl catcher processor subsector (as that term is defined under section 219(a)(7) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2887); or”.

#### SEC. 308. INVESTIGATIONS BY SECRETARY.

(a) IN GENERAL.—Chapter 121 of title 46, United States Code, is amended by inserting after section 12139 the following:

##### “§ 12140. Investigations by Secretary

“(a) IN GENERAL.—The Secretary may conduct investigations and inspections regarding compliance with this chapter and regulations prescribed under this chapter.

“(b) AUTHORITY TO OBTAIN EVIDENCE.—

“(1) IN GENERAL.—For the purposes of any investigation conducted under this section, the Secretary may issue a subpoena to require the attendance of a witness or the production of documents or other evidence relevant to the matter under investigation if—

Determination.

“(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General as to whether the subpoena—

“(i) is reasonable; and

“(ii) will interfere with a criminal investigation;

and

“(B) the Attorney General—

“(i) determines that the subpoena is reasonable and will not interfere with a criminal investigation; or

Time period.

“(ii) fails to make a determination with respect to the subpoena before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A) with respect to the subpoena.

“(2) ENFORCEMENT.—In the case of a refusal to obey a subpoena issued to any person under this section, the Secretary may invoke the aid of the appropriate district court of the United States to compel compliance.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12139 the following:

“12140. Investigations by Secretary.”.

#### SEC. 309. PENALTIES.

Section 12151(a) of title 46, United States Code, is amended—

(1) by striking “A person that violates” and inserting the following:

“(1) CIVIL PENALTIES.—Except as provided in paragraph (2), a person that violates”;

(2) by striking “\$10,000” and inserting “\$15,000”; and

(3) by adding at the end the following:

“(2) ACTIVITIES INVOLVING MOBILE OFFSHORE DRILLING UNITS.—A person that violates section 12111(d) or a regulation prescribed under that section is liable to the United States Government for a civil penalty in an amount that is \$25,000 or twice the charter rate of the vessel involved in the violation (as determined by the Secretary), whichever is greater. Each day of a continuing violation is a separate violation.”.

**SEC. 310. UNITED STATES COMMITTEE ON THE MARINE TRANSPORTATION SYSTEM.**

(a) IN GENERAL.—Chapter 555 of title 46, United States Code, is amended by adding at the end the following:

**“§ 55502. United States Committee on the Marine Transportation System**

“(a) ESTABLISHMENT.—There is established a United States Committee on the Marine Transportation System (in this section referred to as the ‘Committee’).

“(b) PURPOSE.—The Committee shall serve as a Federal inter-agency coordinating committee for the purpose of—

“(1) assessing the adequacy of the marine transportation system (including ports, waterways, channels, and their inter-modal connections);

“(2) promoting the integration of the marine transportation system with other modes of transportation and other uses of the marine environment; and

“(3) coordinating, improving the coordination of, and making recommendations with regard to Federal policies that impact the marine transportation system.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The Committee shall consist of—

“(A) the Secretary of Transportation;

“(B) the Secretary of Defense;

“(C) the Secretary of Homeland Security;

“(D) the Secretary of Commerce;

“(E) the Secretary of the Treasury;

“(F) the Secretary of State;

“(G) the Secretary of the Interior;

“(H) the Secretary of Agriculture;

“(I) the Attorney General;

“(J) the Secretary of Labor;

“(K) the Secretary of Energy;

“(L) the Administrator of the Environmental Protection Agency;

“(M) the Chairman of the Federal Maritime Commission;

“(N) the Chairman of the Joint Chiefs of Staff; and

“(O) the head of any other Federal agency who a majority of the voting members of the Committee determines can further the purpose and activities of the Committee.

“(2) NONVOTING MEMBERS.—The Committee may include as many nonvoting members as a majority of the voting members of the Committee determines is appropriate to further the purpose and activities of the Committee.

- “(d) SUPPORT.—
- “(1) COORDINATING BOARD.—
- Establishment.      “(A) IN GENERAL.—There is hereby established, within the Committee, a Coordinating Board. Each member of the Committee may select a senior level representative to serve on such Board. The Board shall assist the Committee in carrying out its purpose and activities.
- “(B) CHAIR.—There shall be a Chair of the Coordinating Board. The Chair of the Coordinating Board shall rotate each year among the Secretary of Transportation, the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Commerce. The order of rotation shall be determined by a majority of the voting members of the Committee.
- Appointment.      “(2) EXECUTIVE DIRECTOR.—The Secretary of Transportation, in consultation with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Commerce, shall appoint an Executive Director of the Committee.
- “(3) TRANSFERS.—Notwithstanding any other provision of law, the head of a Federal department or agency who is a member of the Committee may—
- “(A) provide, on a reimbursable or nonreimbursable basis, facilities, equipment, services, personnel, and other support services to carry out the activities of the Committee; and
- “(B) transfer funds to another Federal department or agency in order to carry out the activities of the Committee.
- Deadlines.      “(e) MARINE TRANSPORTATION SYSTEM ASSESSMENT AND Reports.      STRATEGY.—Not later than one year after the date of enactment of this Act and every 5 years thereafter, the Committee shall Plan.      provide to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—
- “(1) steps taken to implement actions recommended in the document titled ‘National Strategy for the Marine Transportation System: A Framework for Action’ and dated July 2008;
- “(2) an assessment of the condition of the marine transportation system;
- “(3) a discussion of the challenges the marine transportation system faces in meeting user demand, including estimates of investment levels required to ensure system infrastructure meets such demand;
- “(4) a plan, with recommended actions, for improving the marine transportation system to meet current and future challenges; and
- “(5) steps taken to implement actions recommended in previous reports required under this subsection.
- “(f) CONSULTATION.—In carrying out its purpose and activities, the Committee may consult with marine transportation system-related advisory committees, interested parties, and the public.”.
- (b) CLERICAL AMENDMENT.—The analysis for chapter 555 of title 46, United States Code, is amended by adding at the end the following:

“55502. United States Committee on the Marine Transportation System.”.

**SEC. 311. TECHNICAL CORRECTION TO TITLE 46.**

Section 7507(a) of title 46, United States Code, is amended by striking “73” each place it appears and inserting “71”.

**SEC. 312. DEEPWATER PORTS.**

Section 3(9)(A) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(9)(A)) is amended by inserting “or from” before “any State”.

## **TITLE IV—MARITIME ADMINISTRATION AUTHORIZATION**

Maritime  
Administration  
Authorization  
Act for Fiscal  
Year 2013.

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Maritime Administration Authorization Act for Fiscal Year 2013”.

**SEC. 402. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL SECURITY ASPECTS OF THE MERCHANT MARINE FOR FISCAL YEAR 2013.**

Funds are hereby authorized to be appropriated for fiscal year 2013, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for Maritime Administration programs associated with maintaining national security aspects of the merchant marine, as follows:

(1) For expenses necessary for operations of the United States Merchant Marine Academy, \$77,253,000, of which—

(A) \$67,253,000 shall remain available until expended for Academy operations; and

(B) \$10,000,000 shall remain available until expended for capital asset management at the Academy.

(2) For expenses necessary to support the State maritime academies, \$16,045,000, of which—

(A) \$2,400,000 shall remain available until expended for student incentive payments;

(B) \$2,545,000 shall remain available until expended for direct payments to such academies; and

(C) \$11,100,000 shall remain available until expended for maintenance and repair of State maritime academy training vessels.

(3) For expenses necessary to dispose of vessels in the National Defense Reserve Fleet, \$12,717,000, to remain available until expended.

(4) For expenses to maintain and preserve a United States-flag merchant marine to serve the national security needs of the United States under chapter 531 of title 46, United States Code, \$186,000,000.

(5) For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program authorized by chapter 537 of title 46, United States Code, \$3,750,000, all of which shall remain available until expended for administrative expenses of the program.

**SEC. 403. MARITIME ENVIRONMENTAL AND TECHNICAL ASSISTANCE.**

(a) IN GENERAL.—Chapter 503 of title 46, United States Code, is amended by adding at the end the following:

**“§ 50307. Maritime environmental and technical assistance program**

“(a) IN GENERAL.—The Secretary of Transportation may engage in the environmental study, research, development, assessment, and deployment of emerging marine technologies and practices related to the marine transportation system through the use of public vessels under the control of the Maritime Administration or private vessels under United States registry, and through partnerships and cooperative efforts with academic, public, private, and nongovernmental entities and facilities.

“(b) COMPONENTS.—Under this section, the Secretary of Transportation may—

“(1) identify, study, evaluate, test, demonstrate, or improve emerging marine technologies and practices that are likely to achieve environmental improvements by—

“(A) reducing air emissions, water emissions, or other ship discharges;

“(B) increasing fuel economy or the use of alternative fuels and alternative energy (including the use of shore power); or

“(C) controlling aquatic invasive species; and

“(2) coordinate with the Environmental Protection Agency, the Coast Guard, and other Federal, State, local, or tribal agencies, as appropriate.

“(c) COORDINATION.—Coordination under subsection (b)(2) may include—

“(1) activities that are associated with the development or approval of validation and testing regimes; and

“(2) certification or validation of emerging technologies or practices that demonstrate significant environmental benefits.

“(d) ASSISTANCE.—The Secretary of Transportation may accept gifts, or enter into cooperative agreements, contracts, or other agreements with academic, public, private, and nongovernmental entities and facilities to carry out the activities authorized under subsection (a).”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 503 of title 46, United States Code, is amended by inserting after the item relating to section 50306 the following:

“50307. Maritime environmental and technical assistance program.”.

**SEC. 404. PROPERTY FOR INSTRUCTIONAL PURPOSES.**

Section 51103(b) of title 46, United States Code, is amended—

(1) in the subsection heading, by striking “SURPLUS”;

(2) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary may cooperate with and assist the institutions named in paragraph (2) by making vessels, fuel, shipboard equipment, and other marine equipment, owned by the United States Government and determined by the entity having custody and control of such property to be excess or surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms and conditions the Secretary considers appropriate. The consent of the Secretary of the Navy shall be obtained with respect to any property from National Defense Reserve Fleet vessels, if such vessels are either Ready Reserve Force vessels or other National Defense Reserve Fleet vessels determined to be of



sufficient value to the Navy to warrant their further preservation and retention.”; and

(3) in paragraph (2)(C), by inserting “or a training institution that is an instrumentality of a State, the District of Columbia, a territory or possession of the United States, or a unit of local government thereof” after “a nonprofit training institution”.

**SEC. 405. SHORT SEA TRANSPORTATION.**

(a) PURPOSE.—Section 55601 of title 46, United States Code, is amended—

(1) in subsection (a), by striking “landside congestion.” and inserting “landside congestion or to promote short sea transportation.”;

(2) in subsection (c), by striking “coastal corridors” and inserting “coastal corridors or to promote short sea transportation”;

(3) in subsection (d), by striking “that the project may” and all that follows through the end of the subsection and inserting “that the project uses documented vessels and—

“(1) mitigates landside congestion; or

“(2) promotes short sea transportation.”; and

(4) in subsection (f), by striking “shall” each place it appears and inserting “may”.

(b) DOCUMENTATION.—Section 55605 is amended in the matter preceding paragraph (1) by striking “by vessel” and inserting “by a documented vessel”.

**SEC. 406. LIMITATION OF NATIONAL DEFENSE RESERVE FLEET VESSELS TO THOSE OVER 1,500 GROSS TONS.**

Section 57101(a) of title 46, United States Code, is amended by inserting “of 1,500 gross tons or more or such other vessels as the Secretary of Transportation determines are appropriate” after “Administration”.

**SEC. 407. TRANSFER OF VESSELS TO THE NATIONAL DEFENSE RESERVE FLEET.**

Section 57101 of title 46, United States Code, is amended by adding at the end the following:

“(c) AUTHORITY OF FEDERAL ENTITIES TO TRANSFER VESSELS.—All Federal entities are authorized to transfer vessels to the National Defense Reserve Fleet without reimbursement subject to the approval of the Secretary of Transportation and the Secretary of the Navy with respect to Ready Reserve Force vessels and the Secretary of Transportation with respect to all other vessels.”.

**SEC. 408. CLARIFICATION OF HEADING.**

(a) IN GENERAL.—The section designation and heading for section 57103 of title 46, United States Code, is amended to read as follows:

**“§ 57103. Donation of nonretention vessels in the National Defense Reserve Fleet”.**

(b) CLERICAL AMENDMENT.—The analysis for chapter 571 of title 46, United States Code, is amended by striking the item relating to section 57103 and inserting the following:

“57103. Donation of nonretention vessels in the National Defense Reserve Fleet.”.

**SEC. 409. MISSION OF THE MARITIME ADMINISTRATION.**

Section 109(a) of title 49, United States Code, is amended—

(1) in the subsection heading by striking “ORGANIZATION” and inserting “ORGANIZATION AND MISSION”; and

(2) by adding at the end the following: “The mission of the Maritime Administration is to foster, promote, and develop the merchant maritime industry of the United States.”.

**SEC. 410. AMENDMENTS RELATING TO THE NATIONAL DEFENSE RESERVE FLEET.**

Subparagraphs (B), (C), and (D) of section 11(c)(1) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744(c)(1)) are amended to read as follows:

“(B) activate and conduct sea trials on each vessel at a frequency that is considered by the Secretary to be necessary;

“(C) maintain and adequately crew, as necessary, in an enhanced readiness status those vessels that are scheduled to be activated in 5 or less days;

“(D) locate those vessels that are scheduled to be activated near embarkation ports specified for those vessels; and”.

**SEC. 411. REQUIREMENT FOR BARGE DESIGN.**

Deadline.

Not later than 270 days after the date of enactment of this Act, the Administrator of the Maritime Administration shall complete the design for a containerized, articulated barge, as identified in the dual-use vessel study carried out by the Administrator and the Secretary of Defense, that is able to utilize roll-on/roll-off or load-on/load-off technology in marine highway maritime commerce.

**SEC. 412. CONTAINER-ON-BARGE TRANSPORTATION.**

(a) **ASSESSMENT.**—The Administrator of the Maritime Administration shall assess the potential for using container-on-barge transportation in short sea transportation (as such term is defined in section 55605 of title 46, United States Code).

(b) **FACTORS.**—In conducting the assessment under subsection (a), the Administrator shall consider—

(1) the environmental benefits of increasing container-on-barge movements in short sea transportation;

(2) the regional differences in the use of short sea transportation;

(3) the existing programs established at coastal and Great Lakes ports for establishing awareness of deep sea shipping operations;

(4) the mechanisms necessary to ensure that implementation of a plan under subsection (c) will not be inconsistent with antitrust laws; and

(5) the potential frequency of container-on-barge service at short sea transportation ports.

(c) **RECOMMENDATIONS.**—The assessment under subsection (a) may include recommendations for a plan to increase awareness of the potential for use of container-on-barge transportation.

(d) **DEADLINE.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit the assessment required under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 413. DEPARTMENT OF DEFENSE NATIONAL STRATEGIC PORTS  
STUDY AND COMPTROLLER GENERAL STUDIES AND  
REPORTS ON STRATEGIC PORTS.**

(a) **SENSE OF CONGRESS ON COMPLETION OF DOD REPORT.**—It is the sense of Congress that the Secretary of Defense should expedite completion of the study of strategic ports in the United States called for in the conference report to accompany the National Defense Authorization Act for Fiscal Year 2012 (Conference Report 112–329) so that it can be submitted to Congress before July 1, 2013.

(b) **SUBMISSION OF REPORT TO COMPTROLLER GENERAL.**—In addition to submitting the report referred to in subsection (a) to Congress, the Secretary of Defense shall submit the report to the Comptroller General of the United States for consideration under subsection (c).

(c) **COMPTROLLER GENERAL STUDIES AND REPORTS ON STRATEGIC PORTS.**—

(1) **COMPTROLLER GENERAL REVIEW.**—Not later than 90 days after receipt of the report referred to in subsection (a), the Comptroller General shall conduct an assessment of the report and submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report of such assessment.

Assessment.

(2) **COMPTROLLER GENERAL STUDY AND REPORT.**—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall conduct a study of the Department of Defense's programs and efforts related to the state of strategic ports with respect to the Department's operational and readiness requirements, and report to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate on the findings of such study. The report may include an assessment of—

(A) the extent to which the facilities at strategic ports meet the Department of Defense's requirements;

(B) the extent to which the Department has identified gaps in the ability of existing strategic ports to meet its needs and identified and undertaken efforts to address any gaps; and

(C) the Department's ability to oversee, coordinate, and provide security for military deployments through strategic ports.

(d) **STRATEGIC PORT DEFINED.**—In this section, the term “strategic port” means a United States port designated by the Secretary of Defense as a significant transportation hub important to the readiness and cargo throughput capacity of the Department of Defense.

**SEC. 414. MARITIME WORKFORCE STUDY.**

(a) **TRAINING STUDY.**—The Comptroller General of the United States shall conduct a study on the training needs of the maritime workforce.

(b) **STUDY COMPONENTS.**—The study shall—

(1) analyze the impact of maritime training requirements imposed by domestic and international regulations and conventions, companies, and government agencies that charter or operate vessels;

(2) evaluate the ability of the United States maritime training infrastructure to meet the needs of the maritime industry;

(3) identify trends in maritime training;

(4) compare the training needs of United States mariners with the vocational training and educational assistance programs available from Federal agencies to evaluate the ability of Federal programs to meet the training needs of United States mariners;

(5) include recommendations to enhance the capabilities of the United States maritime training infrastructure; and

(6) include recommendations to assist United States mariners and those entering the maritime profession to achieve the required training.

(c) **FINAL REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 415. MARITIME ADMINISTRATION VESSEL RECYCLING CONTRACT AWARD PRACTICES.**

(a) **ASSESSMENT.**—The Comptroller General of the United States shall conduct an assessment of the source selection procedures and practices used to award the Maritime Administration’s National Defense Reserve Fleet vessel recycling contracts.

(b) **CONTENTS.**—The assessment under subsection (a) shall include a review of—

(1) whether the Maritime Administration’s contract source selection procedures and practices are consistent with law, including the Federal Acquisition Regulation, and Federal best practices associated with making source selection decisions;

(2) the process, procedures, and practices used for the Maritime Administration’s qualification of vessel recycling facilities; and

(3) any other aspect of the Maritime Administration’s vessel recycling process that the Comptroller General deems appropriate to review.

(c) **FINDINGS.**—Not later than one year after the date of enactment of this Act, the Comptroller General shall report the findings of the assessment under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives.

Deadline.  
Reports.

Piracy  
Suppression Act  
of 2012.  
46 USC 101 note.

## TITLE V—PIRACY

**SEC. 501. SHORT TITLE.**

This title may be cited as the “Piracy Suppression Act of 2012”.

**SEC. 502. TRAINING FOR USE OF FORCE AGAINST PIRACY.**

(a) **IN GENERAL.**—Chapter 517 of title 46, United States Code, is amended by adding at the end the following:

**“§ 51705. Training for use of force against piracy**

“The Secretary of Transportation, in consultation with the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, shall certify a training curriculum for United States mariners on the use of force against pirates. The curriculum shall include—

Certification.

“(1) information on waters designated as high-risk waters by the Commandant of the Coast Guard;

“(2) information on current threats and patterns of attack by pirates;

“(3) tactics for defense of a vessel, including instruction on the types, use, and limitations of security equipment;

“(4) standard rules for the use of force for self-defense as developed by the Secretary of the department in which the Coast Guard is operating under section 912(c) of the Coast Guard Authorization Act of 2010 (Public Law 111–281; 46 U.S.C. 8107 note), including instruction on firearm safety for crewmembers of vessels carrying cargo under section 55305 of this title; and

“(5) procedures to follow to improve crewmember survivability if captured and taken hostage by pirates.”.

(b) DEADLINE.—The Secretary of Transportation shall certify the curriculum required under the amendment made by subsection (a) not later than 270 days after the date of enactment of this Act.

46 USC 51705 note.

(c) CLERICAL AMENDMENT.—The analysis for chapter 517 of title 46, United States Code, is amended by adding at the end the following:

“51705. Training program for use of force against piracy.”.

**SEC. 503. SECURITY OF GOVERNMENT-IMPELLED CARGO.**

Section 55305 of title 46, United States Code, is amended by adding at the end the following:

“(e) SECURITY OF GOVERNMENT-IMPELLED CARGO.—

“(1) In order to ensure the safety of vessels and crewmembers transporting equipment, materials, or commodities under this section, the Secretary of Transportation shall direct each department or agency (except the Department of Defense), when responsible for the carriage of such equipment, materials, or commodities, to provide armed personnel aboard vessels of the United States carrying such equipment, materials, or commodities if the vessels are transiting high-risk waters.

“(2) The Secretary of Transportation shall direct each department or agency responsible to provide armed personnel under paragraph (1) to reimburse, subject to the availability of appropriations, the owners or operators of applicable vessels for the cost of providing armed personnel.

“(3) In this subsection, the term ‘high-risk waters’ means waters so designated by the Commandant of the Coast Guard in the Port Security Advisory in effect on the date on which an applicable voyage begins.”.

Definition.

**SEC. 504. ACTIONS TAKEN TO PROTECT FOREIGN-FLAGGED VESSELS FROM PIRACY.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of the department in which the Coast Guard is operating, shall

Deadline. Reports.

provide to the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate a report on actions taken by the Secretary of Defense to protect foreign-flagged vessels from acts of piracy on the high seas. The report shall include—

(1) the total number of incidents for each of the fiscal years 2009 through 2012 in which a member of the armed services or an asset under the control of the Secretary of Defense was used to interdict or defend against an act of piracy directed against any vessel not documented under the laws of the United States; and

(2) the estimated cost for each of the fiscal years 2009 through 2012 for such incidents.

Marine Debris  
Act Amendments  
of 2012.  
33 USC 1951  
note.

## TITLE VI—MARINE DEBRIS

### SEC. 601. SHORT TITLE.

This title may be cited as the “Marine Debris Act Amendments of 2012”.

### SEC. 602. SHORT TITLE AMENDMENT; REFERENCES.

(a) **SHORT TITLE AMENDMENT.**—Section 1 of the Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951 note) is amended by striking “Research, Prevention, and Reduction”.

(b) **REFERENCES.**—Except as otherwise expressly provided, whenever in this title an amendment is expressed as an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Debris Act (33 U.S.C. 1951 et seq.), as so retitled by subsection (a) of this section.

### SEC. 603. PURPOSE.

Section 2 (33 U.S.C. 1951) is amended to read as follows:

#### “SEC. 2. PURPOSE.

“The purpose of this Act is to address the adverse impacts of marine debris on the United States economy, the marine environment, and navigation safety through the identification, determination of sources, assessment, prevention, reduction, and removal of marine debris.”.

### SEC. 604. NOAA MARINE DEBRIS PROGRAM.

(a) **NAME OF PROGRAM.**—Section 3 (33 U.S.C. 1952) is amended—

(1) in the section heading by striking “**PREVENTION AND REMOVAL**”; and

(2) in subsection (a)—

(A) by striking “Prevention and Removal Program to reduce and prevent the occurrence and” and inserting “Program to identify, determine sources of, assess, prevent, reduce, and remove marine debris and address the”;

(B) by inserting “the economy of the United States,” after “marine debris on”; and

(C) by inserting a comma after “environment”.

(b) PROGRAM COMPONENTS.—Section 3(b) (33 U.S.C. 1952(b)) is amended to read as follows:

“(b) PROGRAM COMPONENTS.—The Administrator, acting through the Program and subject to the availability of appropriations, shall—

“(1) identify, determine sources of, assess, prevent, reduce, and remove marine debris, with a focus on marine debris posing a threat to living marine resources and navigation safety;

“(2) provide national and regional coordination to assist States, Indian tribes, and regional organizations in the identification, determination of sources, assessment, prevention, reduction, and removal of marine debris;

“(3) undertake efforts to reduce the adverse impacts of lost and discarded fishing gear on living marine resources and navigation safety, including—

“(A) research and development of alternatives to gear posing threats to the marine environment and methods for marking gear used in certain fisheries to enhance the tracking, recovery, and identification of lost and discarded gear; and

“(B) the development of effective nonregulatory measures and incentives to cooperatively reduce the volume of lost and discarded fishing gear and to aid in gear recovery;

“(4) undertake outreach and education activities for the public and other stakeholders on sources of marine debris, threats associated with marine debris, and approaches to identifying, determining sources of, assessing, preventing, reducing, and removing marine debris and its adverse impacts on the United States economy, the marine environment, and navigation safety, including outreach and education activities through public-private initiatives; and

“(5) develop, in consultation with the Interagency Committee, interagency plans for the timely response to events determined by the Administrator to be severe marine debris events, including plans to—

Plans.

“(A) coordinate across agencies and with relevant State, tribal, and local governments to ensure adequate, timely, and efficient response;

“(B) assess the composition, volume, and trajectory of marine debris associated with a severe marine debris event; and

“(C) estimate the potential impacts of a severe marine debris event, including economic impacts on human health, navigation safety, natural resources, tourism, and livestock, including aquaculture.”.

(c) GRANT CRITERIA AND GUIDELINES.—Section 3(c) (33 U.S.C. 1952(c)) is amended—

(1) in paragraph (1), by striking “section 2(1)” and inserting “section 2”;

(2) by striking paragraph (5); and

(3) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(d) REPEAL.—Section 2204 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1915), and the item relating to that section in the table of contents contained in section

2 of the United States-Japan Fishery Agreement Approval Act of 1987, are repealed.

**SEC. 605. REPEAL OF OBSOLETE PROVISIONS.**

Section 4 (33 U.S.C. 1953) is amended—

- (1) by striking “(a) STRATEGY.—”; and
- (2) by striking subsections (b) and (c).

**SEC. 606. COORDINATION.**

(a) INTERAGENCY MARINE DEBRIS COORDINATING COMMITTEE.—

(1) IN GENERAL.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914) is redesignated and moved to replace and appear as section 5 of the Marine Debris Act (33 U.S.C. 1954), as so retitled by section 602(a) of this title.

(2) CONFORMING AMENDMENT.—Section 5 of the Marine Debris Act (33 U.S.C. 1954), as amended by paragraph (1) of this subsection, is further amended in subsection (d)(2)—

(A) by striking “this Act” and inserting “the Marine Plastic Pollution Research and Control Act of 1987”; and

(B) by inserting “of the Marine Plastic Pollution Research and Control Act of 1987” after “section 2201”.

Repeal.

(3) CLERICAL AMENDMENT.—The item relating to section 2203 in the table of contents contained in section 2 of the United States-Japan Fishery Agreement Approval Act of 1987 is repealed.

(b) BIENNIAL PROGRESS REPORTS.—Section 5(c)(2) of the Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1954(c)(2)), as in effect immediately before the enactment of this Act—

(1) is redesignated and moved to appear as subsection (e) at the end of section 5 of the Marine Debris Act, as amended by subsection (a) of this section; and

(2) is amended—

(A) by striking “ANNUAL PROGRESS REPORTS.—” and all that follows through “thereafter” and inserting “BIENNIAL PROGRESS REPORTS.—Biennially”;

(B) by striking “Interagency” each place it appears;

(C) by striking “chairperson” and inserting “Chairperson”;

(D) by inserting “Natural” before “Resources”;

(E) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively; and

(F) by moving all text 2 ems to the left.

**SEC. 607. CONFIDENTIALITY OF SUBMITTED INFORMATION.**

Section 6(2) (33 U.S.C. 1955(2)) is amended by striking “by the fishing industry”.

**SEC. 608. DEFINITIONS.**

Section 7 (33 U.S.C. 1956) is amended—

(1) in paragraph (2), by striking “2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914)” and inserting “5 of this Act”;

(2) by striking paragraph (3) and inserting the following:

“(3) MARINE DEBRIS.—The term ‘marine debris’ means any persistent solid material that is manufactured or processed



and directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.”;

(3) by striking paragraph (5);

(4) by redesignating paragraph (7) as paragraph (5);

(5) in paragraph (5), as redesignated by paragraph (4) of this section, by striking “Prevention and Removal”;

(6) by striking paragraph (6) and inserting the following:

“(6) SEVERE MARINE DEBRIS EVENT.—The term ‘severe marine debris event’ means atypically large amounts of marine debris caused by a natural disaster, including a tsunami, flood, landslide, or hurricane, or other source.”; and

(7) by redesignating paragraph (8) as paragraph (7).

#### **SEC. 609. SEVERE MARINE DEBRIS EVENT DETERMINATION.**

(a) IN GENERAL.—The Administrator of the National Oceanic and Atmospheric Administration shall determine whether the March 2011, Tohoku earthquake and subsequent tsunami and the October 2012, hurricane Sandy each caused a severe marine debris event (as that term is defined in section 7(6) of the Marine Debris Act (33 U.S.C. 1956(6)), as amended by this Act).

(b) DEADLINE.—Not later than 30 days after the date of enactment of this Act, the Administrator shall provide the determination required under subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Natural Resources of the House of Representatives.

## **TITLE VII—MISCELLANEOUS**

#### **SEC. 701. DISTANT WATER TUNA FLEET.**

Section 421 of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241; 120 Stat. 547) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) LICENSING RESTRICTIONS.—

“(1) IN GENERAL.—Subsection (a) only applies to a foreign citizen who holds a credential that is equivalent to the credential issued by the Coast Guard to a United States citizen for the position, with respect to requirements for experience, training, and other qualifications.

“(2) TREATMENT OF CREDENTIAL.—An equivalent credential under paragraph (1) shall be considered as meeting the requirements of section 8304 of title 46, United States Code, but only while a person holding the credential is in the service of the vessel to which this section applies.”;

(2) in subsection (c) by inserting “or Guam” before the period at the end; and

(3) in subsection (d) by striking “on December 31, 2012” and inserting “on the date the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America ceases to have effect for any party under Article 12.6 or 12.7 of such treaty, as in effect on the date of enactment of the Coast Guard and Maritime Transportation Act of 2012”.

46 USC 8103  
note.

Applicability.

**SEC. 702. TECHNICAL CORRECTIONS.**

(a) **STUDY OF BRIDGES.**—Section 905 of the Coast Guard Authorization Act of 2010 (Public Law 111-281; 33 U.S.C. 494a) is amended to read as follows:

**“SEC. 905. STUDY OF BRIDGES OVER NAVIGABLE WATERS.**

Time period.

“The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a comprehensive study on the construction or alteration of any bridge, drawbridge, or causeway over the navigable waters of the United States with a channel depth of 25 feet or greater that may impede or obstruct future navigation to or from port facilities and for which a permit under the Act of March 23, 1906 (33 U.S.C. 491 et seq.), popularly known as the Bridge Act of 1906, was requested during the period beginning on January 1, 2006, and ending on August 3, 2011.”.

(b) **WAIVER.**—Section 7(c) of the America’s Cup Act of 2011 (125 Stat. 755) is amended by inserting “located in Ketchikan, Alaska” after “moorage”.

**SEC. 703. EXTENSION OF MORATORIUM.**

Section 2(a) of Public Law 110-299 (33 U.S.C. 1342 note) is amended by striking “2013” and inserting “2014”.

**SEC. 704. NOTICE OF ARRIVAL.**

The regulations required under section 109(a) of the Security and Accountability For Every Port Act of 2006 (33 U.S.C. 1223 note) dealing with notice of arrival requirements for foreign vessels on the Outer Continental Shelf shall not apply to a vessel documented under section 12105 of title 46, United States Code, unless the vessel arrives from a foreign port or place.

**SEC. 705. WAIVERS.**

(a) **TEXAS STAR CASINO.**—

(1) **IN GENERAL.**—Notwithstanding section 12113(a)(4) of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a fishery endorsement for the Texas Star Casino (IMO number 7722047).

(2) **RESTRICTION.**—Notwithstanding section 12113(b)(1) of title 46, United States Code, a fishery endorsement issued under paragraph (1) is not valid for any fishery for which a fishery management plan has been approved by the Secretary of Commerce pursuant to section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1854) before the date of enactment of this Act.

(b) **RANGER III.**—Section 3703a of title 46, United States Code, does not apply to the passenger vessel Ranger III (United States official number 277361), during any period that the vessel is owned and operated by the National Park Service.

**SEC. 706. NATIONAL RESPONSE CENTER NOTIFICATION REQUIREMENTS.**

The Ohio River Valley Water Sanitation Commission, established pursuant to the Ohio River Valley Water Sanitation Compact consented to and approved by Congress in the Act of July 11, 1940 (54 Stat. 752), is deemed a Government agency for purposes

of the notification requirements of section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603). The National Response Center shall convey notification, including complete and unredacted incident reports, expeditiously to the Commission regarding each release in or affecting the Ohio River Basin for which notification to all appropriate Government agencies is required.

**SEC. 707. VESSEL DETERMINATIONS.**

The vessel with United States official number 981472 and the vessel with United States official number 988333 shall each be deemed to be a new vessel effective on the date of delivery after January 1, 2008, from a privately owned United States shipyard if no encumbrances are on record with the Coast Guard at the time of the issuance of the new vessel certificate of documentation for each vessel.

Effective date.

**SEC. 708. MILLE LACS LAKE, MINNESOTA.**

The waters of Mille Lacs Lake, Minnesota, are not waters subject to the jurisdiction of the United States for the purposes of section 2 of title 14, United States Code.

**SEC. 709. TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL PROCESS REFORM.**

46 USC 70105 note.

Not later than 270 days after the date of enactment of this Act, the Secretary of Homeland Security shall reform the process for Transportation Worker Identification Credential enrollment, activation, issuance, and renewal to require, in total, not more than one in-person visit to a designated enrollment center except in cases in which there are extenuating circumstances, as determined by the Secretary, requiring more than one such in-person visit.

Deadline.

**SEC. 710. INVESTMENT AMOUNT.**

Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall increase the \$22,500,000 invested in income-producing securities for purposes of section 5006(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2736(b)) by \$12,851,340.

Deadline.

**SEC. 711. INTEGRATED CROSS-BORDER MARITIME LAW ENFORCEMENT OPERATIONS BETWEEN THE UNITED STATES AND CANADA.**

46 USC 70101 note.

(a) **AUTHORIZATION.**—The Secretary of Homeland Security, acting through the Commandant of the Coast Guard, may establish an Integrated Cross-Border Maritime Law Enforcement Operations Program to coordinate the maritime security operations of the United States and Canada (in this section referred to as the “Program”).

(b) **PURPOSE.**—The Secretary, acting through the Commandant, shall administer the Program in a manner that results in a cooperative approach between the United States and Canada to strengthen border security and detect, prevent, suppress, investigate, and respond to terrorism and violations of law related to border security.

(c) **TRAINING.**—The Secretary, acting through the Commandant and in consultation with the Secretary of State, may—

(1) establish, as an element of the Program, a training program for individuals who will serve as maritime law enforcement officers; and

(2) conduct training jointly with Canada to enhance border security, including training—

(A) on the detection and apprehension of suspected terrorists and individuals attempting to unlawfully cross or unlawfully use the international maritime border between the United States and Canada;

(B) on the integration, analysis, and dissemination of port security information by and between the United States and Canada;

(C) on policy, regulatory, and legal considerations related to the Program;

(D) on the use of force in maritime security;

(E) on operational procedures and protection of sensitive information; and

(F) on preparedness and response to maritime terrorist incidents.

(d) **COORDINATION.**—The Secretary, acting through the Commandant, shall coordinate the Program with other similar border security and antiterrorism programs within the Department of Homeland Security.

(e) **MEMORANDA OF AGREEMENT.**—The Secretary may enter into any memorandum of agreement necessary to carry out the Program.

#### **SEC. 712. BRIDGE PERMITS.**

33 USC 491 note  
prec.

(a) **IN GENERAL.**—For the purposes of reviewing a permit application pursuant to section 9 of the Act of March 3, 1899, popularly known as the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401), the Act of March 23, 1906, popularly known as the Bridge Act of 1906 (33 U.S.C. 491 et seq.), the Act of June 21, 1940, popularly known as the Truman-Hobbs Act (33 U.S.C. 511 et seq.), or the General Bridge Act of 1946 (33 U.S.C. 525 et seq.), the Secretary of the department in which the Coast Guard is operating may—

(1) accept voluntary services from one or more owners of a bridge; and

(2) accept and credit to Coast Guard operating expenses any amounts received from one or more owners of a bridge.

Determinations.

(b) **EXPEDITED PROCESS.**—The Secretary of the department in which the Coast Guard is operating shall complete, on an expeditious basis and using the shortest existing applicable process, determinations on any required approval for issuance of any permits under the jurisdiction of such department related to the construction or alteration of a bridge over the Kill Van Kull consistent with Executive Order No. 13604 (March 22, 2012) and the Administration's objectives for the project.

#### **SEC. 713. TONNAGE OF AQUEOS ACADIAN.**

Termination  
date.

The Secretary of the department in which the Coast Guard is operating may consider the tonnage measurements for the vessel Aqueos Acadian (United States official number 553645) recorded on the certificate of inspection for the vessel issued on September 8, 2011, to be valid until May 2, 2014, if the vessel and the use of its space is not changed after November 16, 2012, in a way that substantially affects the tonnage of the vessel.

#### **SEC. 714. NAVIGABILITY DETERMINATION.**

Deadline.  
Assessment.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall

submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment of the impact of additional regulatory requirements imposed on passenger vessels operating on the Ringo Cocke Canal in Louisiana as a result of the covered navigability determination.

(b) **RESTRICTION.**—Before the date that is 180 days after the date on which the assessment required under subsection (a) is submitted, the Commandant may not enforce any regulatory requirements imposed on passenger vessels operating on the Ringo Cocke Canal in Louisiana that are a result of the covered navigability determination. Time period.

(c) **COVERED NAVIGABILITY DETERMINATION DEFINED.**—In this section, the term “covered navigability determination” means the Coast Guard’s Navigability Determination for Ringo Cocke Canal, Louisiana, dated March 25, 2010.

**SEC. 715. COAST GUARD HOUSING.**

Not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the Coast Guard’s National Housing Assessment and any analysis conducted by the Coast Guard of such assessment. Deadline.  
Assessment.  
Analysis.

**SEC. 716. ASSESSMENT OF NEEDS FOR ADDITIONAL COAST GUARD PRESENCE IN HIGH-LATITUDE REGIONS.**

Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an assessment of the need for additional Coast Guard prevention and response capability in the high-latitude regions. The assessment shall address needs for all Coast Guard mission areas, including search and rescue, marine pollution response and prevention, fisheries enforcement, and maritime commerce. The Secretary shall include in the assessment— Deadline.

(1) an analysis of the high-latitude operating capabilities of all current Coast Guard assets other than icebreakers, including assets acquired under the Deepwater program;

(2) an analysis of projected needs for Coast Guard operations in the high-latitude regions; and

(3) an analysis of shore infrastructure, personnel, logistics, communications, and resources requirements to support Coast Guard operations in the high-latitude regions, including forward operating bases and existing infrastructure in the furthest north locations that are ice free, or nearly ice free, year round.

**SEC. 717. POTENTIAL PLACE OF REFUGE.**

(a) **CONSULTATION.**—Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard shall consult with appropriate Federal agencies and with State and local interests to determine what improvements, if any, are necessary to designate existing ice-free facilities or infrastructure in the Central Bering Sea as a fully functional, year-round Potential Place of Refuge. Deadline.  
Determinations.

(b) **PURPOSES.**—The purposes of the consultation under subsection (a) shall be to enhance safety of human life at sea and protect the marine environment in the Central Bering Sea.

Notification. (c) **DEADLINE FOR SUBMISSION.**—Not later than 90 days after making the determination under subsection (a), the Commandant shall inform the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives in writing of the findings under subsection (a).

**SEC. 718. MERCHANT MARINER MEDICAL EVALUATION PROGRAM.**

Deadline. Assessment. (a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment of the Coast Guard National Maritime Center’s merchant mariner medical evaluation program and alternatives to the program.

(b) **CONTENTS.**—The assessment required under subsection (a) shall include the following:

(1) An overview of the adequacy of the program for making medical certification determinations for issuance of merchant mariners’ documents.

(2) An analysis of how a system similar to the Federal Motor Carrier Safety Administration’s National Registry of Certified Medical Examiners program, and the Federal Aviation Administration’s Designated Aviation Medical Examiners program, could be applied by the Coast Guard in making medical fitness determinations for issuance of merchant mariners’ documents.

(3) An explanation of how the amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, that entered into force on January 1, 2012, required changes to the Coast Guard’s merchant mariner medical evaluation program.

**SEC. 719. DETERMINATIONS.**

Deadline. Assessment. Not later than 270 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment of—

(1) the loss of United States shipyard jobs and industrial base expertise as a result of rebuild, conversion, and double-hull work on United States-flag vessels eligible to engage in the coastwise trade being performed in foreign shipyards;

(2) enforcement of the Coast Guard’s foreign rebuild determination regulations; and

(3) recommendations for improving transparency in the Coast Guard’s foreign rebuild determination process.

**SEC. 720. IMPEDIMENTS TO THE UNITED STATES-FLAG REGISTRY.**

Deadline. (a) **ASSESSMENT.**—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment of factors

under the authority of the Coast Guard that impact the ability of vessels documented in the United States to effectively compete in international transportation markets.

(b) **CONTENT.**—The assessment under subsection (a) shall include—

(1) a review of differences between Coast Guard policies and regulations governing the inspection of vessels documented in the United States and International Maritime Organization policies and regulations governing the inspection of vessels not documented in the United States;

(2) a statement on the impact such differences have on operating costs for vessels documented in the United States; and

(3) recommendations on whether to harmonize any such differences.

(c) **CONSULTATION.**—In preparing the assessment under subsection (a), the Commandant may consider the views of representatives of the owners or operators of vessels documented in the United States and the organizations representing the employees employed on such vessels.

#### **SEC. 721. ARCTIC DEEPWATER SEAPORT.**

(a) **STUDY.**—The Commandant of the Coast Guard, in consultation with the Commanding General of the Army Corps of Engineers, the Maritime Administrator, and the Chief of Naval Operations, shall conduct a study on the feasibility of establishing a deepwater seaport in the Arctic to protect and advance strategic United States interests within the Arctic region.

(b) **SCOPE.**—The study under subsection (a) shall include an analysis of—

(1) the capability provided by a deepwater seaport that—

(A) is in the Arctic (as that term is defined in the section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111)); and

(B) has a depth of not less than 34 feet;

(2) the potential and optimum locations for such deepwater seaport;

(3) the resources needed to establish such deepwater seaport;

(4) the timeframe needed to establish such deepwater seaport;

(5) the infrastructure required to support such deepwater seaport; and

(6) any other issues the Secretary considers necessary to complete the study.

(c) **DEADLINE FOR SUBMISSION OF FINDINGS.**—Not later than 1 year after the date of enactment of this Act, the Commandant shall submit the findings of the study under subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### **SEC. 722. RISK ASSESSMENT OF TRANSPORTING CANADIAN OIL SANDS.**

(a) **IN GENERAL.**—The Commandant of the Coast Guard shall assess the increased vessel traffic in the Salish Sea (including Puget Sound, the Strait of Georgia, Haro Strait, Rosario Strait, and the Strait of Juan de Fuca), that may occur from the transport of Canadian oil sands oil.

(b) SCOPE.—The assessment required under subsection (a) shall, at a minimum, consider—

(1) the extent to which vessel (including barge, tanker, and supertanker) traffic may increase due to Canadian oil sands development;

(2) whether the transport of oil from Canadian oil sands within the Salish Sea is likely to require navigation through United States territorial waters;

(3) the rules or regulations that restrict supertanker traffic in United States waters, including an assessment of whether there are methods to bypass those rules or regulations in such waters and adjacent Canadian waters;

(4) the rules or regulations that restrict the amount of oil transported in tankers or barges in United States waters, including an assessment of whether there are methods to bypass those rules or regulations in such waters and adjacent Canadian waters;

(5) the spill response capability throughout the shared waters of the United States and Canada, including oil spill response planning requirements for vessels bound for one nation transiting through the waters of the other nation;

(6) the vessel emergency response towing capability at the entrance to the Strait of Juan de Fuca;

(7) the agreement between the United States and Canada that outlines requirements for laden tank vessels to be escorted by tug boats;

(8) whether oil extracted from oil sands has different properties from other types of oil, including toxicity and other properties, that may require different maritime clean up technologies;

(9) a risk assessment of the increasing supertanker, tanker, and barge traffic associated with Canadian oil sands development or expected to be associated with Canadian oil sands development; and

(10) the potential costs and benefits to the United States public and the private sector of maritime transportation of oil sands products.

Washington.  
Native  
Americans.

(c) CONSULTATION REQUIREMENT.—In conducting the assessment required under this section, the Commandant shall consult with the State of Washington, affected tribal governments, and industry, including vessel operators, oil sands producers, and spill response experts. The Commandant may consult with the Secretary of State.

(d) DEADLINE FOR SUBMISSION.—Not later than 180 days after the date of enactment of this Act, the Commandant shall submit the assessment required under this section to the Committee on



Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Approved December 20, 2012.

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LEGISLATIVE HISTORY—H.R. 2838:

HOUSE REPORTS: No. 112–229 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Nov. 4, 15, considered and passed House.

Vol. 158 (2012): Sept. 19–21, considered and passed Senate, amended.

Dec. 5, House concurred in Senate amendments with an amendment pursuant to H. Res. 825.

Dec. 12, Senate concurred in House amendment.



Public Law 112–214  
112th Congress

An Act

Dec. 20, 2012  
[H.R. 3319]

To allow the Pascua Yaqui Tribe to determine the requirements for membership in that tribe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REQUIREMENTS FOR MEMBERSHIP DETERMINED BY TRIBE.**

Section 3 of Public Law 95–375 (25 U.S.C. 1300f–2) is amended to read as follows:

“SEC. 3. For the purposes of section 1 of this Act, membership of the Pascua Yaqui Tribe shall consist of any United States citizen of Pascua Yaqui blood enrolled by the tribe.”.

Approved December 20, 2012.

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**LEGISLATIVE HISTORY—H.R. 3319:**

HOUSE REPORTS: No. 112–675 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 19, considered and passed House.

Dec. 11, considered and passed Senate.



Public Law 112–215  
112th Congress

An Act

To amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

Dec. 20, 2012  
[H.R. 4014]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FDIA AMENDMENTS REGARDING DISCLOSURES TO THE BUREAU OF CONSUMER FINANCIAL PROTECTION.**

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 11(t)(2)(A) (12 U.S.C. 1821(t)(2)(A)), by inserting after clause (v) the following:

“(vi) The Bureau of Consumer Financial Protection.”; and

(2) in section 18(x) (12 U.S.C. 1828(x))—

(A) by inserting “the Bureau of Consumer Financial Protection,” before “any Federal banking agency” each place such term appears; and

(B) by striking “such agency” each place such term appears and inserting “such Bureau, agency”.

Approved December 20, 2012.

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**LEGISLATIVE HISTORY—H.R. 4014:**

HOUSE REPORTS: No. 112–417 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Mar. 26, considered and passed House.

Dec. 11, considered and passed Senate.



Public Law 112–216  
112th Congress

An Act

Dec. 20, 2012  
[H.R. 4367]

To amend the Electronic Fund Transfer Act to limit the fee disclosure requirement for an automatic teller machine to the screen of that machine.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FEE DISCLOSURE REQUIREMENT.**

Section 904(d)(3)(B) of the Consumer Credit Protection Act (15 U.S.C. 1693b(d)(3)(B)) (commonly known as the “Electronic Fund Transfer Act”) is amended—

(1) by striking “REQUIREMENTS.” and all that follows through “The notice required under clauses (i) and (ii)” and inserting “REQUIREMENT.—The notice required under clauses (i) and (ii)” after “NOTICE”; and

(2) by striking “, except that during the period beginning” and all that follows and inserting a period.

Approved December 20, 2012.

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**LEGISLATIVE HISTORY—H.R. 4367:**

HOUSE REPORTS: No. 112–576 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 9, considered and passed House.

Dec. 11, considered and passed Senate.



Public Law 112–217  
112th Congress

An Act

To obtain an unqualified audit opinion, and improve financial accountability and management at the Department of Homeland Security.

Dec. 20, 2012  
[S. 1998]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “DHS Audit Requirement Target Act of 2012” or the “DART Act”.

DHS Audit  
Requirement  
Target Act  
of 2012.  
31 USC 3516  
note.

**SEC. 2. IMPROVING FINANCIAL ACCOUNTABILITY AND MANAGEMENT.**

(a) **DEFINITIONS.**—In this section—

(1) the term “Department” means the Department of Homeland Security;

(2) the term “financial management systems” has the meaning given that term under section 806 of the Federal Financial Management Improvement Act of 1996 (31 U.S.C. 3512 note);

(3) the term “Secretary” means the Secretary of Homeland Security; and

(4) the term “unqualified opinion” mean an unqualified opinion within the meaning given that term under generally accepted auditing standards.

(b) **REACHING AN UNQUALIFIED AUDIT OPINION.**—In order to ensure compliance with the Department of Homeland Security Financial Accountability Act (Public Law 108–330; 118 Stat. 1275) and the amendments made by that Act, the Secretary shall take the necessary steps to ensure that the full set of consolidated financial statements of the Department for the fiscal year ending September 30, 2013, and each fiscal year thereafter, are ready in a timely manner and in preparation for an audit as part of preparing the performance and accountability reports required under section 3516(f) of title 31, United States Code, (including submitting the reports not later than November 15, 2013, and each year thereafter) in order to obtain an unqualified opinion on the full set of financial statements for the fiscal year.

Reports.  
Deadline.

(c) **REPORT TO CONGRESS ON PROGRESS OF MEETING AUDIT REQUIREMENTS.**—In order to ensure progress in implementing the Department of Homeland Security Financial Accountability Act (Public Law 108–330; 118 Stat. 1275), and the amendments made by that Act, during the period beginning on the date of enactment of this Act and ending on the date on which an unqualified opinion described in subsection (b) is submitted, each report submitted by the Chief Financial Officer of the Department under section 902(a)(6) of title 31, United States Code, shall include a plan—

Time period.  
Plan.

(1) to obtain an unqualified opinion on the full set of financial statements, which shall discuss plans and resources needed to meet the deadlines under subsection (b);

(2) that addresses how the Department will eliminate material weaknesses and significant deficiencies in internal controls over financial reporting and provides deadlines for the elimination of such weaknesses and deficiencies; and

(3) to modernize the financial management systems of the Department, including timelines, goals, alternatives, and costs of the plan, which shall include consideration of alternative approaches, including modernizing the existing financial management systems and associated financial controls of the Department and establishing new financial management systems and associated financial controls.

Approved December 20, 2012.

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LEGISLATIVE HISTORY—S. 1998:

SENATE REPORTS: No. 112–230 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 28, considered and passed Senate.

Dec. 12, considered and passed House.



Public Law 112–218  
112th Congress

An Act

To authorize the Assistant Secretary of Homeland Security (Transportation Security Administration) to modify screening requirements for checked baggage arriving from preclearance airports, and for other purposes.

Dec. 20, 2012  
[S. 3542]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “No-Hassle Flying Act of 2012”.

No-Hassle Flying  
Act of 2012.  
49 USC 40101  
note.

**SEC. 2. PRECLEARANCE AIRPORTS.**

(a) IN GENERAL.—Section 44901(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:

“(4) PRECLEARANCE AIRPORTS.—

“(A) IN GENERAL.—For a flight or flight segment originating at an airport outside the United States and traveling to the United States with respect to which checked baggage has been screened in accordance with an aviation security preclearance agreement between the United States and the country in which such airport is located, the Assistant Secretary (Transportation Security Administration) may, in coordination with U.S. Customs and Border Protection, determine whether such baggage must be re-screened in the United States by an explosives detection system before such baggage continues on any additional flight or flight segment.

“(B) AVIATION SECURITY PRECLEARANCE AGREEMENT DEFINED.—In this paragraph, the term ‘aviation security preclearance agreement’ means an agreement that delineates and implements security standards and protocols that are determined by the Assistant Secretary, in coordination with U.S. Customs and Border Protection, to be comparable to those of the United States and therefore sufficiently effective to enable passengers to deplane into sterile areas of airports in the United States.

“(C) REPORT.—The Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report on the re-screening of baggage under this paragraph. Each such report shall include the following for the year covered by the report:

“(i) A list of airports outside the United States from which a flight or flight segment traveled to the

United States for which the Assistant Secretary determined, in accordance with the authority under subparagraph (A), that checked baggage was not required to be re-screened in the United States by an explosive detection system before such baggage continued on an additional flight or flight segment.

“(ii) The amount of Federal savings generated from the exercise of such authority.”.

(b) CONFORMING AMENDMENTS.—Section 44901 of title 49, United States Code, is amended by striking “explosive” each place it appears and inserting “explosives”.

Approved December 20, 2012.

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LEGISLATIVE HISTORY—S. 3542 (H.R. 6028):

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 29, considered and passed Senate.

Dec. 12, considered and passed House.





Public Law 112–219  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 133 Hare Road in Crosby, Texas, as the Army First Sergeant David McNerney Post Office Building.

Dec. 28, 2012  
[H.R. 3477]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ARMY FIRST SERGEANT DAVID MCNERNEY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 133 Hare Road in Crosby, Texas, shall be known and designated as the “Army First Sergeant David McNerney Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Army First Sergeant David McNerney Post Office Building”.

Approved December 28, 2012.

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LEGISLATIVE HISTORY—H.R. 3477:

CONGRESSIONAL RECORD, Vol. 158 (2012):  
July 23, considered and passed House.  
Dec. 19, considered and passed Senate.



Public Law 112–220  
112th Congress

An Act

Dec. 28, 2012  
[H.R. 3783]

To provide for a comprehensive strategy to counter Iran’s growing hostile presence and activity in the Western Hemisphere, and for other purposes.

Countering Iran  
in the Western  
Hemisphere Act  
of 2012.  
22 USC 8701  
note.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Countering Iran in the Western Hemisphere Act of 2012”.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The United States has vital political, economic, and security interests in the Western Hemisphere.

(2) Iran is pursuing cooperation with Latin American countries by signing economic and security agreements in order to create a network of diplomatic and economic relationships to lessen the blow of international sanctions and oppose Western attempts to constrict its ambitions.

(3) According to the Department of State, Hezbollah, with Iran as its state sponsor, is considered the “most technically capable terrorist group in the world” with “thousands of supporters, several thousand members, and a few hundred terrorist operatives,” and officials from the Iranian Islamic Revolutionary Guard Corps (IRGC) Qods Force have been working in concert with Hezbollah for many years.

(4) The IRGC’s Qods Force has a long history of supporting Hezbollah’s military, paramilitary, and terrorist activities, providing it with guidance, funding, weapons, intelligence, and logistical support, and in 2007, the Department of the Treasury placed sanctions on the IRGC and its Qods Force for their support of terrorism and proliferation activities.

(5) The IRGC’s Qods Force stations operatives in foreign embassies, charities, and religious and cultural institutions to foster relationships, often building on existing socioeconomic ties with the well established Shia Diaspora, and recent years have witnessed an increased presence in Latin America.

(6) According to the Department of Defense, the IRGC and its Qods Force played a significant role in some of the deadliest terrorist attacks of the past two decades, including the 1994 attack on the AMIA Jewish Community Center in Buenos Aires, by generally directing or supporting the groups that actually executed the attacks.

(7) Reports of Iranian intelligence agents being implicated in Hezbollah-linked activities since the early 1990s suggest

direct Iranian government support of Hezbollah activities in the Tri-Border Area of Argentina, Brazil, and Paraguay, and in the past decade, Iran has dramatically increased its diplomatic missions to Venezuela, Bolivia, Nicaragua, Ecuador, Argentina, and Brazil. Iran has built 17 cultural centers in Latin America, and it currently maintains 11 embassies, up from 6 in 2005.

(8) Hezbollah and other Iranian proxies with a presence in Latin America have raised revenues through illicit activities, including drug and arms trafficking, counterfeiting, money laundering, forging travel documents, pirating software and music, and providing haven and assistance to other terrorists transiting the region.

(9) Bolivia, Cuba, Ecuador, Nicaragua, and Venezuela expressed their intention to assist Iran in evading sanctions by signing a statement supporting Iran’s nuclear activities and announcing at a 2010 joint press conference in Tehran their determination to “continue and expand their economic ties to Iran” with confidence that “Iran can give a crushing response to the threats and sanctions imposed by the West and imperialism”.

(10) The U.S. Drug Enforcement Administration concluded in 2008 that almost one-half of the foreign terrorist organizations in the world are linked to narcotics trade and trafficking, including Hezbollah and Hamas.

(11) In October 2011, the United States charged two men, Manssor Arbabsiar, a United States citizen holding both Iranian and United States passports, and Gholam Shakuri, an Iran-based member of Iran’s IRGC Qods Force, with conspiracy to murder a foreign official using explosives in an act of terrorism. Arbabsiar traveled to Mexico with the express intent to hire “someone in the narcotics business” to carry out the assassination of the Saudi Arabian Ambassador in the United States. While in the end, he only engaged a U.S. Drug Enforcement Agency informant posing as an associate of a drug trafficking cartel, Arbabsiar believed that he was working with a member of a Mexican drug trafficking organization and sought to send money to this individual in installments and not in a single transfer.

(12) In February 2011, actions by the Department of the Treasury effectively shut down the Lebanese Canadian Bank. Subsequent actions by the United States Government in connection with the investigation into Lebanese Canadian Bank resulted in the indictment in December 2011 of Ayman Joumaa, an individual of Lebanese nationality, with citizenship in Lebanon and Colombia, and with ties to Hezbollah, for trafficking cocaine to the Los Zetas drug trafficking organization in Mexico City for sale in the United States and for laundering the proceeds.

### **SEC. 3. STATEMENT OF POLICY.**

It shall be the policy of the United States to use a comprehensive government-wide strategy to counter Iran’s growing hostile presence and activity in the Western Hemisphere by working together with United States allies and partners in the region to

mutually deter threats to United States interests by the Government of Iran, the Iranian Islamic Revolutionary Guard Corps (IRGC), the IRGC's Qods Force, and Hezbollah.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) **WESTERN HEMISPHERE.**—The term “Western Hemisphere” means the United States, Canada, Mexico, the Caribbean, South America, and Central America.

(2) **RELEVANT CONGRESSIONAL COMMITTEES.**—The term “relevant congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

**SEC. 5. REQUIREMENT OF A STRATEGY TO ADDRESS IRAN'S GROWING HOSTILE PRESENCE AND ACTIVITY IN THE WESTERN HEMISPHERE.**

Deadline.  
Assessment.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall conduct an assessment of the threats posed to the United States by Iran's growing presence and activity in the Western Hemisphere and submit to the relevant congressional committees the results of the assessment and a strategy to address Iran's growing hostile presence and activity in the Western Hemisphere.

(b) **MATTERS TO BE INCLUDED.**—The strategy described in subsection (a) should include—

(1) a description of the presence, activities, and operations of Iran, the Iranian Islamic Revolutionary Guard Corps (IRGC), its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere, including information about their leaders, objectives, and areas of influence and information on their financial networks, trafficking activities, and safe havens;

(2) a description of the terrain, population, ports, foreign firms, airports, borders, media outlets, financial centers, foreign embassies, charities, religious and cultural centers, and income-generating activities in the Western Hemisphere utilized by Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere;

(3) a description of the relationship of Iran, the IRGC, its Qods Force, and Hezbollah with transnational criminal organizations linked to Iran and other terrorist organizations in the Western Hemisphere, including information on financial networks and trafficking activities;

(4) a description of the relationship of Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere with the governments in the Western Hemisphere, including military-to-military relations and diplomatic, economic, and security partnerships and agreements;

(5) a description of the Federal law enforcement capabilities, military forces, State and local government institutions, and other critical elements, such as nongovernmental organizations, in the Western Hemisphere that may organize to counter the threat posed by Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere;

(6) a description of activity by Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present at the United States borders with Mexico and Canada and at other international borders within the Western Hemisphere, including operations related to drug, human, and arms trafficking, human support networks, financial support, narco-tunneling, and technological advancements that incorporates—

(A) with respect to the United States borders, in coordination with the Governments of Mexico and Canada and the Secretary of Homeland Security, a plan to address resources, technology, and infrastructure to create a secure United States border and strengthen the ability of the United States and its allies to prevent operatives from Iran, the IRGC, its Qods Force, Hezbollah, or any other terrorist organization from entering the United States; and

(B) within Latin American countries, a multiagency action plan, in coordination with United States allies and partners in the region, that includes the development of strong rule-of-law institutions to provide security in such countries and a counterterrorism and counter-radicalization plan to isolate Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere from their sources of financial support and counter their facilitation of terrorist activity; and

(7) a plan—

Plans.

(A) to address any efforts by foreign persons, entities, and governments in the region to assist Iran in evading United States and international sanctions;

(B) to protect United States interests and assets in the Western Hemisphere, including embassies, consulates, businesses, energy pipelines, and cultural organizations, including threats to United States allies;

(C) to support United States efforts to designate persons and entities in the Western Hemisphere for proliferation activities and terrorist activities relating to Iran, including affiliates of the IRGC, its Qods Force, and Hezbollah, under applicable law including the International Emergency Economic Powers Act; and

(D) to address the vital national security interests of the United States in ensuring energy supplies from the Western Hemisphere that are free from the influence of any foreign government that would attempt to manipulate or disrupt global energy markets.

(c) DEVELOPMENT.—In developing the strategy under this section, the Secretary of State shall consult with the heads of all appropriate United States departments and agencies, including the Secretary of Defense, the Director of National Intelligence, the Secretary of Homeland Security, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative.

Consultation.

(d) FORM.—The strategy in this section may be submitted in classified form, but shall include an unclassified summary of policy recommendations to address the growing Iranian threat in the Western Hemisphere.

Recommendations.

**SEC. 6. SENSE OF CONGRESS.**

It is the sense of Congress that the Secretary of State should keep the relevant congressional committees continually informed on the hostile actions of Iran in the Western Hemisphere.

**SEC. 7. RULE OF CONSTRUCTION.**

Nothing in this Act shall be construed to limit the rights or protections enjoyed by United States citizens under the United States Constitution or other Federal law, or to create additional authorities for the Federal Government that are contrary to the United States Constitution and United States law.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—H.R. 3783:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 19, considered and passed House.

Dec. 12, considered and passed Senate, amended.

Dec. 18, House concurred in Senate amendment.



Public Law 112–221  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, as the “Nicky ‘Nick’ Daniel Bacon Post Office”.

Dec. 28, 2012  
[H.R. 3870]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NICKY “NICK” DANIEL BACON POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, shall be known and designated as the “Nicky ‘Nick’ Daniel Bacon Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Nicky ‘Nick’ Daniel Bacon Post Office”.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—H.R. 3870:**

CONGRESSIONAL RECORD, Vol. 158 (2012):  
July 23, considered and passed House.  
Dec. 19, considered and passed Senate.



Public Law 112–222  
112th Congress

An Act

Dec. 28, 2012  
[H.R. 3912]

To designate the facility of the United States Postal Service located at 110 Mastic Road in Mastic Beach, New York, as the “Brigadier General Nathaniel Woodhull Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BRIGADIER GENERAL NATHANIEL WOODHULL POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 110 Mastic Road in Mastic Beach, New York, shall be known and designated as the “Brigadier General Nathaniel Woodhull Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Brigadier General Nathaniel Woodhull Post Office Building”.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—H.R. 3912:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 28, considered and passed House.

Dec. 19, considered and passed Senate.





Public Law 112–223  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 15285 Samohin Drive in Macomb, Michigan, as the “Lance Cpl. Anthony A. DiLisio Clinton-Macomb Carrier Annex”.

Dec. 28, 2012  
[H.R. 5738]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LANCE CPL. ANTHONY A. DILISIO CLINTON-MACOMB CARRIER ANNEX.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 15285 Samohin Drive in Macomb, Michigan, shall be known and designated as the “Lance Cpl. Anthony A. DiLisio Clinton-Macomb Carrier Annex”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lance Cpl. Anthony A. DiLisio Clinton-Macomb Carrier Annex”.

Approved December 28, 2012.

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LEGISLATIVE HISTORY—H.R. 5738:

CONGRESSIONAL RECORD, Vol. 158 (2012):  
Nov. 28, considered and passed House.  
Dec. 19, considered and passed Senate.



Public Law 112–224  
112th Congress

An Act

Dec. 28, 2012  
[H.R. 5837]

To designate the facility of the United States Postal Service located at 26 East Genesee Street in Baldwinsville, New York, as the “Corporal Kyle Schneider Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CORPORAL KYLE SCHNEIDER POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 26 East Genesee Street in Baldwinsville, New York, shall be known and designated as the “Corporal Kyle Schneider Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Corporal Kyle Schneider Post Office Building”.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—H.R. 5837:**

CONGRESSIONAL RECORD, Vol. 158 (2012):  
July 23, considered and passed House.  
Dec. 19, considered and passed Senate.



Public Law 112–225  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 320 7th Street in Ellwood City, Pennsylvania, as the “Sergeant Leslie H. Sabo, Jr. Post Office Building”.

Dec. 28, 2012  
[H.R. 5954]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SERGEANT LESLIE H. SABO, JR. POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 320 7th Street in Ellwood City, Pennsylvania, shall be known and designated as the “Sergeant Leslie H. Sabo, Jr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Sergeant Leslie H. Sabo, Jr. Post Office Building”.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—H.R. 5954:**

CONGRESSIONAL RECORD, Vol. 158 (2012):  
Nov. 28, considered and passed House.  
Dec. 19, considered and passed Senate.



Public Law 112–226  
112th Congress

An Act

Dec. 28, 2012  
[H.R. 6116]

To amend the Revised Organic Act of the Virgin Islands to provide for direct review by the United States Supreme Court of decisions of the Virgin Islands Supreme Court, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DIRECT REVIEW BY U.S. SUPREME COURT OF DECISIONS OF VIRGIN ISLANDS SUPREME COURT.**

Section 23 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1613) is amended by striking “: *Provided, That*” and all that follows through the end and inserting a period.

**SEC. 2. JURISDICTION OF THE SUPREME COURT.**

(a) IN GENERAL.—Chapter 81 of title 28, United States Code, is amended by adding at the end the following:

28 USC 1260.

**“§ 1260. Supreme Court of the Virgin Islands; certiorari**

“Final judgments or decrees rendered by the Supreme Court of the Virgin Islands may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Virgin Islands is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 81 of title 28, United States Code, is amended by adding at the end the following new item:

“1260. Supreme Court of the Virgin Islands; certiorari.”.

**SEC. 3. EFFECTIVE DATE.**

The amendments made by this Act apply to cases commenced on or after the date of the enactment of this Act.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—H.R. 6116:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 14, considered and passed House.

Dec. 13, considered and passed Senate.



Public Law 112–227  
112th Congress

An Act

Dec. 28, 2012  
[H.R. 6223]

To amend section 1059(e) of the National Defense Authorization Act for Fiscal Year 2006 to clarify that a period of employment abroad by the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity is to be counted as a period of residence and physical presence in the United States for purposes of qualifying for naturalization, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CLARIFICATION WITH RESPECT TO ABSENCE FROM THE UNITED STATES DUE TO CERTAIN EMPLOYMENT BY CHIEF OF MISSION OR ARMED FORCES.**

(a) IN GENERAL.—Section 1059(e) of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note) is amended to read as follows:

“(e) NATURALIZATION.—

“(1) IN GENERAL.—A period of absence from the United States described in paragraph (2)—

“(A) shall not be considered to break any period for which continuous residence or physical presence in the United States is required for naturalization under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.); and

“(B) shall be treated as a period of residence and physical presence in the United States for purposes of satisfying the requirements for naturalization under such title.

“(2) PERIOD OF ABSENCE DESCRIBED.—A period of absence described in this paragraph is a period of absence from the United States due to a person’s employment by the Chief of Mission or United States Armed Forces, under contract with the Chief of Mission or United States Armed Forces, or by a firm or corporation under contract with the Chief of Mission or United States Armed Forces, if—

“(A) such employment involved supporting the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity; and

“(B) the person spent at least a portion of the time outside the United States working directly with the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the enactment of section 1059(e) of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note). 8 USC 1101 note.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—H.R. 6223:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 5, considered and passed House.

Dec. 17, considered and passed Senate.



Public Law 112–228  
112th Congress

Joint Resolution

Dec. 28, 2012  
[H.J. Res. 122]

Establishing the date for the counting of the electoral votes for President and Vice President cast by the electors in December 2012.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 USC 15 note.

**SECTION 1. DATE FOR COUNTING 2012 ELECTORAL VOTES IN CONGRESS.**

The meeting of the Senate and House of Representatives to be held in January 2013 pursuant to section 15 of title 3, United States Code, to count the electoral votes for President and Vice President cast by the electors in December 2012 shall be held on January 4, 2013 (rather than on the date specified in the first sentence of that section).

Approved December 28, 2012.

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LEGISLATIVE HISTORY—H.J. Res. 122:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 18, considered and passed House.

Dec. 20, considered and passed Senate.





Public Law 112–229  
112th Congress

An Act

To amend title 11, District of Columbia Official Code, to revise certain administrative authorities of the District of Columbia courts, and to authorize the District of Columbia Public Defender Service to provide professional liability insurance for officers and employees of the Service for claims relating to services furnished within the scope of employment with the Service.

Dec. 28, 2012

[S. 1379]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “D.C. Courts and Public Defender Service Act of 2011”.

D.C. Courts and  
Public Defender  
Service Act  
of 2011.

**SEC. 2. AUTHORITIES OF DISTRICT OF COLUMBIA COURTS.**

(a) PERMITTING JUDICIAL CONFERENCE ON BIENNIAL BASIS; ATTENDANCE OF MAGISTRATE JUDGES.—Section 11–744, District of Columbia Official Code, is amended—

(1) in the first sentence, by striking “annually” and inserting “biennially or annually”;

(2) in the first sentence, by striking “active judges” and inserting “active judges and magistrate judges”;

(3) in the third sentence, by striking “Every judge” and inserting “Every judge and magistrate judge”; and

(4) in the third sentence, by striking “Courts of Appeals” and inserting “Court of Appeals”.

(b) EMERGENCY AUTHORITY TO TOLL OR DELAY JUDICIAL PROCEEDINGS.—

(1) PROCEEDINGS IN SUPERIOR COURT.—

(A) IN GENERAL.—Subchapter III of Chapter 9 of title 11, District of Columbia Official Code, is amended by adding at the end the following new section:

**“§ 11–947. Emergency authority to toll or delay proceedings.**

“(a) TOLLING OR DELAYING PROCEEDINGS.—

“(1) IN GENERAL.—In the event of a natural disaster or other emergency situation requiring the closure of Superior Court or rendering it impracticable for the United States or District of Columbia Government or a class of litigants to comply with deadlines imposed by any Federal or District of Columbia law or rule that applies in the Superior Court, the chief judge of the Superior Court may exercise emergency authority in accordance with this section.

“(2) SCOPE OF AUTHORITY.—(A) The chief judge may enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from the time deadlines imposed by

otherwise applicable laws or rules for such period as may be appropriate for any class of cases pending or thereafter filed in the Superior Court.

“(B) The authority conferred by this section extends to all laws and rules affecting criminal and juvenile proceedings (including, pre-arrest, post-arrest, pretrial, trial, and post-trial procedures) and civil, family, domestic violence, probate and tax proceedings.

“(3) UNAVAILABILITY OF CHIEF JUDGE.—If the chief judge of the Superior Court is absent or disabled, the authority conferred by this section may be exercised by the judge designated under section 11-907(a) or by the Joint Committee on Judicial Administration.

“(4) HABEAS CORPUS UNAFFECTED.—Nothing in this section shall be construed to authorize suspension of the writ of habeas corpus.

“(b) CRIMINAL CASES.—In exercising the authority under this section for criminal cases, the chief judge shall consider the ability of the United States or District of Columbia Government to investigate, litigate, and process defendants during and after the emergency situation, as well as the ability of criminal defendants as a class to prepare their defenses.

“(c) ISSUANCE OF ORDERS.—The United States Attorney for the District of Columbia or the Attorney General for the District of Columbia or the designee of either may request issuance of an order under this section, or the chief judge may act on his or her own motion.

“(d) DURATION OF ORDERS.—An order entered under this section may not toll or extend a time deadline for a period of more than 14 days, except that if the chief judge determines that an emergency situation requires additional extensions of the period during which deadlines are tolled or extended, the chief judge may, with the consent of the Joint Committee on Judicial Administration, enter additional orders under this section in order to further toll or extend such time deadline.

“(e) NOTICE.—Upon issuing an order under this section, the chief judge—

Web posting.

“(1) shall make all reasonable efforts to publicize the order, including, when possible, announcing the order on the District of Columbia Courts Web site; and

“(2) shall send notice of the order, including the reasons for the issuance of the order, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

“(f) REQUIRED REPORTS.—Not later than 180 days after the expiration of the last extension or tolling of a time period made by the order or orders relating to an emergency situation, the chief judge shall submit a brief report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Joint Committee on Judicial Administration describing the orders, including—

“(1) the reasons for issuing the orders;

“(2) the duration of the orders;

“(3) the effects of the orders on litigants; and

“(4) the costs to the court resulting from the orders.

“(g) EXCEPTIONS.—The notice under subsection (e)(2) and the report under subsection (f) are not required in the case of an order that tolls or extends a time deadline for a period of less than 14 days.”.

(B) CLERICAL AMENDMENT.—The table of contents of chapter 9 of title 11, District of Columbia Official Code, is amended by adding at the end of the items relating to subchapter III the following:

“11–947. Emergency authority to toll or delay proceedings.”.

(2) PROCEEDINGS IN COURT OF APPEALS.—

(A) IN GENERAL.—Subchapter III of chapter 7 of title 11, District of Columbia Official Code, is amended by adding at the end the following new section:

**“§ 11–745. Emergency authority to toll or delay proceedings.**

“(a) TOLLING OR DELAYING PROCEEDINGS.—

“(1) IN GENERAL.—In the event of a natural disaster or other emergency situation requiring the closure of the Court of Appeals or rendering it impracticable for the United States or District of Columbia Government or a class of litigants to comply with deadlines imposed by any Federal or District of Columbia law or rule that applies in the Court of Appeals, the chief judge of the Court of Appeals may exercise emergency authority in accordance with this section.

“(2) SCOPE OF AUTHORITY.—The chief judge may enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from the time deadlines imposed by otherwise applicable laws or rules for such period as may be appropriate for any class of cases pending or thereafter filed in the Court of Appeals.

“(3) UNAVAILABILITY OF CHIEF JUDGE.—If the chief judge of the Court of Appeals is absent or disabled, the authority conferred by this section may be exercised by the judge designated under section 11–706(a) or by the Joint Committee on Judicial Administration.

“(4) HABEAS CORPUS UNAFFECTED.—Nothing in this section shall be construed to authorize suspension of the writ of habeas corpus.

“(b) ISSUANCE OF ORDERS.—The United States Attorney for the District of Columbia or the Attorney General for the District of Columbia or the designee of either may request issuance of an order under this section, or the chief judge may act on his or her own motion.

“(c) DURATION OF ORDERS.—An order entered under this section may not toll or extend a time deadline for a period of more than 14 days, except that if the chief judge determines that an emergency situation requires additional extensions of the period during which deadlines are tolled or extended, the chief judge may, with the consent of the Joint Committee on Judicial Administration, enter additional orders under this section in order to further toll or extend such time deadline.

“(d) NOTICE.—Upon issuing an order under this section, the chief judge—

“(1) shall make all reasonable efforts to publicize the order, including, when possible, announcing the order on the District of Columbia Courts Web site; and

Web posting.

“(2) shall send notice of the order, including the reasons for the issuance of the order, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

“(e) REQUIRED REPORTS.—Not later than 180 days after the expiration of the last extension or tolling of a time period made by the order or orders relating to an emergency situation, the chief judge shall submit a brief report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Joint Committee on Judicial Administration describing the orders, including—

“(1) the reasons for issuing the orders;

“(2) the duration of the orders;

“(3) the effects of the orders on litigants; and

“(4) the costs to the court resulting from the orders.

“(f) EXCEPTIONS.—The notice under subsection (d)(2) and the report under subsection (e) are not required in the case of an order that tolls or extends a time deadline for a period of less than 14 days.”

(B) CLERICAL AMENDMENT.—The table of contents of chapter 7 of title 11, District of Columbia Official Code, is amended by adding at the end of the items relating to subchapter III the following:

“11–745. Emergency authority to toll or delay proceedings.”.

(c) PERMITTING AGREEMENTS TO PROVIDE SERVICES ON A REIMBURSABLE BASIS TO OTHER DISTRICT GOVERNMENT OFFICES.—

(1) IN GENERAL.—Section 11–1742, District of Columbia Official Code, is amended by adding at the end the following new subsection:

“(d) To prevent duplication and to promote efficiency and economy, the Executive Officer may enter into agreements to provide the Mayor of the District of Columbia with equipment, supplies, and services and credit reimbursements received from the Mayor for such equipment, supplies, and services to the appropriation of the District of Columbia Courts against which they were charged.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to fiscal year 2010 and each succeeding fiscal year.

### SEC. 3. LIABILITY INSURANCE FOR PUBLIC DEFENDER SERVICE.

Section 307 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (sec. 2–1607, D.C. Official Code) is amended by adding at the end the following new subsection:

“(e) The Service shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an employee, member of the Board of Trustees, or officer of the Service for money damages arising out of any claim, proceeding, or case at law relating to the furnishing of representational services or management services or related services under this Act while acting within the scope of that person’s office or employment, including but not limited to such claims, proceedings, or cases at law involving employment actions, injury, loss of liberty, property damage, loss of property,

or personal injury, or death arising from malpractice or negligence of any such officer or employee.”.

**SEC. 4. REDUCTION IN TERM OF SERVICE OF JUDGES ON FAMILY COURT OF THE SUPERIOR COURT.**

(a) **REDUCTION IN TERM OF SERVICE.**—Section 11-908A(c)(1), District of Columbia Official Code, is amended by striking “5 years” and inserting “3 years”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to any individual serving as a judge on the Family Court of the Superior Court of the District of Columbia on or after the date of the enactment of this Act.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—S. 1379:**

**HOUSE REPORTS:** No. 112-178 (Comm. on Homeland Security and Governmental Affairs).

**CONGRESSIONAL RECORD,** Vol. 158 (2012):

July 9, considered and passed Senate.

Dec. 13, considered and passed House.



Public Law 112–230  
112th Congress

An Act

Dec. 28, 2012  
[S. 2170]

Hatch Act  
Modernization  
Act of 2012.  
5 USC 101 note.

To amend the provisions of title 5, United States Code, which are commonly referred to as the “Hatch Act”, to scale back the provision forbidding certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed for certain violations under subchapter III of chapter 73 of that title.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Hatch Act Modernization Act of 2012”.

**SEC. 2. PERMITTING STATE AND LOCAL EMPLOYEES TO BE CANDIDATES FOR ELECTIVE OFFICE.**

Section 1502(a)(3) of title 5, United States Code, is amended to read as follows:

“(3) if the salary of the employee is paid completely, directly or indirectly, by loans or grants made by the United States or a Federal agency, be a candidate for elective office.”.

**SEC. 3. APPLICABILITY OF PROVISIONS RELATING TO STATE AND LOCAL EMPLOYEES.**

(a) **STATE OR LOCAL AGENCY.**—Section 1501(2) of title 5, United States Code, is amended by inserting “, or the executive branch of the District of Columbia, or an agency or department thereof” before the semicolon.

(b) **STATE OR LOCAL OFFICER OR EMPLOYEE.**—Section 1501(4) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

“(B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by—

“(i) a State or political subdivision thereof;

“(ii) the District of Columbia; or

“(iii) a recognized religious, philanthropic, or cultural organization.”.

(c) **EXCEPTION OF CERTAIN OFFICERS.**—Section 1502(c)(3) of title 5, United States Code, is amended—

(1) by striking “‘or municipality” and inserting “, municipality, or the District of Columbia’”; and

(2) by striking “‘or municipal” and inserting “, municipal, or the District of Columbia’”.

(d) **MERIT SYSTEMS PROTECTION BOARD ORDERS.**—Section 1506(a)(2) of title 5, United States Code, is amended by inserting

“(or in the case of the District of Columbia, in the District of Columbia)” after “the same State”.

(e) PROVISIONS RELATING TO FEDERAL EMPLOYEES MADE INAPPLICABLE.—Section 7322(1) of title 5, United States Code, is amended—

- (1) in subparagraph (A), by adding “or” at the end;
- (2) in subparagraph (B), by striking “or” at the end;
- (3) by striking subparagraph (C); and
- (4) by striking “services,” and inserting “services or an individual employed or holding office in the government of the District of Columbia;”.

(f) EMPLOYEES RESIDING IN CERTAIN MUNICIPALITIES.—Section 7325(1) of title 5, United States Code, is amended to read as follows:

- “(1) the municipality or political subdivision is—
- “(A) the District of Columbia;
  - “(B) in Maryland or Virginia and in the immediate vicinity of the District of Columbia; or
  - “(C) a municipality in which the majority of voters are employed by the Government of the United States; and”.

#### SEC. 4. HATCH ACT PENALTIES FOR FEDERAL EMPLOYEES.

Chapter 73 of title 5, United States Code, is amended by striking section 7326 and inserting the following:

##### “§ 7326. Penalties

5 USC 7326.

“An employee or individual who violates section 7323 or 7324 shall be subject to removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed \$1,000.”.

#### SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect 30 days after the date of enactment of this Act. 5 USC 1501 note.

(b) APPLICABILITY RULE.—

5 USC 7326 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by section 4 shall apply with respect to any violation occurring before, on, or after the effective date of this Act.

(2) EXCEPTION.—The amendment made by section 4 shall not apply with respect to an alleged violation if, before the effective date of this Act—

- (A) the Special Counsel has presented a complaint for disciplinary action, under section 1215 of title 5, United States Code, with respect to the alleged violation; or

(B) the employee alleged to have committed the violation has entered into a signed settlement agreement with the Special Counsel with respect to the alleged violation.

Approved December 28, 2012.

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LEGISLATIVE HISTORY—S. 2170:

SENATE REPORTS: No. 112-211 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 30, considered and passed Senate.

Dec. 19, considered and passed House.





Public Law 112–231  
112th Congress

An Act

To strike the word “lunatic” from Federal law, and for other purposes.

Dec. 28, 2012

[S. 2367]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “21st Century Language Act of 2012”.

21st Century  
Language Act of  
2012.

1 USC 1 note.

**SEC. 2. MODERNIZATION OF LANGUAGE REFERRING TO PERSONS WHO ARE MENTALLY ILL.**

(a) WORDS DENOTING NUMBER, GENDER, AND SO FORTH.—Section 1 of title 1, United States Code, is amended—

- (1) by striking “and ‘lunatic’”; and
- (2) by striking “lunatic.”

(b) BANKING LAW PROVISIONS.—

(1) TRUST POWERS.—The first section of the Act entitled “An Act to place authority over the trust powers of national banks in the Comptroller of the Currency”, approved September 28, 1962 (12 U.S.C. 92a), is amended—

- (A) in subsection (a), by striking “committee of estates of lunatics,”; and
- (B) in subsection (j), by striking “committee of estates of lunatics”.

(2) CONSOLIDATION AND MERGERS OF BANKS.—The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended—

(A) in section 2 (12 U.S.C. 215)—

- (i) in subsection (e), by striking “receiver, and committee of estates of lunatics” and inserting “and receiver”; and
- (ii) in subsection (f), by striking “receiver, or committee of estates of lunatics” and inserting “or receiver”; and

(B) in section 3 (12 U.S.C. 215a)—

- (i) in subsection (e), by striking “receiver, and committee of estates of lunatics” and inserting “and receiver”; and

(ii) in subsection (f), by striking “receiver, or committee of estates of lunatics” and inserting “or receiver”.

Approved December 28, 2012.

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LEGISLATIVE HISTORY—S. 2367:

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 23, considered and passed Senate.

Dec. 5, considered and passed House.



Public Law 112–232  
112th Congress

An Act

To make technical corrections to the legal description of certain land to be held in trust for the Barona Band of Mission Indians, and for other purposes.

Dec. 28, 2012  
[S. 3193]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Barona Band of  
Mission Indians  
Land Transfer  
Clarification Act  
of 2012.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Barona Band of Mission Indians Land Transfer Clarification Act of 2012”.

**SEC. 2. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the legal description of land previously taken into trust by the United States for the benefit of the Barona Band of Mission Indians may be interpreted to refer to private, nontribal land;

(2) there is a continued, unresolved disagreement between the Barona Band of Mission Indians and certain off-reservation property owners relating to the causes of diminishing native groundwater;

(3) Congress expresses no opinion, nor should an opinion of Congress be inferred, relating to the disagreement described in paragraph (2); and

(4) it is the intent of Congress that, if the land described in section 121(b) of the Native American Technical Corrections Act of 2004 (118 Stat. 544) (as amended by section 3) is used to bring water to the Barona Indian Reservation, the effort is authorized only if the effort also addresses water availability for neighboring off-reservation land located along Old Barona Road that is occupied as of the date of enactment of this Act by providing guaranteed access to that water supply at a mutually agreeable site on the southwest boundary of the Barona Indian Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to clarify the legal description of the land placed into trust for the Barona Band of Mission Indians in 2004; and

(2) to remove all doubt relating to the specific parcels of land that Congress has placed into trust for the Barona Band of Mission Indians.

**SEC. 3. LAND TRANSFER.**

Section 121 of the Native American Technical Corrections Act of 2004 (Public Law 108–204; 118 Stat. 544) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land comprising approximately 86.87 acres in T. 14 S., R. 1 E., San Bernardino Meridian, San Diego County, California, and described more particularly as follows:

“(1) The approximately 69.85 acres located in Section 21 and described as—

“(A) SW $\frac{1}{4}$  SW $\frac{1}{4}$ , excepting the north 475 feet;

“(B) W $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , excepting the north 475 feet;

“(C) E $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , excepting the north 350 feet;

and

“(D) the portion of W $\frac{1}{2}$  SE $\frac{1}{4}$  that lies southwesterly of the following line: Beginning at the intersection of the southerly line of said SE $\frac{1}{4}$  of Section 21 with the westerly boundary of Rancho Canada De San Vicente Y Mesa Del Padre Barona as shown on United States Government Resurvey approved January 21, 1939, and thence northwesterly along said boundary to an intersection with the westerly line of said SE $\frac{1}{4}$ .

“(2) The approximately 17.02 acres located in Section 28 and described as NW $\frac{1}{4}$  NW $\frac{1}{4}$ , excepting the east 750 feet.”; and

(2) by adding at the end the following:

“(d) CLARIFICATIONS.—

“(1) EFFECT ON SECTION.—The provisions of subsection (c) shall apply to the land described in subsection (b), as in effect on the day after the date of enactment of the Barona Band of Mission Indians Land Transfer Clarification Act of 2012.

“(2) EFFECT ON PRIVATE LAND.—The parcel of private, non-Indian land referenced in subsection (a) and described in subsection (b), as in effect on the day before the date of enactment of the Barona Band of Mission Indians Land Transfer Clarification Act of 2012, but excluded from the revised description of the land in subsection (b) was not intended to be—

“(A) held in trust by the United States for the benefit of the Band; or

“(B) considered to be a part of the reservation of the Band.”.

Approved December 28, 2012.

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LEGISLATIVE HISTORY—S. 3193:

HOUSE REPORTS: No. 112-702 (Comm. on Natural Resources).

SENATE REPORTS: No. 112-207 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 21, considered and passed Senate.

Dec. 17, considered and passed House.



Public Law 112–233  
112th Congress

An Act

To designate the United States courthouse located at 2601 2nd Avenue North, Billings, Montana, as the “James F. Battin United States Courthouse”.

Dec. 28, 2012

[S. 3311]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JAMES F. BATTIN UNITED STATES COURTHOUSE.**

(a) IN GENERAL.—

(1) DESIGNATION.—The United States courthouse located at 2601 2nd Avenue North, Billings, Montana, shall be known and designated as the “James F. Battin United States Courthouse”.

(2) TECHNICAL AMENDMENT.—The “James F. Battin United States Courthouse” located at 315 North 26th Street, Billings, Montana, shall no longer be known and designated as the “James F. Battin United States Courthouse”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a)(1) shall be deemed to be a reference to the “James F. Battin United States Courthouse”.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—S. 3311:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 21, considered and passed Senate.

Dec. 19, considered and passed House.



Public Law 112–234  
112th Congress

An Act

Dec. 28, 2012  
[S. 3315]

GAO Mandates  
Revision Act  
of 2012.  
2 USC 2001 note.

To repeal or modify certain mandates of the Government Accountability Office.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “GAO Mandates Revision Act of 2012”.

**SEC. 2. REPEALS AND MODIFICATIONS.**

Audits.  
Deadlines.

(a) **CAPITOL PRESERVATION FUND FINANCIAL STATEMENTS.**—Section 804 of the Arizona-Idaho Conservation Act of 1988 (2 U.S.C. 2084) is amended by striking “annual audits of the transactions of the Commission” and inserting “periodic audits of the transactions of the Commission, which shall be conducted at least once every 3 years, unless the Chairman or the Ranking Member of the Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives, the Secretary of the Senate, or the Clerk of the House of Representatives requests that an audit be conducted at an earlier date,”.

(b) **JUDICIAL SURVIVORS’ ANNUITIES FUND AUDIT BY GAO.**—

(1) **IN GENERAL.**—Section 376 of title 28, United States Code, is amended—

(A) by striking subsection (w); and

(B) by redesignating subsections (x) and (y) as subsections (w) and (x), respectively.

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 376(h)(2) of title 28, United States Code, is amended by striking “subsection (x)” and inserting “subsection (w)”.

(c) **ONDCP ANNUAL REPORT REQUIREMENT.**—Section 203 of the Office of National Drug Control Policy Reauthorization Act of 2006 (21 U.S.C. 1708a) is amended—

(1) in subsection (a), by striking “of each year” and inserting “, 2013, and every 3 years thereafter,”; and

(2) in subsection (b), in the matter preceding paragraph (1), by striking “at a frequency of not less than once per year—” and inserting “not later than December 31, 2013, and every 3 years thereafter—”.

(d) **USERRA GAO REPORT.**—Section 105(g)(1) of the Veterans’ Benefits Act of 2010 (Public Law 111–275; 38 U.S.C. 4301 note) is amended by striking “, and annually thereafter during the period when the demonstration project is conducted,”.

(e) **SEMIPOSTAL PROGRAM REPORTS BY THE GENERAL ACCOUNTING OFFICE.**—Section 2 of the Semipostal Authorization

Act (Public Law 106–253; 114 Stat. 636; 39 U.S.C. 416 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(f) EARNED IMPORT ALLOWANCE PROGRAM REVIEW BY GAO.—Section 231A(b)(4) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(b)(4)) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraph (D) as subparagraph (C).

(g) AMERICAN BATTLE MONUMENTS COMMISSION’S FINANCIAL STATEMENTS AND AUDITS.—Section 2103(h) of title 36, United States Code, is amended—

(1) in paragraph (1), by striking “of paragraph (2) of this subsection” and inserting “of section 3515 of title 31”;

(2) in paragraph (1), by striking “(1)”; and

(3) by striking paragraph (2).

(h) SENATE PRESERVATION FUND AUDITS.—Section 3(c)(6) of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 2108(c)(6)) is amended by striking “annual audits of the Senate Preservation Fund” and inserting “periodic audits of the Senate Preservation Fund, which shall be conducted at least once every 3 years, unless the Chairman or the Ranking Member of the Committee on Rules and Administration of the Senate or the Secretary of the Senate requests that an audit be conducted at an earlier date,”. Deadlines.

Approved December 28, 2012.

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LEGISLATIVE HISTORY—S. 3315:

SENATE REPORTS: No. 112–219 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 21, considered and passed Senate.

Dec. 13, considered and passed House.



Public Law 112–235  
112th Congress

An Act

Dec. 28, 2012  
[S. 3564]

To extend the Public Interest Declassification Act of 2000 until 2014 and for other purposes.

Public Interest  
Declassification  
Board  
Reauthorization  
Act of 2012.  
50 USC 401 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Public Interest Declassification Board Reauthorization Act of 2012”.

**SEC. 2. PUBLIC INTEREST DECLASSIFICATION BOARD.**

(a) **SUBSEQUENT APPOINTMENT.**—Section 703(c)(2)(D) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking the period at the end and inserting “from the date of the appointment.”

(b) **VACANCY.**—Section 703(c)(3) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking “A member of the Board appointed to fill a vacancy before the expiration of a term shall serve for the remainder of the term.”

(c) **EXTENSION OF SUNSET.**—Section 710(b) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking “2012.” inserting “2014.”

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—S. 3564:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 11, considered and passed Senate.

Dec. 19, considered and passed House.





Public Law 112–236  
112th Congress

An Act

To clarify the scope of the Economic Espionage Act of 1996.

Dec. 28, 2012

[S. 3642]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Theft of Trade Secrets Clarification Act of 2012”.

Theft of Trade  
Secrets  
Clarification Act  
of 2012.  
18 USC 1 note.

**SEC. 2. AMENDMENT.**

Section 1832(a) of title 18, United States Code, is amended in the matter preceding paragraph (1), by striking “or included in a product that is produced for or placed in” and inserting “a product or service used in or intended for use in”.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—S. 3642:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 27, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 112–237  
112th Congress

An Act

Dec. 28, 2012  
[S. 3687]

To amend the Federal Water Pollution Control Act to reauthorize the Lake Pontchartrain Basin Restoration Program, to designate certain Federal buildings, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LAKE PONTCHARTRAIN BASIN RESTORATION PROGRAM.**

Section 121 of the Federal Water Pollution Control Act (33 U.S.C. 1273) is amended—

(1) in subsection (d), by inserting “to pay not more than 75 percent of the costs” after “make grants”; and

(2) in subsection (f)(1), in the first sentence, by striking “2011” and inserting “2012 and the amount appropriated for fiscal year 2009 for each of fiscal years 2013 through 2017”.

42 USC 4321  
note.

**SEC. 2. ENVIRONMENTAL PROTECTION AGENCY HEADQUARTERS.**

(a) REDESIGNATION.—The Environmental Protection Agency Headquarters located at 1200 Pennsylvania Avenue N.W. in Washington, D.C., known as the Ariel Rios Building, shall be known and redesignated as the “William Jefferson Clinton Federal Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Environmental Protection Agency Headquarters referred to in subsection (a) shall be deemed to be a reference to the “William Jefferson Clinton Federal Building”.

**SEC. 3. GEORGE H.W. BUSH AND GEORGE W. BUSH UNITED STATES COURTHOUSE AND GEORGE MAHON FEDERAL BUILDING.**

(a) REDESIGNATION.—The Federal building and United States Courthouse located at 200 East Wall Street in Midland, Texas, known as the George Mahon Federal Building, shall be known and redesignated as the “George H.W. Bush and George W. Bush United States Courthouse and George Mahon Federal Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States Courthouse referred to in subsection (a) shall be deemed to be a reference to the “George H.W. Bush and George W. Bush United States Courthouse and George Mahon Federal Building”.

**SEC. 4. THOMAS P. O’NEILL, JR. FEDERAL BUILDING.**

(a) DESIGNATION.—The Federal building currently known as Federal Office Building 8, located at 200 C Street Southwest in

the District of Columbia, shall be known and designated as the “Thomas P. O’Neill, Jr. Federal Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the “Thomas P. O’Neill, Jr. Federal Building”.

**SEC. 5. COMPLIANCE WITH LACEY ACT.**

Texas.

The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) and section 42 of title 18, United States Code, shall not apply with respect to any water transfer by the North Texas Municipal Water District and the Greater Texoma Utility Authority using only closed conveyance systems from the Lake Texoma raw water intake structure to treatment facilities at which all zebra mussels are extirpated and removed from the water transferred.

**SEC. 6. CONVEYANCE OF MCKINNEY LAKE NATIONAL FISH HATCHERY.**

North Carolina.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STATE.—The term “State” means the State of North Carolina.

(b) CONVEYANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall convey to the State, without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (c), for use by the North Carolina Wildlife Resources Commission as a component of the fish and wildlife management program of the State.

Deadline.

(c) DESCRIPTION OF PROPERTY.—The property referred to in subsection (b) is comprised of the property known as the “McKinney Lake National Fish Hatchery”, which—

(1) is located at 220 McKinney Lake Road, Hoffman (between Southern Pines and Rockingham), in Richmond County, North Carolina;

(2) is a warmwater facility consisting of approximately 422 acres; and

(3) includes all improvements and related personal property under the jurisdiction of the Secretary that are located on the property (including buildings, structures, and equipment).

(d) USE BY STATE.—

(1) USE.—The property conveyed to the State under this section shall be used by the State for purposes relating to fishery and wildlife resources management.

(2) REVERSION.—

(A) IN GENERAL.—If the property conveyed to the State under this section is used for any purpose other than the purpose described in paragraph (1), all right, title, and interest in and to the property shall revert to the United States.

(B) CONDITION OF PROPERTY.—If the property described in subparagraph (A) reverts to the United States under this paragraph, the State shall ensure that the property is in substantially the same or better condition as the condition of the property as of the date of the conveyance of the property under this section.

(C) EXCEPTION.—This paragraph shall not apply with respect to use of the property under subsection (e).

(e) **USE BY SECRETARY.**—The Secretary shall require, as a condition and term of the conveyance of property under this section, that the State shall, upon the request of the Secretary, allow the United States Fish and Wildlife Service to use the property in cooperation with the Commission for propagation of any critically important aquatic resources held in public trust to address specific restoration or recovery needs of such resource.

Approved December 28, 2012.

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**LEGISLATIVE HISTORY—S. 3687:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 17, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 112–238  
112th Congress

An Act

To extend the FISA Amendments Act of 2008 for five years.

Dec. 30, 2012

[H.R. 5949]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “FISA Amendments Act Reauthorization Act of 2012”.

FISA  
Amendments Act  
Reauthorization  
Act of 2012.  
50 USC 1801  
note.

**SEC. 2. FIVE-YEAR EXTENSION OF FISA AMENDMENTS ACT OF 2008.**

(a) EXTENSION.—Section 403(b) of the FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2474) is amended—

(1) in paragraph (1), by striking “December 31, 2012” and inserting “December 31, 2017”; and

50 USC 1881  
and note,  
1881a–1881g.  
18 USC 2511  
note.

(2) in paragraph (2) in the material preceding subparagraph (A), by striking “December 31, 2012” and inserting “December 31, 2017”.

(b) CONFORMING AMENDMENT.—The heading of section 404(b)(1) of the FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2476) is amended by striking “DECEMBER 31, 2012” and inserting “DECEMBER 31, 2017”.

50 USC 1801  
note.

Approved December 30, 2012.

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LEGISLATIVE HISTORY—H.R. 5949:

HOUSE REPORTS: No. 112–645, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 12, considered and passed House.

Dec. 27, 28, considered and passed Senate.



Public Law 112–239  
112th Congress

An Act

Jan. 2, 2013  
[H.R. 4310]

National Defense  
Authorization  
Act for Fiscal  
Year 2013.

To authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2013”.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into four divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.
- (4) Division D—Funding Tables.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Organization of Act into divisions; table of contents.
- Sec. 3. Congressional defense committees.

**DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

**TITLE I—PROCUREMENT**

**Subtitle A—Authorization of Appropriations**

Sec. 101. Authorization of appropriations.

**Subtitle B—Army Programs**

- Sec. 111. Multiyear procurement authority for Army CH–47 helicopters.
- Sec. 112. Reports on airlift requirements of the Army.

**Subtitle C—Navy Programs**

- Sec. 121. Extension of Ford class aircraft carrier construction authority.
- Sec. 122. Multiyear procurement authority for Virginia class submarine program.
- Sec. 123. Multiyear procurement authority for Arleigh Burke class destroyers and associated systems.
- Sec. 124. Limitation on availability of amounts for second Ford class aircraft carrier.
- Sec. 125. Refueling and complex overhaul of the U.S.S. Abraham Lincoln.
- Sec. 126. Designation of mission modules of the Littoral Combat Ship as a major defense acquisition program.
- Sec. 127. Report on Littoral Combat Ship designs.
- Sec. 128. Comptroller General review of Littoral Combat Ship program.
- Sec. 129. Sense of Congress on importance of engineering in early stages of shipbuilding.

- Sec. 130. Sense of Congress on nuclear-powered ballistic submarines.
- Sec. 131. Sense of Congress on Marine Corps amphibious lift and presence requirements.
- Sec. 132. Sense of the Senate on Department of the Navy fiscal year 2014 budget request for tactical aviation aircraft.

#### Subtitle D—Air Force Programs

- Sec. 141. Reduction in number of aircraft required to be maintained in strategic airlift aircraft inventory.
- Sec. 142. Retirement of B–1 bomber aircraft.
- Sec. 143. Avionics systems for C–130 aircraft.
- Sec. 144. Treatment of certain programs for the F–22A Raptor aircraft as major defense acquisition programs.

#### Subtitle E—Joint and Multiservice Matters

- Sec. 151. Multiyear procurement authority for V–22 joint aircraft program.
- Sec. 152. Procurement of space-based infrared systems satellites.
- Sec. 153. Limitation on availability of funds for evolved expendable launch vehicle program.
- Sec. 154. Limitation on availability of funds for retirement of RQ–4 Global Hawk unmanned aircraft systems.
- Sec. 155. Requirement to set F–35 aircraft initial operational capability dates.
- Sec. 156. Shallow Water Combat Submersible program.
- Sec. 157. Requirement that tactical manned intelligence, surveillance, and reconnaissance aircraft and unmanned aerial vehicles use specified standard data link.
- Sec. 158. Study on small arms and small-caliber ammunition capabilities.

### TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

#### Subtitle A—Authorization of Appropriations

- Sec. 201. Authorization of appropriations.

#### Subtitle B—Program Requirements, Restrictions, and Limitations

- Sec. 211. Next-generation long-range strike bomber aircraft nuclear certification requirement.
- Sec. 212. Extension of limitation on availability of funds for Unmanned Carrier-launched Surveillance and Strike system program.
- Sec. 213. Limitation on availability of funds for milestone A activities for an Army medium range multi-purpose vertical takeoff and landing unmanned aircraft system.
- Sec. 214. Use of funds for conventional prompt global strike program.
- Sec. 215. Next Generation Foundry for the Defense Microelectronics Activity.
- Sec. 216. Advanced rotorcraft initiative.

#### Subtitle C—Missile Defense Programs

- Sec. 221. Prohibition on the use of funds for the MEADS program.
- Sec. 222. Availability of funds for Iron Dome short-range rocket defense program.
- Sec. 223. Authority for relocation of certain Aegis weapon system assets between and within the DDG–51 class destroyer and Aegis Ashore programs in order to meet mission requirements.
- Sec. 224. Evaluation of alternatives for the precision tracking space system.
- Sec. 225. Next generation Exo-atmospheric Kill Vehicle.
- Sec. 226. Modernization of the Patriot air and missile defense system.
- Sec. 227. Evaluation and environmental impact assessment of potential future missile defense sites in the United States.
- Sec. 228. Homeland ballistic missile defense.
- Sec. 229. Regional ballistic missile defense.
- Sec. 230. NATO contributions to missile defense in Europe.
- Sec. 231. Report on test plan for the ground-based midcourse defense system.
- Sec. 232. Sense of Congress on missile defense.
- Sec. 233. Sense of Congress on the submittal to Congress of the homeland defense hedging policy and strategy report of the Secretary of Defense.

#### Subtitle D—Reports

- Sec. 241. Mission packages for the Littoral Combat Ship.
- Sec. 242. Study on electronic warfare capabilities of the Marine Corps.
- Sec. 243. Conditional requirement for report on amphibious assault vehicles for the Marine Corps.
- Sec. 244. Report on cyber and information technology research investments of the Air Force.

- Sec. 245. National Research Council review of defense science and technical graduate education needs.

Subtitle E—Other Matters

- Sec. 251. Eligibility for Department of Defense laboratories to enter into educational partnerships with educational institutions in territories and possessions of the United States.  
Sec. 252. Regional advanced technology clusters.  
Sec. 253. Sense of Congress on increasing the cost-effectiveness of training exercises for members of the Armed Forces.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

- Sec. 301. Operation and maintenance funding.

Subtitle B—Energy and Environment

- Sec. 311. Training range sustainment plan and training range inventory.  
Sec. 312. Authority of Secretary of a military department to enter into cooperative agreements with Indian tribes for land management associated with military installations and State-owned National Guard installations.  
Sec. 313. Department of Defense guidance on environmental exposures at military installations and briefing regarding environmental exposures to members of the Armed Forces.  
Sec. 314. Report on status of targets in implementation plan for operational energy strategy.  
Sec. 315. Limitation on obligation of Department of Defense funds from Defense Production Act of 1950 for biofuel refinery construction.  
Sec. 316. Sense of Congress on protection of Department of Defense airfields, training airspace, and air training routes.

Subtitle C—Logistics and Sustainment

- Sec. 321. Expansion and reauthorization of multi-trades demonstration project.  
Sec. 322. Restoration and amendment of certain provisions relating to depot-level maintenance and core logistics capabilities.  
Sec. 323. Rating chains for system program managers.

Subtitle D—Readiness

- Sec. 331. Intergovernmental support agreements with State and local governments.  
Sec. 332. Expansion and reauthorization of pilot program for availability of working-capital funds for product improvements.  
Sec. 333. Department of Defense national strategic ports study and Comptroller General studies and reports on strategic ports.

Subtitle E—Reports

- Sec. 341. Annual report on Department of Defense long-term corrosion strategy.  
Sec. 342. Report on joint strategy for readiness and training in a C4ISR-denied environment.  
Sec. 343. Comptroller General review of annual Department of Defense report on prepositioned materiel and equipment.  
Sec. 344. Modification of report on maintenance and repair of vessels in foreign shipyards.  
Sec. 345. Extension of deadline for Comptroller General report on Department of Defense service contract inventory.

Subtitle F—Limitations and Extension of Authority

- Sec. 351. Repeal of redundant authority to ensure interoperability of law enforcement and emergency responder training.  
Sec. 352. Aerospace control alert mission.  
Sec. 353. Limitation on authorization of appropriations for the National Museum of the United States Army.  
Sec. 354. Limitation on availability of funds for retirement or inactivation of Ticonderoga class cruisers or dock landing ships.  
Sec. 355. Renewal of expired prohibition on return of veterans memorial objects without specific authorization in law.

Subtitle G—National Commission on the Structure of the Air Force

- Sec. 361. Short title.  
Sec. 362. Establishment of Commission.  
Sec. 363. Duties of the Commission.



- Sec. 364. Powers of the Commission.
- Sec. 365. Commission personnel matters.
- Sec. 366. Termination of the Commission.
- Sec. 367. Funding.

#### Subtitle H—Other Matters

- Sec. 371. Military working dog matters.
- Sec. 372. Comptroller General review of handling, labeling, and packaging procedures for hazardous material shipments.

### TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

#### Subtitle A—Active Forces

- Sec. 401. End strengths for active forces.
- Sec. 402. Revision in permanent active duty end strength minimum levels.
- Sec. 403. Annual limitation on end strength reductions for regular component of the Army and Marine Corps.
- Sec. 404. Additional Marine Corps personnel for the Marine Corps Security Guard Program.

#### Subtitle B—Reserve Forces

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for Reserves on active duty in support of the reserves.
- Sec. 413. End strengths for military technicians (dual status).
- Sec. 414. Fiscal year 2013 limitation on number of non-dual status technicians.
- Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

#### Subtitle C—Authorization of Appropriations

- Sec. 421. Military personnel.

### TITLE V—MILITARY PERSONNEL POLICY

#### Subtitle A—Officer Personnel Policy Generally

- Sec. 501. Limitation on number of Navy flag officers on active duty.
- Sec. 502. Reinstatement of authority for enhanced selective early retirement boards and early discharges.
- Sec. 503. Modification of definition of joint duty assignment to include all instructor assignments for joint training and education.
- Sec. 504. Exception to required retirement after 30 years of service for Regular Navy warrant officers in the grade of Chief Warrant Officer, W-5.
- Sec. 505. Extension of temporary authority to reduce minimum length of active service as a commissioned officer required for voluntary retirement as an officer.
- Sec. 506. Temporary increase in the time-in-grade retirement waiver limitation for lieutenant colonels and colonels in the Army, Air Force, and Marine Corps and commanders and captains in the Navy.
- Sec. 507. Modification to limitations on number of officers for whom service-in-grade requirements may be reduced for retirement in grade upon voluntary retirement.
- Sec. 508. Air Force Chief of Chaplains.

#### Subtitle B—Reserve Component Management

- Sec. 511. Codification of staff assistant positions for Joint Staff related to National Guard and Reserve matters.
- Sec. 512. Automatic Federal recognition of promotion of certain National Guard warrant officers.
- Sec. 513. Availability of Transition Assistance Advisors to assist members of reserve components who serve on active duty for more than 180 consecutive days.

#### Subtitle C—General Service Authorities

- Sec. 518. Authority for additional behavioral health professionals to conduct pre-separation medical exams for post-traumatic stress disorder.
- Sec. 519. Diversity in the Armed Forces and related reporting requirements.
- Sec. 520. Limitation on reduction in number of military and civilian personnel assigned to duty with service review agencies.
- Sec. 521. Extension of temporary increase in accumulated leave carryover for members of the Armed Forces.
- Sec. 522. Modification of authority to conduct programs on career flexibility to enhance retention of members of the Armed Forces.

- Sec. 523. Prohibition on waiver for commissioning or enlistment in the Armed Forces for any individual convicted of a felony sexual offense.
- Sec. 524. Quality review of Medical Evaluation Boards, Physical Evaluation Boards, and Physical Evaluation Board Liaison Officers.
- Sec. 525. Reports on involuntary separation of members of the Armed Forces.
- Sec. 526. Report on feasibility of developing gender-neutral occupational standards for military occupational specialties currently closed to women.
- Sec. 527. Report on education and training and promotion rates for pilots of remotely piloted aircraft.
- Sec. 528. Impact of numbers of members within the Integrated Disability Evaluation System on readiness of Armed Forces to meet mission requirements.

#### Subtitle D—Military Justice and Legal Matters

- Sec. 531. Clarification and enhancement of the role of Staff Judge Advocate to the Commandant of the Marine Corps.
- Sec. 532. Additional information in reports on annual surveys of the Committee on the Uniform Code of Military Justice.
- Sec. 533. Protection of rights of conscience of members of the Armed Forces and chaplains of such members.
- Sec. 534. Reports on hazing in the Armed Forces.

#### Subtitle E—Member Education and Training Opportunities and Administration

- Sec. 541. Transfer of Troops-to-Teachers Program from Department of Education to Department of Defense and enhancements to the Program.
- Sec. 542. Support of Naval Academy athletic and physical fitness programs.
- Sec. 543. Expansion of Department of Defense pilot program on receipt of civilian credentialing for military occupational specialty skills.
- Sec. 544. State consideration of military training in granting certain State certifications and licenses as a condition on the receipt of funds for veterans employment and training.
- Sec. 545. Department of Defense review of access to military installations by representatives of institutions of higher education.
- Sec. 546. Report on Department of Defense efforts to standardize educational transcripts issued to separating members of the Armed Forces.
- Sec. 547. Comptroller General of the United States reports on joint professional military education matters.

#### Subtitle F—Reserve Officers' Training Corps and Related Matters

- Sec. 551. Repeal of requirement for eligibility for in-State tuition of at least 50 percent of participants in Senior Reserve Officers' Training Corps program.
- Sec. 552. Consolidation of military department authority to issue arms, tentage, and equipment to educational institutions not maintaining units of Junior Reserve Officers' Training Corps.
- Sec. 553. Modification of requirements on plan to increase the number of units of the Junior Reserve Officers' Training Corps.
- Sec. 554. Comptroller General report on Reserve Officers' Training Corps programs.

#### Subtitle G—Defense Dependents' Education and Military Family Readiness

- Sec. 561. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 562. Impact aid for children with severe disabilities.
- Sec. 563. Amendments to the Impact Aid program.
- Sec. 564. Transitional compensation for dependent children who are carried during pregnancy at time of dependent-abuse offense committed by an individual while a member of the Armed Forces.
- Sec. 565. Modification of authority to allow Department of Defense domestic dependent elementary and secondary schools to enroll certain students.
- Sec. 566. Noncompetitive appointment authority regarding certain military spouses.
- Sec. 567. Report on future of family support programs of the Department of Defense.
- Sec. 568. Sense of Congress regarding support for Yellow Ribbon Day.

#### Subtitle H—Improved Sexual Assault Prevention and Response in the Armed Forces

- Sec. 570. Armed Forces Workplace and Gender Relations Surveys.
- Sec. 571. Authority to retain or recall to active duty reserve component members who are victims of sexual assault while on active duty.
- Sec. 572. Additional elements in comprehensive Department of Defense policy on sexual assault prevention and response.

- Sec. 573. Establishment of special victim capabilities within the military departments to respond to allegations of certain special victim offenses.
- Sec. 574. Enhancement to training and education for sexual assault prevention and response.
- Sec. 575. Modification of annual Department of Defense reporting requirements regarding sexual assaults.
- Sec. 576. Independent reviews and assessments of Uniform Code of Military Justice and judicial proceedings of sexual assault cases.
- Sec. 577. Retention of certain forms in connection with Restricted Reports on sexual assault at request of the member of the Armed Forces making the report.
- Sec. 578. General or flag officer review of and concurrence in separation of members of the Armed Forces making an Unrestricted Report of sexual assault.
- Sec. 579. Department of Defense policy and plan for prevention and response to sexual harassment in the Armed Forces.

#### Subtitle I—Suicide Prevention and Resilience

- Sec. 580. Enhancement of oversight and management of Department of Defense suicide prevention and resilience programs.
- Sec. 581. Reserve component suicide prevention and resilience program.
- Sec. 582. Comprehensive policy on prevention of suicide among members of the Armed Forces.
- Sec. 583. Study of resilience programs for members of the Army.

#### Subtitle J—Other Matters

- Sec. 584. Issuance of prisoner-of-war medal.
- Sec. 585. Technical amendments relating to the termination of the Armed Forces Institute of Pathology under defense base closure and realignment.
- Sec. 586. Modification of requirement for reports in Federal Register on institutions of higher education ineligible for contracts and grants for denial of ROTC or military recruiter access to campus.
- Sec. 587. Acceptance of gifts and services related to educational activities and voluntary services to account for missing persons.
- Sec. 588. Display of State, District of Columbia, commonwealth, and territorial flags by the Armed Forces.
- Sec. 589. Enhancement of authorities on admission of defense industry civilians to certain Department of Defense educational institutions and programs.
- Sec. 590. Extension of authorities to carry out a program of referral and counseling services to veterans at risk of homelessness who are transitioning from certain institutions.
- Sec. 591. Inspection of military cemeteries under the jurisdiction of Department of Defense.
- Sec. 592. Report on results of investigations and reviews conducted with respect to Port Mortuary Division of the Air Force Mortuary Affairs Operations Center at Dover Air Force Base.
- Sec. 593. Preservation of editorial independence of Stars and Stripes.
- Sec. 594. National public awareness and participation campaign for Veterans' History Project of American Folklife Center.
- Sec. 595. Report on accuracy of data in the Defense Enrollment Eligibility Reporting System.
- Sec. 596. Sense of Congress that the bugle call commonly known as Taps should be designated as the National Song of Military Remembrance.

### TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

#### Subtitle A—Pay and Allowances

- Sec. 601. Fiscal year 2013 increase in military basic pay.
- Sec. 602. Extension of authority to provide temporary increase in rates of basic allowance for housing under certain circumstances.
- Sec. 603. Basic allowance for housing for two-member couples when one member is on sea duty.
- Sec. 604. Rates of basic allowance for housing for members performing active Guard and Reserve duty.
- Sec. 605. Payment of benefit for nonparticipation of eligible members in Post-Deployment/Mobilization Respite Absence program due to Government error.

#### Subtitle B—Bonuses and Special and Incentive Pays

- Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.

- Sec. 612. One-year extension of certain bonus and special pay authorities for health care professionals.
- Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.
- Sec. 614. One-year extension of authorities relating to title 37 consolidated special pay, incentive pay, and bonus authorities.
- Sec. 615. One-year extension of authorities relating to payment of other title 37 bonuses and special pays.
- Sec. 616. Increase in maximum amount of officer affiliation bonus for officers in the Selected Reserve.
- Sec. 617. Increase in maximum amount of incentive bonus for reserve component members who convert military occupational specialty to ease personnel shortages.

Subtitle C—Travel and Transportation Allowances

- Sec. 621. Permanent change of station allowances for members of Selected Reserve units filling a vacancy in another unit after being involuntarily separated.
- Sec. 622. Authority for comprehensive program for space-available travel on Department of Defense aircraft.

Subtitle D—Benefits and Services for Members Being Separated or Recently Separated

- Sec. 631. Extension of authority to provide two years of commissary and exchange benefits after separation.
- Sec. 632. Transitional use of military family housing.

Subtitle E—Disability, Retired Pay, and Survivor Benefits

- Sec. 641. Repeal of requirement for payment of Survivor Benefit Plan premiums when participant waives retired pay to provide a survivor annuity under Federal Employees Retirement System and terminating payment of the Survivor Benefit Plan annuity.
- Sec. 642. Repeal of automatic enrollment in Family Servicemembers' Group Life Insurance for members of the Armed Forces married to other members.
- Sec. 643. Clarification of computation of combat-related special compensation for chapter 61 disability retirees.

Subtitle F—Commissary and Nonappropriated Fund Instrumentality Benefits and Operations

- Sec. 651. Repeal of certain recordkeeping and reporting requirements applicable to commissary and exchange stores overseas.
- Sec. 652. Treatment of Fisher House for the Families of the Fallen and Meditation Pavilion at Dover Air Force Base, Delaware, as a Fisher House.

Subtitle G—Military Lending

- Sec. 661. Additional enhancements of protections on consumer credit for members of the Armed Forces and their dependents.
- Sec. 662. Effect of violations of protections on consumer credit extended to members of the Armed Forces and their dependents.
- Sec. 663. Consistent definition of dependent for purposes of applying limitations on terms of consumer credit extended to certain members of the Armed Forces and their dependents.

Subtitle H—Military Compensation and Retirement Modernization Commission

- Sec. 671. Purpose, scope, and definitions.
- Sec. 672. Military Compensation and Retirement Modernization Commission.
- Sec. 673. Commission hearings and meetings.
- Sec. 674. Principles and procedure for Commission recommendations.
- Sec. 675. Consideration of Commission recommendations by the President.
- Sec. 676. Executive Director.
- Sec. 677. Staff.
- Sec. 678. Judicial review precluded.
- Sec. 679. Termination.
- Sec. 680. Funding.

Subtitle I—Other Matters

- Sec. 681. Equal treatment for members of Coast Guard Reserve called to active duty under title 14, United States Code.
- Sec. 682. Report regarding Department of Veterans Affairs claims process transformation plan.

## TITLE VII—HEALTH CARE PROVISIONS

## Subtitle A—TRICARE and Other Health Care Benefits

- Sec. 701. Extension of TRICARE Standard coverage and TRICARE dental program for members of the Selected Reserve who are involuntarily separated.
- Sec. 702. Inclusion of certain over-the-counter drugs in TRICARE uniform formulary.
- Sec. 703. Modification of requirements on mental health assessments for members of the Armed Forces deployed in connection with a contingency operation.
- Sec. 704. Use of Department of Defense funds for abortions in cases of rape and incest.
- Sec. 705. Pilot program on certain treatments of autism under the TRICARE program.
- Sec. 706. Pilot program on enhancements of Department of Defense efforts on mental health in the National Guard and Reserves through community partnerships.
- Sec. 707. Sense of Congress on health care for retired members of the uniformed services.

## Subtitle B—Health Care Administration

- Sec. 711. Authority for automatic enrollment in TRICARE Prime of dependents of members in pay grades above pay grade E–4.
- Sec. 712. Cost-sharing rates for the Pharmacy Benefits Program of the TRICARE program.
- Sec. 713. Clarification of applicability of certain authority and requirements to subcontractors employed to provide health care services to the Department of Defense.
- Sec. 714. Expansion of evaluation of the effectiveness of the TRICARE program.
- Sec. 715. Requirement to ensure the effectiveness and efficiency of health engagements.
- Sec. 716. Pilot program for refills of maintenance medications for TRICARE for Life beneficiaries through the TRICARE mail-order pharmacy program.

## Subtitle C—Mental Health Care and Veterans Matters

- Sec. 723. Sharing between Department of Defense and Department of Veterans Affairs of records and information retained under the medical tracking system for members of the Armed Forces deployed overseas.
- Sec. 724. Participation of members of the Armed Forces in peer support counseling programs of the Department of Veterans Affairs.
- Sec. 725. Research and medical practice on mental health conditions.
- Sec. 726. Transparency in mental health care services provided by the Department of Veterans Affairs.
- Sec. 727. Expansion of Vet Center Program to include furnishing counseling to certain members of the Armed Forces and their family members.
- Sec. 728. Organization of the Readjustment Counseling Service in the Department of Veterans Affairs.
- Sec. 729. Recruitment of mental health providers for furnishing mental health services on behalf of the Department of Veterans Affairs without compensation from the Department.
- Sec. 730. Peer support.

## Subtitle D—Reports and Other Matters

- Sec. 731. Plan for reform of the administration of the military health system.
- Sec. 732. Future availability of TRICARE Prime throughout the United States.
- Sec. 733. Extension of Comptroller General report on contract health care staffing for military medical treatment facilities.
- Sec. 734. Extension of Comptroller General report on women-specific health services and treatment for female members of the Armed Forces.
- Sec. 735. Study on health care and related support for children of members of the Armed Forces.
- Sec. 736. Report on strategy to transition to use of human-based methods for certain medical training.
- Sec. 737. Study on incidence of breast cancer among members of the Armed Forces serving on active duty.
- Sec. 738. Performance metrics and reports on Warriors in Transition programs of the military departments.
- Sec. 739. Plan to eliminate gaps and redundancies in programs of the Department of Defense on psychological health and traumatic brain injury.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND  
RELATED MATTERS

## Subtitle A—Acquisition Policy and Management

- Sec. 801. Treatment of procurements on behalf of the Department of Defense through the Work for Others program of the Department of Energy.
- Sec. 802. Review and justification of pass-through contracts.
- Sec. 803. Availability of amounts in Defense Acquisition Workforce Development Fund.
- Sec. 804. Department of Defense policy on contractor profits.
- Sec. 805. Modification of authorities on internal controls for procurements on behalf of the Department of Defense by certain nondefense agencies.
- Sec. 806. Extension of authority relating to management of supply-chain risk.
- Sec. 807. Sense of Congress on the continuing progress of the Department of Defense in implementing its Item Unique Identification Initiative.

## Subtitle B—Provisions Relating to Major Defense Acquisition Programs

- Sec. 811. Limitation on use of cost-type contracts.
- Sec. 812. Estimates of potential termination liability of contracts for the development or production of major defense acquisition programs.
- Sec. 813. Technical change regarding programs experiencing critical cost growth due to change in quantity purchased.
- Sec. 814. Repeal of requirement to review ongoing programs initiated before enactment of Milestone B certification and approval process.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and  
Limitations

- Sec. 821. Modification of time period for congressional notification of the lease of certain vessels by the Department of Defense.
- Sec. 822. Extension of authority for use of simplified acquisition procedures for certain commercial items.
- Sec. 823. Codification and amendment relating to life-cycle management and product support requirements.
- Sec. 824. Codification of requirement relating to Government performance of critical acquisition functions.
- Sec. 825. Competition in acquisition of major subsystems and subassemblies on major defense acquisition programs.
- Sec. 826. Compliance with Berry Amendment required for uniform components supplied to Afghan military or Afghan National Police.
- Sec. 827. Enhancement of whistleblower protections for contractor employees.
- Sec. 828. Pilot program for enhancement of contractor employee whistleblower protections.
- Sec. 829. Extension of contractor conflict of interest limitations.
- Sec. 830. Repeal of sunset for certain protests of task and delivery order contracts.
- Sec. 831. Guidance and training related to evaluating reasonableness of price.
- Sec. 832. Department of Defense access to, use of, and safeguards and protections for contractor internal audit reports.
- Sec. 833. Contractor responsibilities in regulations relating to detection and avoidance of counterfeit electronic parts.

## Subtitle D—Provisions Relating to Contracts in Support of Contingency Operations

- Sec. 841. Extension and expansion of authority to acquire products and services produced in countries along a major route of supply to Afghanistan.
- Sec. 842. Limitation on authority to acquire products and services produced in Afghanistan.
- Sec. 843. Responsibility within Department of Defense for operational contract support.
- Sec. 844. Data collection on contract support for future overseas contingency operations involving combat operations.
- Sec. 845. Inclusion of operational contract support in certain requirements for Department of Defense planning, joint professional military education, and management structure.
- Sec. 846. Requirements for risk assessments related to contractor performance.
- Sec. 847. Extension and modification of reports on contracting in Iraq and Afghanistan.
- Sec. 848. Responsibilities of inspectors general for overseas contingency operations.
- Sec. 849. Oversight of contracts and contracting activities for overseas contingency operations in responsibilities of Chief Acquisition Officers of Federal agencies.
- Sec. 850. Reports on responsibility within Department of State and the United States Agency for International Development for contract support for overseas contingency operations.

- Sec. 851. Database on price trends of items and services under Federal contracts.
- Sec. 852. Information on corporate contractor performance and integrity through the Federal Awardee Performance and Integrity Information System.
- Sec. 853. Inclusion of data on contractor performance in past performance databases for executive agency source selection decisions.

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- Sec. 2852. Acceptance of gifts and services to support military museum programs and use of cooperative agreements with nonprofit entities for military museum and military educational institution programs.
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- Sec. 2857. Oversight and maintenance of closed base cemeteries overseas containing the remains of members of the Armed Forces or citizens of the United States.
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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY  
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- Sec. 3131. Improvements to the Atomic Energy Defense Act.
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- Sec. 3161. Use of probabilistic risk assessment to ensure nuclear safety.
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- Sec. 3171. Short title.

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- Sec. 3502. Application of the Federal Acquisition Regulation.
- Sec. 3503. Limitation of National Defense Reserve Fleet vessels to those over 1,500 gross tons.
- Sec. 3504. Donation of excess fuel to maritime academies.
- Sec. 3505. Clarification of heading.
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## DIVISION D—FUNDING TABLES

- Sec. 4001. Authorization of amounts in funding tables.

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- Sec. 4201. Research, development, test, and evaluation.
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- Sec. 4301. Operation and maintenance.
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- Sec. 4601. Military construction.
- Sec. 4602. Military construction for overseas contingency operations.

## TITLE XLVII—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

- Sec. 4701. Department of Energy National Security programs.

10 USC 101 note.

**SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

For purposes of this Act, the term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.

## **DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

### **TITLE I—PROCUREMENT**

#### Subtitle A—Authorization of Appropriations

Sec. 101. Authorization of appropriations.

#### Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for Army CH–47 helicopters.

Sec. 112. Reports on airlift requirements of the Army.

#### Subtitle C—Navy Programs

Sec. 121. Extension of Ford class aircraft carrier construction authority.

Sec. 122. Multiyear procurement authority for Virginia class submarine program.

Sec. 123. Multiyear procurement authority for Arleigh Burke class destroyers and associated systems.

Sec. 124. Limitation on availability of amounts for second Ford class aircraft carrier.

Sec. 125. Refueling and complex overhaul of the U.S.S. Abraham Lincoln.

Sec. 126. Designation of mission modules of the Littoral Combat Ship as a major defense acquisition program.

Sec. 127. Report on Littoral Combat Ship designs.

Sec. 128. Comptroller General review of Littoral Combat Ship program.

Sec. 129. Sense of Congress on importance of engineering in early stages of shipbuilding.

Sec. 130. Sense of Congress on nuclear-powered ballistic submarines.

Sec. 131. Sense of Congress on Marine Corps amphibious lift and presence requirements.

Sec. 132. Sense of the Senate on Department of the Navy fiscal year 2014 budget request for tactical aviation aircraft.

#### Subtitle D—Air Force Programs

Sec. 141. Reduction in number of aircraft required to be maintained in strategic airlift aircraft inventory.

Sec. 142. Retirement of B–1 bomber aircraft.

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#### Subtitle E—Joint and Multiservice Matters

Sec. 151. Multiyear procurement authority for V–22 joint aircraft program.

Sec. 152. Procurement of space-based infrared systems satellites.

Sec. 153. Limitation on availability of funds for evolved expendable launch vehicle program.

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Sec. 155. Requirement to set F–35 aircraft initial operational capability dates.

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Sec. 157. Requirement that tactical manned intelligence, surveillance, and reconnaissance aircraft and unmanned aerial vehicles use specified standard data link.

Sec. 158. Study on small arms and small-caliber ammunition capabilities.

## **Subtitle A—Authorization of Appropriations**

### **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for procurement for the Army, the Navy and the Marine Corps, the Air Force, and Defense-wide activities, as specified in the funding table in section 4101.

## Subtitle B—Army Programs

### SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR ARMY CH-47 HELICOPTERS.

(a) **AUTHORITY FOR MULTIYEAR PROCUREMENT.**—Subject to section 2306b of title 10, United States Code, the Secretary of the Army may enter into one or more multiyear contracts, beginning with the fiscal year 2013 program year, for the procurement of airframes for CH-47F helicopters.

(b) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2013 is subject to the availability of appropriations for that purpose for such later fiscal year.

### SEC. 112. REPORTS ON AIRLIFT REQUIREMENTS OF THE ARMY.

(a) **REPORTS.**—

(1) **INITIAL REPORT.**—Not later than March 31, 2013, the Secretary of the Army shall submit to the congressional defense committees a report described in paragraph (3).

(2) **ANNUAL REPORTS.**—Not later than October 31, 2013, and each year thereafter through 2017, the Secretary shall submit to the congressional defense committees a report described in paragraph (3).

(3) **REPORT DESCRIBED.**—A report described in this paragraph is a report on the time-sensitive or mission-critical airlift requirements of the Army.

(b) **MATTERS INCLUDED.**—The reports submitted under subsection (a) shall include, with respect to the fiscal year before the fiscal year in which the report is submitted, the following information:

(1) The total number of time-sensitive or mission-critical airlift movements required for training, steady-state, and contingency operations.

(2) The total number of time-sensitive or mission-critical airlift sorties executed for training, steady-state, and contingency operations.

(3) Of the total number of sorties listed under paragraph (2), the number of such sorties that were operated using each of—

(A) aircraft of the Army;

(B) aircraft of the Air Force;

(C) aircraft of contractors; and

(D) aircraft of other organizations not described in subparagraph (A), (B), or (C).

(4) For each sortie described under subparagraph (A), (C), or (D) of paragraph (3), an explanation for why the Secretary did not use aircraft of the Air Force to support the mission.

## Subtitle C—Navy Programs

### SEC. 121. EXTENSION OF FORD CLASS AIRCRAFT CARRIER CONSTRUCTION AUTHORITY.

Section 121(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2104),

as amended by section 124 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1320), is amended by striking “four fiscal years” and inserting “five fiscal years”.

**SEC. 122. MULTIYEAR PROCUREMENT AUTHORITY FOR VIRGINIA CLASS SUBMARINE PROGRAM.**

(a) **AUTHORITY FOR MULTIYEAR PROCUREMENT.**—Subject to section 2306b of title 10, United States Code, the Secretary of the Navy may enter into one or more multiyear contracts, beginning with the fiscal year 2014 program year, for the procurement of Virginia class submarines and Government-furnished equipment associated with the Virginia class submarine program.

(b) **AUTHORITY FOR ADVANCE PROCUREMENT.**—The Secretary may enter into one or more contracts, beginning in fiscal year 2013, for advance procurement associated with the vessels and equipment for which authorization to enter into a multiyear procurement contract is provided under subsection (a).

(c) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2013 is subject to the availability of appropriations or funds for that purpose for such later fiscal year.

(d) **LIMITATION ON TERMINATION LIABILITY.**—A contract for the construction of vessels or equipment entered into in accordance with subsection (a) shall include a clause that limits the liability of the United States to the contractor for any termination of the contract. The maximum liability of the United States under the clause shall be the amount appropriated for the vessels or equipment covered by the contract. Additionally, in the event of cancellation, the maximum liability of the United States shall include the amount of the unfunded cancellation ceiling in the contract.

(e) **AUTHORITY TO EXPAND MULTIYEAR PROCUREMENT.**—The Secretary may employ incremental funding for the procurement of Virginia class submarines and Government-furnished equipment associated with the Virginia class submarines to be procured during fiscal years 2013 through 2018 if the Secretary—

(1) determines that such an approach will permit the Navy to procure an additional Virginia class submarine in fiscal year 2014; and

(2) intends to use the funding for that purpose.

Determination.

**SEC. 123. MULTIYEAR PROCUREMENT AUTHORITY FOR ARLEIGH BURKE CLASS DESTROYERS AND ASSOCIATED SYSTEMS.**

(a) **AUTHORITY FOR MULTIYEAR PROCUREMENT.**—Subject to section 2306b of title 10, United States Code, the Secretary of the Navy may enter into one or more multiyear contracts, beginning with the fiscal year 2013 program year, for the procurement of up to 10 Arleigh Burke class Flight IIA guided missile destroyers, as well as the Aegis weapon systems, MK 41 vertical launching systems, and commercial broadband satellite systems associated with such vessels.

(b) **AUTHORITY FOR ADVANCE PROCUREMENT.**—The Secretary may enter into one or more contracts, beginning in fiscal year 2013, for advance procurement associated with the vessels and systems for which authorization to enter into a multiyear procurement contract is provided under subsection (a).

(c) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2013 is subject to the availability of appropriations or funds for that purpose for such later fiscal year.

**SEC. 124. LIMITATION ON AVAILABILITY OF AMOUNTS FOR SECOND FORD CLASS AIRCRAFT CARRIER.**

Reports.

(a) **LIMITATION.**—Of the funds authorized to be appropriated or otherwise made available for fiscal year 2013 for shipbuilding and conversion for the second Ford class aircraft carrier, not more than 50 percent may be obligated or expended until the Secretary of the Navy submits to the congressional defense committees a report setting forth a description of the program management and cost control measures that will be employed in constructing the second Ford class aircraft carrier.

Plans.

(b) **ELEMENTS.**—The report described in subsection (a) shall include a plan with respect to the Ford class aircraft carriers to—

- (1) maximize planned work in shops and early stages of construction;
- (2) sequence construction of structural units to maximize the effects of lessons learned;
- (3) incorporate design changes to improve producibility for the Ford class aircraft carriers;
- (4) increase the size of erection units to eliminate disruptive unit breaks and improve unit alignment and fairness;
- (5) increase outfitting levels for assembled units before erection in the dry dock;
- (6) increase overall ship completion levels at each key construction event;
- (7) improve facilities in a manner that will lead to improved productivity; and
- (8) ensure the shipbuilder initiates plans that will improve productivity through capital improvements that would provide targeted return on investment, including—
  - (A) increasing the amount of temporary and permanent covered work areas;
  - (B) adding ramps and service towers for improved access to work sites and the dry dock; and
  - (C) increasing lift capacity to enable construction of larger, more fully outfitted super-lifts.

**SEC. 125. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. ABRAHAM LINCOLN.**

(a) **AMOUNT AUTHORIZED FROM SCN ACCOUNT.**—Of the funds authorized to be appropriated for fiscal year 2013 by section 101 and available for shipbuilding and conversion as specified in the funding table in section 4101, \$1,517,292,000 is authorized to be available for the commencement of the nuclear refueling and complex overhaul of the U.S.S. Abraham Lincoln (CVN-72) during fiscal year 2013. The amount authorized to be made available in the preceding sentence is the first increment in the two-year sequence of incremental funding planned for the nuclear refueling and complex overhaul of that vessel.

(b) **CONTRACT AUTHORITY.**—The Secretary of the Navy may enter into a contract during fiscal year 2013 for the nuclear refueling and complex overhaul of the U.S.S. Abraham Lincoln.

(c) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A contract entered into under subsection (b) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2013 is subject to the availability of appropriations for that purpose for that later fiscal year.

**SEC. 126. DESIGNATION OF MISSION MODULES OF THE LITTORAL COMBAT SHIP AS A MAJOR DEFENSE ACQUISITION PROGRAM.**

(a) **DESIGNATION REQUIRED.**—The Secretary of Defense shall—

(1) designate the effort to develop and produce all variants of the mission modules in support of the Littoral Combat Ship program as a major defense acquisition program under section 2430 of title 10, United States Code; and

(2) with respect to the development and production of each such variant, submit to the congressional defense committees a report setting forth such cost, schedule, and performance information as would be provided if such effort were a major defense acquisition program, including Selected Acquisition Reports, unit cost reports, and program baselines.

(b) **ADDITIONAL QUARTERLY REPORTS.**—The Secretary shall submit to the congressional defense committees on a quarterly basis a report on the development and production of each variant of the mission modules in support of the Littoral Combat Ship, including cost, schedule, and performance, and identifying actual and potential problems with such development or production and potential mitigation plans to address such problems.

**SEC. 127. REPORT ON LITTORAL COMBAT SHIP DESIGNS.**

Not later than December 31, 2013, the Secretary of the Navy shall submit to the congressional defense committees a report on the designs of the Littoral Combat Ship, including comparative cost and performance information for both designs of such ship.

**SEC. 128. COMPTROLLER GENERAL REVIEW OF LITTORAL COMBAT SHIP PROGRAM.**

(a) **ACCEPTANCE OF LCS-1 AND LCS-2.**—The Comptroller General of the United States shall conduct a review of the compliance of the Secretary of the Navy with subpart 246.5 of title 48 of the Code of Federal Regulations and subpart 46.5 of the Federal Acquisition Regulation in accepting the LCS-1 and LCS-2 Littoral Combat Ships.

(b) **OPERATIONAL SUPPORT.**—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the operational support and sustainment strategy for the Littoral Combat Ship program, including manning, training, maintenance, and logistics support.

Deadline.  
Reports.

(c) **COOPERATION.**—For purposes of conducting the review under subsection (a) and the report under subsection (b), the Secretary of Defense shall ensure that the Comptroller General has access to—

- (1) all relevant records of the Department; and
- (2) all relevant communications between Department officials, whether such communications occurred inside or outside the Federal Government.

**SEC. 129. SENSE OF CONGRESS ON IMPORTANCE OF ENGINEERING IN EARLY STAGES OF SHIPBUILDING.**

It is the sense of Congress that—

(1) placing a priority on engineering dollars in the early stages of shipbuilding programs is a vital component of keeping cost down; and

(2) therefore, the Secretary of the Navy should take appropriate steps to prioritize early engineering in large ship construction including amphibious class ships beginning with the LHA-8.

**SEC. 130. SENSE OF CONGRESS ON NUCLEAR-POWERED BALLISTIC SUBMARINES.**

It is the sense of Congress that—

(1) the continuous at-sea deterrence provided by a robust and modern fleet of nuclear-powered ballistic missile submarines is critical to maintaining nuclear deterrence and assurance and therefore is a central pillar of the national security of the United States;

(2) the Navy should—

(A) carry out a program to replace the Ohio class ballistic missile submarines;

(B) ensure that the first such replacement submarine is delivered and fully operational by not later than 2031 in order to maintain continuous at-sea deterrence; and

(C) develop a risk mitigation plan to ensure that robust continuous at-sea deterrence is provided during the transition from Ohio class ballistic missile submarines to the replacement submarines; and

(3) a minimum of 12 replacement ballistic missile submarines are necessary to provide continuous at-sea deterrence over the lifetime of such submarines and, therefore, the Navy should carry out a program to produce 12 such submarines.

**SEC. 131. SENSE OF CONGRESS ON MARINE CORPS AMPHIBIOUS LIFT AND PRESENCE REQUIREMENTS.**

(a) FINDINGS.—Congress finds the following:

(1) The Marine Corps is a combat force that leverages maneuver from the sea as a force multiplier allowing for a variety of operational tasks ranging from major combat operations to humanitarian assistance.

(2) The Marine Corps is unique in that, while embarked upon naval vessels, they bring all the logistic support necessary for the full range of military operations and, operating “from the sea”, they require no third-party host nation permission to conduct military operations.

(3) The Navy has a requirement for 38 amphibious assault ships to meet this full range of military operations.

(4) Due only to fiscal constraints, that requirement of 38 vessels was reduced to 33 vessels, which adds military risk to future operations.

(5) The Navy has been unable to meet even the minimal requirement of 30 operationally available vessels and has submitted a shipbuilding and ship retirement plan to Congress that will reduce the force to 28 vessels.



(6) Experience has shown that early engineering and design of naval vessels has significantly reduced the acquisition costs and life-cycle costs of those vessels.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Department of Defense should carefully evaluate the maritime force structure necessary to execute demand for forces by the commanders of the combatant commands;

(2) the Navy should carefully evaluate amphibious lift capabilities to meet current and projected requirements;

(3) the Navy should consider prioritization of investment in and procurement of the next generation of amphibious assault ships as a component of the balanced battle force;

(4) the next generation amphibious assault ships should maintain survivability protection;

(5) operation and maintenance requirements analysis, as well as the potential to leverage a common hull form design, should be considered to reduce total ownership cost and acquisition cost; and

(6) maintaining a robust amphibious ship building industrial base is vital for the future of the national security of the United States.

**SEC. 132. SENSE OF THE SENATE ON DEPARTMENT OF THE NAVY FISCAL YEAR 2014 BUDGET REQUEST FOR TACTICAL AVIATION AIRCRAFT.**

It is the sense of the Senate that, if the budget request of the Department of the Navy for fiscal year 2014 for F–18 aircraft includes a request for funds for more than 13 new F–18 aircraft, the budget request of the Department of the Navy for fiscal year 2014 for F–35 aircraft should include a request for funds for not fewer than six F–35B aircraft and four F–35C aircraft, presuming that development, testing, and production of the F–35 aircraft are proceeding according to current plans.

## **Subtitle D—Air Force Programs**

**SEC. 141. REDUCTION IN NUMBER OF AIRCRAFT REQUIRED TO BE MAINTAINED IN STRATEGIC AIRLIFT AIRCRAFT INVENTORY.**

(a) REDUCTION IN INVENTORY REQUIREMENT.—Section 8062(g)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: “Effective on the date that is 45 days after the date on which the report under section 141(c)(3) of the National Defense Authorization Act for Fiscal Year 2013 is submitted to the congressional defense committees, the Secretary shall maintain a total aircraft inventory of strategic airlift aircraft of not less than 275 aircraft.”

Effective date.

(b) MODIFICATION OF CERTIFICATION REQUIREMENT.—Section 137(d)(3)(B) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2221) is amended by striking “316 strategic airlift aircraft” and inserting “275 strategic airlift aircraft”.

(c) MOBILITY REQUIREMENTS AND CAPABILITIES STUDY 2018.—

(1) IN GENERAL.—The Director of Cost Assessment and Program Evaluation and the Chairman of the Joint Chiefs of Staff, in coordination with the Commander of the United

States Transportation Command and the Secretaries of the military departments, shall jointly conduct a study that assesses the end-to-end, full-spectrum mobility requirements for all aspects of the National Military Strategy derived from the National Defense Strategy that is a result of the 2012 Defense Strategic Guidance published by the President in February 2012 and other planning documents of the Department of Defense.

(2) MATTERS INCLUDED.—The study under paragraph (1) shall include the following:

(A) A definition of what combinations of air mobility, sealift, surface movements, prepositioning, forward stationing, seabasing, engineering, and infrastructure requirements and capabilities provide low, moderate, significant and high levels of operational risk to meet the National Military Strategy.

(B) A description and analysis of the assumptions made by the Commander of the United States Transportation Command with respect to aircraft usage rates, aircraft mission availability rates, aircraft mission capability rates, aircrew ratios, aircrew production, and aircrew readiness rates.

(C) An analysis of different combinations of air mobility, sealift, surface movements, prepositioning, forward stationing, seabasing, engineering, and infrastructure requirements and capabilities required to support theater and tactical deployment and distribution, including—

(i) the identification, quantification, and description of the associated operational risk (as defined by the Military Risk Matrix in the Chairman of the Joint Chiefs of Staff Instruction 3401.01E) for each excursion as it relates to the combatant commander achieving strategic and operational objectives; and

(ii) any assumptions made with respect to the availability of commercial airlift and sealift capabilities and resources when applicable.

(D) A consideration of metrics developed during the most recent operational availability assessment and joint forcible entry operations assessment.

(E) An assessment of requirements and capabilities for major combat operations, lesser contingency operations as specified in the Baseline Security Posture of the Department of Defense, homeland defense, defense support to civilian authorities, other strategic missions related to national missions, global strike, the strategic nuclear mission, and direct support and time-sensitive airlift missions of the military departments.

(F) An examination, including a discussion of the sensitivity of any related conclusions and assumptions, of the variations regarding alternative modes (land, air, and sea) and sources (military, civilian, and foreign) of strategic and theater lift, and variations in forward basing, seabasing, prepositioning (afloat and ashore), air-refueling capability, advanced logistics concepts, and destination theater austerity, based on the new global footprint and global presence initiatives.

(G) An identification of mobility capability gaps, shortfalls, overlaps, or excesses, including—

- (i) an assessment of associated risks with respect to the ability to conduct operations; and
- (ii) recommended mitigation strategies where possible.

(H) An identification of mobility capability alternatives that mitigate the potential impacts on the logistic system, including—

- (i) a consideration of traditional, non-traditional, irregular, catastrophic, and disruptive challenges; and
- (ii) a description of how derived mobility requirements and capabilities support the accepted balance of risk in addressing all five categories of such challenges.

(I) The articulation of all key assumptions made in conducting the study with respect to—

- (i) risk;
- (ii) programmed forces and infrastructure;
- (iii) readiness, manning, and spares;
- (iv) scenario guidance from defense planning scenarios and multi-service force deployments;
- (v) concurrency of major operations;
- (vi) integrated global presence and basing strategy;
- (vii) host nation or third-country support;
- (viii) use of weapons of mass destruction by an enemy; and
- (ix) aircraft being used for training or undergoing depot maintenance or modernization.

(J) A description of the logistics concept of operations and assumptions, including any support concepts, methods, combat support forces, and combat service support forces that are required to enable the projection and enduring support to forces both deployed and in combat for each analytic scenario.

(K) An assessment, and incorporation as necessary, of the findings, conclusions, capability gaps, and shortfalls derived from the study under section 112(d) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1318).

(3) SUBMISSION.—The Director of Cost Assessment and Program Evaluation and the Chairman of the Joint Chiefs of Staff shall jointly submit to the congressional defense committees a report containing the study under paragraph (1).

Reports.

(4) FORM.—The report required by paragraph (3) shall be submitted in unclassified form, but may include a classified annex.

(d) PRESERVATION OF CERTAIN RETIRED C-5 AIRCRAFT.—The Secretary of the Air Force shall preserve each C-5 aircraft that is retired by the Secretary during a period in which the total inventory of strategic airlift aircraft of the Secretary is less than 301, such that the retired aircraft—

- (1) is stored in flyable condition;
- (2) can be returned to service; and
- (3) is not used to supply parts to other aircraft unless specifically authorized by the Secretary of Defense upon a request by the Secretary of the Air Force.

## (e) DEFINITIONS.—In this section:

## (1) The term “mobility” means the—

(A) deployment, sustainment, and redeployment of the personnel and equipment needed to execute the National Defense Strategy to air and seaports of embarkation, inter-theater deployment to air and seaports of debarkation, and intratheater deployment to tactical assembly areas; and

(B) the employment of aerial refueling assets and intratheater movement and infrastructure in support of deployment and sustainment of combat forces.

(2) The term “National Military Strategy” means the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff under section 153 of title 10, United States Code.

**SEC. 142. RETIREMENT OF B–1 BOMBER AIRCRAFT.**

(a) IN GENERAL.—Section 8062 of title 10, United States Code, is amended by adding at the end the following new subsection:

Effective date. “(h)(1) Beginning October 1, 2011, the Secretary of the Air Force may not retire more than six B–1 aircraft.

“(2) The Secretary shall maintain in a common capability configuration not less than 36 B–1 aircraft as combat-coded aircraft.

Definition. “(3) In this subsection, the term ‘combat-coded aircraft’ means aircraft assigned to meet the primary aircraft authorization to a unit for the performance of its wartime mission.”.

(b) CONFORMING AMENDMENT.—Section 132 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1320) is amended by striking subsection (c).

**SEC. 143. AVIONICS SYSTEMS FOR C–130 AIRCRAFT.**

## (a) LIMITATIONS.—

Time period. (1) AVIONICS MODERNIZATION PROGRAM.—The Secretary of the Air Force may not take any action to cancel or modify the avionics modernization program for C–130 aircraft until a period of 90 days has elapsed after the date on which the Secretary submits to the congressional defense committees the cost-benefit analysis conducted under subsection (b)(1).

## (2) CNS/ATM PROGRAM.—

(A) IN GENERAL.—The Secretary may not take any action described in subparagraph (B) until a period of 90 days has elapsed after the date on which the Secretary submits to the congressional defense committees the cost-benefit analysis conducted under subsection (b)(1).

(B) COVERED ACTIONS.—An action described in this subparagraph is an action to begin an alternative communication, navigation, surveillance, and air traffic management program for C–130 aircraft that is designed or intended—

(i) to meet international communication, navigation, surveillance, and air traffic management standards for the fleet of C–130 aircraft; or

(ii) to replace the current avionics modernization program for the C–130 aircraft.

## (b) COST-BENEFIT ANALYSIS.—

Contracts. (1) FFRDC.—The Secretary shall seek to enter into an agreement with the Institute for Defense Analyses to conduct

an independent cost-benefit analysis that compares the following alternatives:

(A) Upgrading and modernizing the legacy C–130 airlift fleet using the C–130 avionics modernization program.

(B) Upgrading and modernizing the legacy C–130 airlift fleet using a reduced scope program for avionics and mission planning systems.

(2) MATTERS INCLUDED.—The cost-benefit analysis conducted under paragraph (1) shall take into account—

(A) the effect of life-cycle costs for—

(i) adopting each of the alternatives described in subparagraphs (A) and (B) of paragraph (1); and

(ii) supporting C–130 aircraft that are not upgraded or modernized; and

(B) the costs associated with the potential upgrades to avionics and mission systems that may be required for legacy C–130 aircraft to remain relevant and mission effective in the future.

**SEC. 144. TREATMENT OF CERTAIN PROGRAMS FOR THE F–22A RAPTOR AIRCRAFT AS MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) IN GENERAL.—The Secretary of Defense shall treat the programs referred to in subsection (b) for the F–22A Raptor aircraft as a major defense acquisition program for which Selected Acquisition Reports shall be submitted to Congress in accordance with the requirements of section 2432 of title 10, United States Code.

Reports.

(b) COVERED PROGRAMS.—The programs referred to in this subsection for the F–22A Raptor aircraft are the modernization Increment 3.2B and any future F–22A Raptor aircraft modernization program that would otherwise, if a standalone program, qualify for treatment as a major defense acquisition program for purposes of chapter 144 of title 10, United States Code.

(c) OTHER REPORTS.—Not later than March 1 of each year, the Secretary of the Air Force shall submit to the congressional defense committees a report on the costs, schedules, and performances of the reliability and maintainability maturation program and the structural repair program of the F–22A Raptor modernization program, including a comparison of such costs, schedules, and performances to an appropriate baseline.

## Subtitle E—Joint and Multiservice Matters

**SEC. 151. MULTIYEAR PROCUREMENT AUTHORITY FOR V–22 JOINT AIRCRAFT PROGRAM.**

(a) AUTHORITY FOR MULTIYEAR PROCUREMENT.—Subject to section 2306b of title 10, United States Code, the Secretary of the Navy may enter into one or more multiyear contracts, beginning with the fiscal year 2013 program year, for the procurement of V–22 aircraft for the Department of the Navy, the Department of the Air Force, and the United States Special Operations Command.

(b) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2013 is subject to the availability of appropriations for that purpose for such later fiscal year.

**SEC. 152. PROCUREMENT OF SPACE-BASED INFRARED SYSTEMS SATELLITES.****(a) CONTRACT AUTHORITY.—**

(1) **IN GENERAL.**—The Secretary of the Air Force may procure two space-based infrared systems satellites by entering into a fixed-price contract. Such procurement may also include—

(A) material and equipment in economic order quantities when cost savings are achievable; and

(B) cost-reduction initiatives.

(2) **USE OF INCREMENTAL FUNDING.**—With respect to a contract entered into under paragraph (1) for the procurement of space-based infrared systems satellites, the Secretary may use incremental funding for a period not to exceed six fiscal years.

(3) **LIABILITY.**—A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that the total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at the time of termination.

**(b) LIMITATION OF COSTS.—**

(1) **LIMITATION.**—Except as provided by subsection (c), and excluding amounts described in paragraph (2), the total amount obligated or expended for the procurement of two space-based infrared systems satellites authorized by subsection (a) may not exceed \$3,900,000,000.

(2) **EXCLUSION.**—The amounts described in this paragraph are amounts associated with the following:

(A) Plans.

(B) Technical data packages.

(C) Post delivery and program support costs.

(D) Technical support for obsolescence studies.

**(c) WAIVER AND ADJUSTMENT TO LIMITATION AMOUNT.—**

Notification.

(1) **WAIVER.**—In accordance with paragraph (2), the Secretary may waive the limitation in subsection (b)(1) if the Secretary submits to the congressional defense committees and the Permanent Select Committee on Intelligence of the House of Representatives written notification of the adjustment made to the amount set forth in such subsection.

(2) **ADJUSTMENT.**—Upon waiving the limitation under paragraph (1), the Secretary may adjust the amount set forth in subsection (b)(1) by the following:

(A) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2012.

(B) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2012.

Determination.  
Certification.

(C) The amounts of increases or decreases in costs of the satellites that are attributable to insertion of new technology into a space-based infrared system, as compared to the technology built into such a system procured prior to fiscal year 2013, if the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is—

(i) expected to decrease the life-cycle cost of the system; or

(ii) required to meet an emerging threat that poses grave harm to national security.

(d) REPORT.—Not later than 30 days after the date on which the Secretary awards a contract under subsection (a), the Secretary shall submit to the congressional defense committees and the Permanent Select Committee on Intelligence of the House of Representatives a report on such contract, including the following:

(1) The total cost savings resulting from the authority provided by subsection (a).

(2) The type and duration of the contract awarded.

(3) The total contract value.

(4) The funding profile by year.

(5) The terms of the contract regarding the treatment of changes by the Federal Government to the requirements of the contract, including how any such changes may affect the success of the contract.

(6) A plan for using cost savings described in paragraph (1) to improve the capability of overhead persistent infrared, including a description of—

(A) the available funds, by year, resulting from such cost savings;

(B) the specific activities or subprograms to be funded by such cost savings and the funds, by year, allocated to each such activity or subprogram;

(C) the objectives for each such activity or subprogram and the criteria used by the Secretary to determine which such activity or subprogram to fund;

(D) the method in which such activities or subprograms will be awarded, including whether it will be on a competitive basis; and

(E) the process for determining how and when such activities and subprograms would transition to an existing program or be established as a new program of record.

(e) USE OF FUNDS AVAILABLE FOR SPACE VEHICLE NUMBERS 5 AND 6.—The Secretary may obligate and expend amounts authorized to be appropriated for fiscal year 2013 by section 101 for procurement, Air Force, as specified in the funding table in section 4101 and available for the advanced procurement of long-lead parts and the replacement of obsolete parts for space-based infrared system satellite space vehicle numbers 5 and 6.

(f) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should not enter into a fixed-price contract under subsection (a) for the procurement of two space-based infrared system satellites unless the Secretary determines that entering into such a contract will save the Air Force substantial savings, as required under section 2306b of title 10, United States Code, over the cost of procuring two such satellites separately.

Determination.

#### SEC. 153. LIMITATION ON AVAILABILITY OF FUNDS FOR EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM.

(a) LIMITATION.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the Air Force for the evolved expendable launch vehicle program, 10 percent may not be obligated or expended until the date on

which the Secretary of the Air Force submits to the appropriate congressional committees—

Reports.

(1) a report describing the acquisition strategy for such program; and

Certification.

(2) written certification that such strategy—  
 (A) maintains assured access to space;  
 (B) achieves substantial cost savings; and  
 (C) provides opportunities for competition.

(b) MATTERS INCLUDED.—The report under subsection (a)(1) shall include the following information:

(1) The anticipated savings to be realized under the acquisition strategy for the evolved expendable launch vehicle program.

(2) The number of launch vehicle booster cores covered by the planned contract for such program.

(3) The number of years covered by such contract.

(4) An assessment of when new entrants that have submitted a statement of intent will be certified to compete for evolved expendable launch vehicle-class launches.

(5) The projected launch manifest, including possible opportunities for certified new entrants to compete for evolved expendable launch vehicle-class launches.

(6) Any other relevant analysis used to inform the acquisition strategy for such program.

(c) COMPTROLLER GENERAL.—

(1) REVIEW.—The Comptroller General of the United States shall review the report under subsection (a)(1).

Deadline.

(2) SUBMITTAL.—Not later than 30 days after the date on which the report under subsection (a)(1) is submitted to the appropriate congressional committees, the Comptroller General shall—

Reports.

(A) submit to such committees a report on the review under paragraph (1); or

Briefing.

(B) provide to such committees a briefing on such review.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means the following:

(1) The congressional defense committees.

(2) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

#### SEC. 154. LIMITATION ON AVAILABILITY OF FUNDS FOR RETIREMENT OF RQ-4 GLOBAL HAWK UNMANNED AIRCRAFT SYSTEMS.

(a) LIMITATION.—None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the Department of Defense may be obligated or expended to retire, prepare to retire, or place in storage an RQ-4 Block 30 Global Hawk unmanned aircraft system.

(b) MAINTAINED LEVELS.—During the period preceding December 31, 2014, in supporting the operational requirements of the combatant commands, the Secretary of the Air Force shall maintain the operational capability of each RQ-4 Block 30 Global Hawk unmanned aircraft system belonging to the Air Force or delivered to the Air Force during such period.



**SEC. 155. REQUIREMENT TO SET F-35 AIRCRAFT INITIAL OPERATIONAL CAPABILITY DATES.**Deadline.  
Reports.

(a) F-35A.—Not later than June 1, 2013, the Secretary of the Air Force shall—

(1) establish the initial operational capability date for the F-35A aircraft; and

(2) submit to the congressional defense committees a report on the details of such initial operational capability.

(b) F-35B AND F-35C.—Not later than June 1, 2013, the Secretary of the Navy shall—

(1) establish the initial operational capability dates for the F-35B and F-35C aircraft; and

(2) submit to the congressional defense committees a report on the details of such initial operational capabilities for both variants.

**SEC. 156. SHALLOW WATER COMBAT SUBMERSIBLE PROGRAM.**

(a) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act, the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, in coordination with the Commander of the United States Special Operations Command, shall submit to the congressional defense committees a report setting forth the following:

(1) A description of all efforts under the Shallow Water Combat Submersible program and the United States Special Operations Command to improve the accuracy of the tracking of the schedule and costs of the program.

(2) The revised timeline for the initial and full operational capability of the Shallow Water Combat Submersible, including details outlining and justifying the revised baseline to the program.

(3) Current cost estimates to meet the basis of issue requirement under the program.

(4) An assessment of existing program risk through the completion of operational testing.

(b) SUBSEQUENT REPORTS.—

(1) QUARTERLY REPORTS REQUIRED.—The Assistant Secretary, in coordination with the Commander of the United States Special Operations Command, shall submit to the congressional defense committees on a quarterly basis updates on the schedule and cost performance of the contractor of the Shallow Water Combat Submersible program, including metrics from the earned value management system.

(2) SUNSET.—The requirement in paragraph (1) shall cease on the date the Shallow Water Combat Submersible has completed operational testing and has been found to be operationally effective and operationally suitable.

**SEC. 157. REQUIREMENT THAT TACTICAL MANNED INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE AIRCRAFT AND UNMANNED AERIAL VEHICLES USE SPECIFIED STANDARD DATA LINK.**

(a) REQUIREMENT.—The Secretary of Defense shall take such steps as necessary to ensure that (except as specified in subsection (c)) all covered aircraft of the Army, Navy, Marine Corps, and Air Force are equipped and configured so that—

(1) the data link used by those vehicles is the Department of Defense standard tactical manned intelligence, surveillance, and reconnaissance aircraft and unmanned aerial vehicle data link known as the Common Data Link or a data link that uses waveform capable of transmitting and receiving Internet Protocol communications; and

(2) with respect to unmanned aerial vehicles, such vehicles use data formats consistent with the architectural standard known as STANAG 4586 that was developed to facilitate multinational interoperability among NATO member nations.

(b) SOLICITATIONS.—The Secretary of Defense shall ensure that any solicitation issued for a Common Data Link described in subsection (a), regardless of whether the solicitation is issued by a military department or a contractor with respect to a subcontract—

(1) conforms to a Department of Defense specification standard, including interfaces and waveforms, existing as of the date of the solicitation; and

(2) does not include any proprietary or undocumented waveforms or control interfaces or data interfaces as a requirement or criterion for evaluation.

Determination.  
Certification.

(c) WAIVER.—The Under Secretary of Defense for Acquisition, Technology, and Logistics may waive the applicability of this section to any covered aircraft if the Under Secretary determines, and certifies to the congressional defense committees, that—

(1) it would be technologically infeasible or economically unacceptable to apply this section to such aircraft; or

(2) such aircraft is under a special access program that is not considered a major defense acquisition program.

(d) COVERED AIRCRAFT DEFINED.—In this section, the term “covered aircraft” means—

(1) tactical manned intelligence, surveillance, and reconnaissance aircraft; and

(2) unmanned aerial vehicles.

(e) CONFORMING REPEAL.—Section 141 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3163) is repealed.

#### **SEC. 158. STUDY ON SMALL ARMS AND SMALL-CALIBER AMMUNITION CAPABILITIES.**

(a) STUDY.—

Deadline.

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall enter into a contract with a federally funded research and development center to conduct a study on the requirements analysis and determination processes and capabilities of the Department of Defense with respect to small arms and small-caliber ammunition that carries out each of the following:

(A) A comparative evaluation of the current military small arms in use by the Armed Forces, including general purpose and special operations forces, and select military equivalent commercial candidates not necessarily in use militarily but currently available.

(B) A comparative evaluation of the standard small-caliber ammunition of the Department with other small-caliber ammunition alternatives.

(C) An assessment of the current plans of the Department to modernize the small arms and small-caliber ammunition capabilities of the Department.

(D) An assessment of the requirements analysis and determination processes of the Department for small arms and small-caliber ammunition.

(2) FACTORS TO CONSIDER.—The study required under paragraph (1) shall take into consideration the following factors:

(A) Current and future operating environments, as specified or referred to in strategic guidance and planning documents of the Department.

(B) Capability gaps identified in small arms and small-caliber ammunition capabilities based assessments of the Department.

(C) Actions taken by the Secretary to address capability gaps identified in any such capabilities based assessments.

(D) Findings from studies of the Department of Defense Small Arms and Small-Caliber Ammunition defense support team and actions taken by the Secretary in response to such findings.

(E) Findings from the assessment required by section 143 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2304 note) and actions taken by the Secretary in response to such findings.

(F) Modifications and improvements recently applied to small arms and small-caliber ammunition of the Armed Forces, including general purpose and special operations forces, as well as the potential for continued modification and improvement.

(G) Impacts to the small arms production industrial base and small-caliber ammunition industrial base, if any, associated with changes from current U.S. or NATO standard caliber weapons or ammunition sizes.

(H) Total life cycle costs of each small arms system and small-caliber ammunition, including incremental increases in cost for industrial facilitization or small arms and ammunition procurement, if any, associated with changes described in subparagraph (G).

(I) Any other factor the federally funded research and development center considers appropriate.

(3) ACCESS TO INFORMATION.—The Secretary shall ensure that the federally funded research and development center conducting the study under paragraph (1) has access to all necessary data, records, analyses, personnel, and other resources necessary to complete the study.

(b) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2013, the Secretary shall submit to the congressional defense committees a report containing the results of the study conducted under subsection (a)(1), together with the comments of the Secretary on the findings contained in the study.

(2) CLASSIFIED ANNEX.—The report shall be in unclassified form, but may contain a classified annex.

(c) SMALL ARMS DEFINED.—In this section, the term “small arms” means weapons assigned to and operated by an individual

member of the Armed Forces, including handguns, rifles and carbines (including sniper and designated marksman weapons), sub-machine guns, and light-machine guns.

## **TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**

### Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.

### Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Next-generation long-range strike bomber aircraft nuclear certification requirement.

Sec. 212. Extension of limitation on availability of funds for Unmanned Carrier-launched Surveillance and Strike system program.

Sec. 213. Limitation on availability of funds for milestone A activities for an Army medium range multi-purpose vertical takeoff and landing unmanned aircraft system.

Sec. 214. Use of funds for conventional prompt global strike program.

Sec. 215. Next Generation Foundry for the Defense Microelectronics Activity.

Sec. 216. Advanced rotorcraft initiative.

### Subtitle C—Missile Defense Programs

Sec. 221. Prohibition on the use of funds for the MEADS program.

Sec. 222. Availability of funds for Iron Dome short-range rocket defense program.

Sec. 223. Authority for relocation of certain Aegis weapon system assets between and within the DDG–51 class destroyer and Aegis Ashore programs in order to meet mission requirements.

Sec. 224. Evaluation of alternatives for the precision tracking space system.

Sec. 225. Next generation Exo-atmospheric Kill Vehicle.

Sec. 226. Modernization of the Patriot air and missile defense system.

Sec. 227. Evaluation and environmental impact assessment of potential future missile defense sites in the United States.

Sec. 228. Homeland ballistic missile defense.

Sec. 229. Regional ballistic missile defense.

Sec. 230. NATO contributions to missile defense in Europe.

Sec. 231. Report on test plan for the ground-based midcourse defense system.

Sec. 232. Sense of Congress on missile defense.

Sec. 233. Sense of Congress on the submittal to Congress of the homeland defense hedging policy and strategy report of the Secretary of Defense.

### Subtitle D—Reports

Sec. 241. Mission packages for the Littoral Combat Ship.

Sec. 242. Study on electronic warfare capabilities of the Marine Corps.

Sec. 243. Conditional requirement for report on amphibious assault vehicles for the Marine Corps.

Sec. 244. Report on cyber and information technology research investments of the Air Force.

Sec. 245. National Research Council review of defense science and technical graduate education needs.

### Subtitle E—Other Matters

Sec. 251. Eligibility for Department of Defense laboratories to enter into educational partnerships with educational institutions in territories and possessions of the United States.

Sec. 252. Regional advanced technology clusters.

Sec. 253. Sense of Congress on increasing the cost-effectiveness of training exercises for members of the Armed Forces.

## Subtitle A—Authorization of Appropriations

### SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2013 for the use of the Department of Defense for research, development, test, and evaluation as specified in the funding table in section 4201.

## Subtitle B—Program Requirements, Restrictions, and Limitations

### SEC. 211. NEXT-GENERATION LONG-RANGE STRIKE BOMBER AIRCRAFT NUCLEAR CERTIFICATION REQUIREMENT.

The Secretary of the Air Force shall ensure that the next-generation long-range strike bomber is—

(1) capable of carrying strategic nuclear weapons as of the date on which such aircraft achieves initial operating capability; and

(2) certified to use such weapons by not later than two years after such date. Deadline.

### SEC. 212. EXTENSION OF LIMITATION ON AVAILABILITY OF FUNDS FOR UNMANNED CARRIER-LAUNCHED SURVEILLANCE AND STRIKE SYSTEM PROGRAM.

(a) EXTENSION OF LIMITATION.—Subsection (a) of section 213 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1330) is amended by inserting “or fiscal year 2013” after “fiscal year 2012”.

(b) TECHNOLOGY DEVELOPMENT PHASE.—Such section is further amended by adding at the end the following new subsection:

“(d) TECHNOLOGY DEVELOPMENT AND PRELIMINARY DESIGN PHASES.—

“(1) CONTRACTORS.—In accordance with paragraph (2), the Secretary of the Navy may not reduce the number of prime contractors working on the Unmanned Carrier-launched Surveillance and Strike system program to one prime contractor for the technology development phase of such program prior to the program achieving the preliminary design review milestone.

“(2) PRELIMINARY DESIGN REVIEW.—After the date on which the Unmanned Carrier-launched Surveillance and Strike system program achieves the preliminary design review milestone, the Secretary may not reduce the number of prime contractors working on the program to one prime contractor until—

“(A) the preliminary design reviews of the program are completed;

“(B) the Under Secretary of Defense for Acquisition, Technology, and Logistics assesses the completeness of the preliminary design reviews of the program for each participating prime contractor;

“(C) the Under Secretary submits to the congressional defense committees a report that includes— Reports.

- Certification. “(i) a summary of the assessment of the preliminary design reviews of the program conducted under subparagraph (B); and
- “(ii) a certification that each preliminary design review of the program was complete and was not abbreviated when compared to preliminary design reviews conducted for other major defense acquisition programs consistent with the policies specified in Department of Defense Instruction 5000.02; and
- Time period. “(D) a period of 30 days has elapsed following the date on which the Under Secretary submits the report under subparagraph (C).”.
- (c) TECHNICAL AMENDMENT.—Such section is further amended by striking “Future Unmanned Carrier-based Strike System” each place it appears and inserting “Unmanned Carrier-launched Surveillance and Strike system”.

**SEC. 213. LIMITATION ON AVAILABILITY OF FUNDS FOR MILESTONE A ACTIVITIES FOR AN ARMY MEDIUM RANGE MULTI-PURPOSE VERTICAL TAKEOFF AND LANDING UNMANNED AIRCRAFT SYSTEM.**

- (a) LIMITATION.—None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for research, development, test, and evaluation, Army, may be obligated or expended for Milestone A activities with respect to a medium-range multi-purpose vertical take-off and landing unmanned aircraft system until—
- Certification. (1) the Chairman of the Joint Requirements Oversight Council certifies in writing to the appropriate congressional committees that the Joint Requirements Oversight Council determines that—
- (A) such system is required to meet a required capability or requirement validated by the Council; and
- (B) as of the date of the certification, an unmanned aircraft system in the operational inventory of a military department that was selected using competitive procedures cannot meet such capability or be modified to meet such capability in a more cost effective way; and
- (C) the acquisition strategy for such a capability includes competitive procedures as a requirement; and
- Time period. (2) a period of 30 days has elapsed following the date on which the Chairman submits the certification under paragraph (1).
- (b) DEFINITIONS.—In this section:
- (1) The term “appropriate congressional committees” means—
- (A) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives; and
- (B) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.
- (2) The term “competitive procedures” has the meaning given that term in section 2302(2) of title 10, United States Code.
- (3) The term “Milestone A activities” means, with respect to an acquisition program of the Department of Defense—

- (A) the distribution of request for proposals;
- (B) the selection of technology demonstration contractors; and
- (C) technology development.

**SEC. 214. USE OF FUNDS FOR CONVENTIONAL PROMPT GLOBAL STRIKE PROGRAM.**

(a) **COMPETITIVE PROCEDURES.**—Except as provided by subsection (b), the Secretary of Defense shall ensure that any funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for activities of the conventional prompt global strike program are obligated or expended using competitive solicitation procedures to involve industry as well as government partners to the extent feasible.

(b) **WAIVER.**—The Secretary may waive the requirement to use competitive solicitation procedures under subsection (a) if—

(1) the Secretary—

(A) determines that using such procedures is not feasible; and Determination.

(B) notifies the congressional defense committees of such determination; and Notification.

(2) a period of 5 days elapses after the date on which the Secretary makes such notification under paragraph (1)(B). Time period.

**SEC. 215. NEXT GENERATION FOUNDRY FOR THE DEFENSE MICROELECTRONICS ACTIVITY.**

None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for research, development, test, and evaluation for the Next Generation Foundry for the Defense Microelectronics Activity (PE #603720S) may be obligated or expended for that purpose until a period of 60 days has elapsed following the date on which the Assistant Secretary of Defense for Research and Engineering— Time period.

(1) develops a microelectronics strategy as described in the Senate report to accompany S. 1253 of the 112th Congress (S. Rept. 112–26) and an estimate of the full life-cycle costs for the upgrade of the Next Generation Foundry; Strategy.

(2) develops an assessment regarding the manufacturing capability of the United States to produce three-dimensional integrated circuits to serve national defense interests; and Assessment.

(3) submits to the congressional defense committees the strategy and cost estimate required by paragraph (1) and the assessment required by paragraph (2). Estimate.

**SEC. 216. ADVANCED ROTORCRAFT INITIATIVE.**

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall, in consultation with the military departments and the Defense Advanced Research Projects Agency, submit to the congressional defense committees a report setting forth a strategy for the use of integrated platform design teams and agile prototyping approaches for the development of advanced rotorcraft capabilities. Deadline. Reports.

(b) **ELEMENTS.**—The strategy required by subsection (a) shall include the following:

(1) Mechanisms for establishing agile prototyping practices and programs, including rotorcraft X-planes, and an identification of the resources required for such purposes.

(2) The X-Plane Rotorcraft program of the Defense Advanced Research Projects Agency with performance objectives beyond those of the Joint Multi-role development program, including at least two competing teams.

(3) Approaches, including potential competitive prize awards, to encourage the development of advanced rotorcraft capabilities to address challenge problems such as nap-of-earth automated flight, urban operation near buildings, slope landings, automated autorotation or power-off recovery, and automated selection of landing areas.

## **Subtitle C—Missile Defense Programs**

### **SEC. 221. PROHIBITION ON THE USE OF FUNDS FOR THE MEADS PROGRAM.**

None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the Department of Defense may be obligated or expended for the medium extended air defense system.

### **SEC. 222. AVAILABILITY OF FUNDS FOR IRON DOME SHORT-RANGE ROCKET DEFENSE PROGRAM.**

Of the funds authorized to be appropriated for fiscal year 2013 by section 201 for research, development, test, and evaluation, Defense-wide, and available for the Missile Defense Agency, \$211,000,000 may be provided to the Government of Israel for the Iron Dome short-range rocket defense program as specified in the funding table in section 4201.

### **SEC. 223. AUTHORITY FOR RELOCATION OF CERTAIN AEGIS WEAPON SYSTEM ASSETS BETWEEN AND WITHIN THE DDG–51 CLASS DESTROYER AND AEGIS ASHORE PROGRAMS IN ORDER TO MEET MISSION REQUIREMENTS.**

(a) **TRANSFER TO AEGIS ASHORE SYSTEM.**—Notwithstanding any other provision of law, the Secretary of the Navy may transfer Aegis weapon system equipment with ballistic missile defense capability to the Director of the Missile Defense Agency for use by the Director in the Aegis Ashore System for installation in the country designated as “Host Nation 1” by transferring to the Agency such equipment procured with amounts authorized to be appropriated for shipbuilding and conversion, Navy, for fiscal years 2010 and 2011 for the DDG–51 Class Destroyer Program.

(b) **ADJUSTMENTS IN EQUIPMENT DELIVERIES.**—

(1) **USE OF FY12 FUNDS FOR AWS SYSTEMS ON DESTROYERS PROCURED WITH FY11 FUNDS.**—Amounts authorized to be appropriated for shipbuilding and conversion, Navy, for fiscal year 2012, and any Aegis weapon system assets procured with such amounts, may be used to deliver complete, mission-ready Aegis weapon systems with ballistic missile defense capability to any DDG–51 class destroyer for which amounts were authorized to be appropriated for shipbuilding and conversion, Navy, for fiscal year 2011.

(2) **USE OF AWS SYSTEMS PROCURED WITH RDT&E FUNDS ON DESTROYERS.**—The Secretary may install on any DDG–51 class destroyer Aegis weapon systems with ballistic missile defense capability transferred pursuant to subsection (c).



(c) **TRANSFER FROM AEGIS ASHORE SYSTEM.**—The Director shall transfer Aegis weapon system equipment with ballistic missile defense capability procured for installation in the Aegis Ashore System to the Secretary for the DDG-51 Class Destroyer Program to replace any equipment transferred to the Director under subsection (a).

(d) **TREATMENT OF TRANSFER IN FUNDING DESTROYER CONSTRUCTION.**—Notwithstanding the source of funds for any equipment transferred under subsection (c), the Secretary shall fund all work necessary to complete construction and outfitting of any destroyer in which such equipment is installed in the same manner as if such equipment had been acquired using amounts in the shipbuilding and conversion, Navy, account.

**SEC. 224. EVALUATION OF ALTERNATIVES FOR THE PRECISION TRACKING SPACE SYSTEM.**

(a) **LIMITATION.**—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the Missile Defense Agency for the precision tracking space system, not more than 75 percent may be obligated or expended until the date on which—

(1) the Director of Cost Assessment and Program Evaluation completes the evaluation under subsection (b)(1); and

(2) the terms of reference for the evaluation under subsection (b)(1)(B) are—

(A) approved by the Missile Defense Executive Board, in coordination with the Defense Space Council; and

(B) submitted to the congressional defense committees.

(b) **INDEPENDENT COST ESTIMATE AND EVALUATION OF ALTERNATIVES REQUIRED.**—

(1) **IN GENERAL.**—The Director of Cost Assessment and Program Evaluation shall perform—

(A) an independent cost estimate for the precision tracking space system; and

(B) a comprehensive assessment evaluation of alternatives for such system.

(2) **BASIS OF EVALUATION.**—The evaluation under paragraph (1)(B) shall be based on a clear articulation by the Director of the Missile Defense Agency of—

(A) the space-based and ground-based sensors that will be required to be maintained to aid the precision tracking space system constellation;

(B) the number of satellites to be procured for a first constellation, including the projected lifetime of such satellites in the first constellation, and the number projected to be procured for a first and, if applicable, second replenishment;

(C) the technological and acquisition risks of such system, including systems engineering and ground system development;

(D) an evaluation of the technological capability differences between the precision tracking space system tracking sensor and the space tracking and surveillance system tracking sensor;

(E) the cost differences, as confirmed by the Director of Cost Assessment and Program Evaluation, between such systems, including costs relating to launch services; and

(F) any other matters the Director believes useful that do not unduly delay completion of the evaluation.

(3) EVALUATION.—In conducting the evaluation under paragraph (1)(B), the Director of Cost Assessment and Program Evaluation shall—

(A) evaluate whether the precision tracking space system, as planned by the Director of the Missile Defense Agency in the budget submitted to Congress under section 1105 of title 31, United States Code, for fiscal year 2013, is the most cost effective and best value sensor option with respect to land-, air-, or space-based sensors, or a combination thereof, to improve the regional missile defense and homeland missile defense of the United States, including by adding precision tracking and discrimination capability to the ground-based midcourse defense system;

(B) examine the overhead persistent infrared satellite data or other data that are available as of the date of the evaluation that are not being used for ballistic missile tracking;

(C) determine whether and how using the data described in subparagraph (B) could improve sensor coverage for the homeland missile defense of the United States and regional missile defense capabilities;

(D) study the plans of the Director of the Missile Defense Agency to integrate the precision tracking space system concept into the ballistic missile defense system and evaluate the concept of operations and missile defense engagement scenarios of such use;

(E) consider the agreement entered into under subsection (d)(1); and

(F) consider any other matters the Director believes useful that do not unduly delay completion of the evaluation.

Time periods.

(4) COST DETERMINATION.—In conducting the independent cost estimate under paragraph (1)(A), the Director of Cost Assessment and Program Evaluation shall take into account acquisition costs and operation and sustainment costs during the initial 10-year and 20-year periods.

(5) COOPERATION.—The Director of the Missile Defense Agency shall provide to the Director of Cost Assessment and Program Evaluation the information necessary to conduct the independent cost estimate and the evaluation of alternatives of such program under paragraph (1).

Deadline.

(c) SUBMISSION REQUIRED.—Not later than April 30, 2013, the Director of Cost Assessment and Program Evaluation shall submit to the congressional defense committees the independent cost estimate and evaluation under subparagraphs (A) and (B) of subsection (b)(1).

(d) MEMORANDUM OF AGREEMENT.—

(1) IN GENERAL.—The Director of the Missile Defense Agency shall enter into a memorandum of agreement with the Commander of the Air Force Space Command with respect to the space situational awareness capabilities, requirements, design, and cost sharing of the precision tracking space system.

(2) SUBMISSION.—The Director shall submit to the congressional defense committees the agreement entered into under paragraph (1).

## (e) REVIEW BY THE COMPTROLLER GENERAL.—

Deadlines.  
Briefings.  
Reports.

(1) TERMS OF REFERENCE.—The Comptroller General of the United States shall provide to the congressional defense committees—

(A) by not later than 30 days after the date on which the terms of reference for the evaluation under subsection (b)(1)(B) are provided to such committees pursuant to subsection (a)(2), a briefing on the views of the Comptroller General with respect to such terms of reference and their conformance with the best practices for analyses of alternatives established by the Comptroller General; and

(B) a final report on such terms as soon as practicable following the date of the briefing under subparagraph (A).

(2) COMPREHENSIVE PTSS ASSESSMENT.—The Comptroller General shall further provide to the congressional defense committees—

(A) by not later than 60 days after the date on which the evaluation is submitted to such committees under subsection (c), a briefing on the views of the Comptroller General with respect to such evaluation; and

(B) a final report on such evaluation as soon as practicable following the date of the briefing under subparagraph (A).

**SEC. 225. NEXT GENERATION EXO-ATMOSPHERIC KILL VEHICLE.**

(a) PLAN FOR NEXT GENERATION KILL VEHICLE.—The Director of the Missile Defense Agency shall develop a long-term plan for the exo-atmospheric kill vehicle that addresses both modifications and enhancements to the current exo-atmospheric kill vehicle and options for the competitive development of a next generation exo-atmospheric kill vehicle for the ground-based interceptor of the ground-based midcourse defense system and any other interceptor that might be developed for the defense of the United States against long-range ballistic missiles.

(b) DEFINITION OF PARAMETERS AND CAPABILITIES.—

(1) ASSESSMENT REQUIRED.—The Director shall define the desired technical parameters and performance capabilities for a next generation exo-atmospheric kill vehicle using an assessment conducted by the Director for that purpose that is designed to ensure that a next generation exo-atmospheric kill vehicle design—

(A) enables ease of manufacturing, high tolerances to production processes and supply chain variability, and inherent reliability;

(B) will be optimized to take advantage of the ballistic missile defense system architecture and sensor system capabilities;

(C) leverages all relevant kill vehicle development activities and technologies, including from the current standard missile-3 block IIB program and the previous multiple kill vehicle technology development program;

(D) seeks to maximize, to the greatest extent practicable, commonality between subsystems of a next generation exo-atmospheric kill vehicle and other exo-atmospheric kill vehicle programs; and

(E) meets Department of Defense criteria, as established in the February 2010 Ballistic Missile Defense

Review, for affordability, reliability, suitability, and operational effectiveness to defend against limited attacks from evolving and future threats from long-range missiles.

(2) **EVALUATION OF PAYLOADS.**—The assessment required by paragraph (1) shall include an evaluation of the potential benefits and drawbacks of options for both unitary and multiple exo-atmospheric kill vehicle payloads.

Evaluation.

(3) **STANDARD MISSILE-3 BLOCK IIB INTERCEPTOR.**—As part of the assessment required by paragraph (1), the Director shall evaluate whether there are potential options and opportunities arising from the standard missile-3 block IIB interceptor development program for development of an exo-atmospheric kill vehicle, or kill vehicle technologies or components, that could be used for potential upgrades to the ground-based interceptor or for a next generation exo-atmospheric kill vehicle.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional defense committees a report setting forth the plan developed under subsection (a), including the results of the assessment under subsection (b), and an estimate of the cost and schedule of implementing the plan.

(2) **FORM.**—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

#### **SEC. 226. MODERNIZATION OF THE PATRIOT AIR AND MISSILE DEFENSE SYSTEM.**

Deadline.

(a) **PLAN FOR MODERNIZATION.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a prioritized plan for support of the long-term requirements in connection with the modernization of the Patriot air and missile defense system and related systems of the integrated air and missile defense architecture.

(b) **ADDITIONAL ELEMENTS.**—The report required by subsection (a) shall also set forth the following:

(1) An explanation of the requirements and goals for the Patriot air and missile defense system and related systems of the integrated air and missile defense architecture during the 10-year period beginning on the date of the report.

(2) An assessment of the integrated air and missile defense capabilities required to meet the demands of evolving and emerging threats during the ten-year period beginning on the date of the report.

(3) A plan for the introduction of changes to the Patriot air and missile defense system program to achieve reductions in the life-cycle cost of the Patriot air and missile defense system.

#### **SEC. 227. EVALUATION AND ENVIRONMENTAL IMPACT ASSESSMENT OF POTENTIAL FUTURE MISSILE DEFENSE SITES IN THE UNITED STATES.**

Deadline.  
Study.

(a) **EVALUATION.**—Not later than December 31, 2013, the Secretary of Defense shall conduct a study to evaluate at least three possible additional locations in the United States, selected by the Director of the Missile Defense Agency, that would be best suited for future deployment of an interceptor capable of protecting the

homeland against threats from nations such as North Korea and Iran. At least two of such locations shall be on the East Coast of the United States.

(b) ENVIRONMENTAL IMPACT STATEMENT REQUIRED.—Except as provided by subsection (c), the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. et seq.) for the locations the Secretary evaluates under subsection (a).

(c) EXCEPTION.—If an environmental impact statement has already been prepared for a location the Secretary evaluates under subsection (a), the Secretary shall not be required to prepare another environmental impact statement for such location.

(d) CONTINGENCY PLAN.—In light of the evaluation under subsection (a), the Director of the Missile Defense Agency shall—

(1) develop a contingency plan for the deployment of a homeland missile defense interceptor site that is in addition to such sites that exist as of the date of the enactment of this Act in case the President determines to proceed with such an additional deployment; and

(2) notify the congressional defense committees when such contingency plan has been developed. Notification.

#### SEC. 228. HOMELAND BALLISTIC MISSILE DEFENSE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it is a national priority to defend the United States homeland against the threat of limited ballistic missile attack (whether accidental, unauthorized, or deliberate);

(2) the currently deployed ground-based midcourse defense system, with 30 ground-based interceptors deployed in Alaska and California, provides a level of protection of the United States homeland;

(3) it is essential for the ground-based midcourse defense system to achieve the levels of reliability, availability, sustainability, and operational performance that will allow it to continue providing protection of the United States homeland;

(4) the Missile Defense Agency should, as its highest priority, correct the problem that caused the December 2010 ground-based midcourse defense system flight test failure and demonstrate the correction in flight tests before resuming production of the capability enhancement-II kill vehicle, in order to provide confidence that the system will work as intended;

(5) the Department of Defense should continue to enhance the performance and reliability of the ground-based midcourse defense system, and enhance the capability of the ballistic missile defense system, to provide improved capability to defend the homeland;

(6) the Missile Defense Agency should have a robust, rigorous, and operationally realistic testing program for the ground-based midcourse defense system, including salvo testing, multiple simultaneous engagement testing, and operational testing;

(7) the Department of Defense has taken a number of prudent, affordable, cost-effective, and operationally significant steps to hedge against the possibility of future growth in the missile threat to the homeland from North Korea and Iran; and

(8) the Department of Defense should continue to evaluate the evolving threat of limited ballistic missile attack, particularly from countries such as North Korea and Iran, and consider other possibilities for prudent, affordable, cost-effective, and operationally significant steps to improve the posture of the United States to defend the homeland.

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status of efforts to improve the homeland ballistic missile defense capability of the United States.

(2) ELEMENTS OF REPORT.—The report required by paragraph (1) shall include the following:

(A) A detailed description of the actions taken or planned to improve the reliability, availability, and capability of the ground-based midcourse defense system, particularly the exoatmospheric kill vehicle, and any other actions to improve the homeland missile defense posture to hedge against potential future growth in the threat of limited ballistic missile attack (whether accidental, unauthorized, or deliberate), particularly from countries such as North Korea and Iran.

(B) A description of any improvements achieved as a result of the actions described in subparagraph (A).

(C) A description of the results of the two planned flight tests of the ground-based midcourse defense system (control test vehicle flight test-1, and GMD flight test-06b) intended to demonstrate the success of the correction of the problem that caused the flight test failure of December 2010, and the status of any decision to resume production of the capability enhancement-II kill vehicle.

(D) a detailed description of the planned roles and requirements for the standard missile-3 block IIB interceptor to augment the defense of the homeland, including the capabilities needed to defeat long-range missiles that could be launched from Iran to the United States;

(E) Any other matters the Secretary considers appropriate.

(3) FORM OF REPORT.—The report shall be submitted in unclassified form, but may include a classified annex.

(c) COMPTROLLER GENERAL BRIEFING AND REPORT.—

(1) BRIEFING.—Not later than 60 days after the date on which the Secretary submits the report under subsection (b)(1), the Comptroller General of the United States shall brief the congressional defense committees with the views of the Comptroller General on the report.

(2) REPORT.—As soon as practicable after the date on which the Comptroller General briefs the congressional defense committees under paragraph (1), the Comptroller General shall submit to such committees a report on the views included in such briefing.

#### **SEC. 229. REGIONAL BALLISTIC MISSILE DEFENSE.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the threat from regional ballistic missiles, particularly from Iran and North Korea, is serious and growing, and puts

at risk forward-deployed forces of the United States and allies and partners in Europe, the Middle East, and the Asia-Pacific region;

(2) the Department of Defense has an obligation to provide force protection of forward-deployed forces, assets, and facilities of the United States from regional ballistic missile attack;

(3) the United States has an obligation to meet its security commitments to its allies, including ballistic missile defense commitments;

(4) the Department of Defense has a program of investment and capabilities to provide for both homeland defense and regional defense against ballistic missiles, consistent with the Ballistic Missile Defense Review of 2010 and with the prioritized and integrated needs of the commanders of the combatant commands;

(5) the European Phased Adaptive Approach to missile defense is a response to the existing and growing ballistic missile threat from Iran to forward deployed United States forces, allies and partners in Europe;

(6) the Department of Defense—

(A) should, as a high priority, continue to develop, test, and plan to deploy all four phases of the European Phased Adaptive Approach, including all variants of the standard missile-3 interceptor;

(B) should continue to conduct tests to evaluate and assess the capability of future phases of the European Phased Adaptive Approach and to demonstrate whether they will achieve their intended roles, as outlined in the Ballistic Missile Defense Review of 2010; and

(C) should also continue with its other phased and adaptive regional missile defense efforts tailored to the Middle East and the Asia-Pacific region; and

(7) European members of the North Atlantic Treaty Organization are making a variety of contributions to missile defense in Europe, by hosting elements of missile defense systems of the United States on their territories, through individual national contributions to missile defense capability, and by collective funding and development of the Active Layered Theater Ballistic Missile Defense system; and

(8) allies and partners of the United States in the Asia-Pacific region and in the Middle East are making contributions to regional missile defense capabilities, including by hosting elements of missile defense systems of the United States on their territories; jointly developing missile defense capabilities; and cooperating in regional missile defense architectures.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing the status and progress of regional missile defense programs and efforts.

(2) ELEMENTS OF REPORT.—The report required by paragraph (1) shall include the following:

(A) An assessment of the adequacy of the existing and planned European Phased Adaptive Approach to provide force protection for forward-deployed forces of the United States in Europe against ballistic missile threats

from Iran, and an assessment whether adequate force protection would be available absent the European Phased Adaptive Approach, given current and planned Patriot, Terminal High Altitude Area Defense, and Aegis ballistic missile defense capability.

(B) A description of the progress made in the development and testing of elements of systems intended for deployment in Phases 2 through 4 of the European Phased Adaptive Approach, and an assessment of technical and schedule risks.

(C) A description of the missile defense priorities and capability needs of the regional combatant commands, and the planned regional missile defense architectures derived from those capability needs and priorities.

(D) A description of the global force management process used to evaluate the missile defense capability needs of the regional combatant commands and to determine the resource allocation and deployment outcomes among such commands.

(E) A description of the missile defense command and control concepts and arrangements in place for United States and allied regional missile defense forces, and the missile defense partnerships and burden-sharing arrangements in place between the United States and its allies and partners.

(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) COMPTROLLER GENERAL VIEWS.—The Comptroller General of the United States shall—

Briefing.  
Deadline.

(1) brief the congressional defense committees with the views of the Comptroller General on the report under subsection (b)(1) by not later than 60 days after the date on which the Secretary submits such report; and

Reports.

(2) submit to such committees a written report on such views as soon as practicable after the date of the briefing under paragraph (1).

#### **SEC. 230. NATO CONTRIBUTIONS TO MISSILE DEFENSE IN EUROPE.**

Deadline.  
Reports.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on contributions of members of the North Atlantic Treaty Organization to missile defense in Europe.

(b) ELEMENTS.—The report required under subsection (a) shall include a discussion of the full range of contributions made by members of NATO, individually and collectively, to missile defense in Europe, including the following:

(1) Financial contributions to the development of the Active Layered Theater Ballistic Missile Defense command and control system or other NATO missile defense capabilities, including the European Phased Adaptive Approach.

(2) National contributions of missile defense capabilities to NATO.

(3) Agreements to host missile defense facilities in the territory of the member state.



(4) Contributions in the form of providing support, including security, for missile defense facilities in the territory of the member state.

(5) Any other contributions being planned by members of NATO, including the modification of existing military systems to contribute to the missile defense capability of NATO.

(6) A discussion of whether there are other opportunities for future contributions, financial and otherwise, to missile defense by members of NATO.

(7) Any other matters the Secretary determines appropriate.

(c) FORM OF REPORT.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 231. REPORT ON TEST PLAN FOR THE GROUND-BASED MIDCOURSE DEFENSE SYSTEM.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the testing program for the ground-based midcourse defense element of the ballistic missile defense system.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An explanation of testing options for the ground-based midcourse defense system if planned flight tests CTV-01 and FTG-06b do not demonstrate the successful correction to the problem that caused the failure of the capability enhancement-2 kill vehicle in flight test FTG-06a in December 2010, including additional testing of the capability enhancement-1 kill vehicle.

(2) An assessment of the feasibility, advisability, and cost effectiveness (including the potential benefits, risks, and impact on the current test plan and integrated master test plan for the ground-based midcourse defense system) of adjusting the test plan of the ground-based midcourse defense system to accomplish, at an acceptable level of risk—

(A) accelerating to fiscal year 2014 the date for testing such system using a capability enhancement-1 kill vehicle against an intercontinental ballistic missile-range target; and

(B) increasing the pace of the flight testing of such system to a rate of three tests every two years.

(3) If the Secretary determines that either option described in subparagraph (A) or (B) of paragraph (2) would be feasible, advisable, and cost effective, a discussion of whether increased funding beyond the funding requested in the budget for fiscal year 2013 is required to carry out such options and, if so, what level of increased funding would be necessary to carry out each such option.

(4) Any additional matters the Secretary determines appropriate.

(c) DOT&E VIEWS.—The Secretary shall include an appendix to the report under subsection (a) that contains the views of the Director of Operational Test and Evaluation regarding the contents of the report.

(d) FORM.—The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) COMPTROLLER GENERAL VIEWS.—The Comptroller General of the United States shall—

Briefing.

(1) brief the congressional defense committees concerning the views of the Comptroller General on the report required under subsection (a) by not later than 60 days after the date on which the Secretary submits such report; and

(2) submit to such committees a written report on such views as soon as practicable after the date of the briefing under paragraph (1).

#### SEC. 232. SENSE OF CONGRESS ON MISSILE DEFENSE.

(a) FINDINGS.—Congress finds the following:

(1) In a December 18, 2010, letter to the Senate leadership, President Obama wrote that the North Atlantic Treaty Organization (NATO) “invited the Russian Federation to cooperate on missile defense, which could lead to adding Russian capabilities to those deployed by NATO to enhance our common security against common threats. The Lisbon Summit thus demonstrated that the Alliance’s missile defenses can be strengthened by improving NATO-Russian relations. This comes even as we have made it clear that the system we intend to pursue with Russia will not be a joint system, and it will not in any way limit United States’ or NATO’s missile defense capabilities.”.

(2) In a February 2, 2011, message to the Senate concerning its December 22, 2010, Resolution of Advice and Consent to Ratification of the New START Treaty, President Obama certified that “It is the policy of the United States to continue development and deployment of United States missile defense systems to defend against missile threats from nations such as North Korea and Iran, including qualitative and quantitative improvements to such systems. As stated in the Resolution, such systems include all phases of the Phased Adaptive Approach to missile defense in Europe, the modernization of the Ground-based Midcourse Defense system, and the continued development of the two-stage Ground-Based Interceptor as a technological and strategic hedge.”.

(3) In a letter dated December 13, 2011, to Senator Mark Kirk, Robert Nabors, Assistant to the President and Director of the Office of Legislative Affairs, wrote that “The United States remains committed to implementing the European Phased Adaptive Approach to missile defense, and will not agree to any constraints limiting the development or deployment of United States missile defenses” and “[w]e will not provide Russia with sensitive information about our missile defense systems that would in any way compromise our national security. For example, hit-to-kill technology and interceptor telemetry will under no circumstances be provided to Russia.”.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) pursuant to section 2 of the National Missile Defense Act of 1999 (Public Law 106-38; 113 Stat. 205; 10 U.S.C. 2431 note), it is the policy of the United States “to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of

the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)...”;

(2) defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail;

(3) further limitations on the missile defense capabilities of the United States are not in the national security interest of the United States;

(4) the New Start Treaty and the April 7, 2010, unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the Federal Government of the United States currently plans or that might be required over the duration of the New START Treaty to protect the United States pursuant to the National Missile Defense Act of 1999, or to protect the Armed Forces of the United States and allies of the United States from limited ballistic missile attack, including further planned enhancements to the Ground-based Midcourse Defense system and all phases of the Phased Adaptive Approach to missile defense in Europe;

(5) it was the Understanding of the Senate in its December 22, 2010, Resolution of Advice and Consent to Ratification of the New START Treaty that, “any additional New START Treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3 of Article V, including any limitations agreed under the auspices of the Bilateral Consultative Commission, would require an amendment to the New START Treaty which may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States”; and

(6) section 303(b) of the Arms Control and Disarmament Act (22 U.S.C. 2573(b)) requires that “no action shall be taken pursuant to this or any other Act that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner, except pursuant to the treaty-making power of the President set forth in Article II, Section 2, Clause 2 of the Constitution.”

(c) **NEW START TREATY DEFINED.**—In this section, the term “New START Treaty” means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.

**SEC. 233. SENSE OF CONGRESS ON THE SUBMITTAL TO CONGRESS OF THE HOMELAND DEFENSE HEDGING POLICY AND STRATEGY REPORT OF THE SECRETARY OF DEFENSE.**

It is the sense of the Congress that—

(1) the homeland defense hedging policy and strategy report required by section 233 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1340) is necessary to inform Congress on options to protect the United States homeland against the evolving ballistic missile threat, including potential options prior to the deployment of Phase 4 of the European Phased Adaptive Approach to missile defense; and

(2) the Secretary of Defense should comply with the requirements of such section 233 by submitting the homeland defense hedging policy and strategy report to Congress.

## **Subtitle D—Reports**

### **SEC. 241. MISSION PACKAGES FOR THE LITTORAL COMBAT SHIP.**

(a) **REPORT REQUIRED.**—Not later than March 1, 2013, the Secretary of the Navy shall, in consultation with the Director of Operational Test and Evaluation, submit to the congressional defense committees a report on the mine countermeasures warfare, antisubmarine warfare, and surface warfare mission packages for the Littoral Combat Ship.

(b) **ELEMENTS.**—The report required by subsection (a) shall set forth the following:

(1) A plan for the mission packages demonstrating that preliminary design review for every capability increment precedes Milestone B or equivalent approval for that increment.

(2) A plan for demonstrating that the capability increment for each mission package, combined with a Littoral Combat Ship, on the basis of a preliminary design review and post-preliminary design review assessment, will achieve the capability specified for that increment.

(3) A plan for demonstrating the survivability and lethality of the Littoral Combat Ship with its mission packages sufficiently early in the development phase of the system to minimize costs of concurrency.

### **SEC. 242. STUDY ON ELECTRONIC WARFARE CAPABILITIES OF THE MARINE CORPS.**

(a) **STUDY.**—The Commandant of the Marine Corps shall conduct a study on the future capabilities of the Marine Corps with respect to electronic warfare.

(b) **REPORT.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Commandant shall submit to the congressional defense committees a report on the study conducted under subsection (a).

(2) **MATTERS INCLUDED.**—The report under paragraph (1) shall include the following:

(A) A detailed plan for the disposition of EA–6B Prowler aircraft squadrons.

(B) A solution for the replacement of the capability provided by such aircraft.

(C) Concepts of operation for future air-ground task force electronic warfare capabilities of the Marine Corps.

(D) Any other issues that the Commandant determines appropriate.

### **SEC. 243. CONDITIONAL REQUIREMENT FOR REPORT ON AMPHIBIOUS ASSAULT VEHICLES FOR THE MARINE CORPS.**

(a) **IN GENERAL.**—If the ongoing Marine Corps ground combat vehicle fleet mix study recommends the acquisition of a separate Marine Personnel Carrier, the Secretary of the Navy and the Commandant of the Marine Corps shall jointly submit to the congressional defense committees a report that includes the following:

(1) A detailed description of the capability gaps that Marine Personnel Carriers are intended to mitigate and the capabilities that the Marine Personnel Carrier will be required to have to mitigate such gaps, and an assessment whether, and to what extent, Amphibious Combat Vehicles could mitigate such gaps.

(2) A detailed explanation of the role of the Marine Personnel Carriers in the operations of the Marine Corps, as well as a comparative estimate of the acquisition and life-cycle costs of—

(A) a fleet consisting of both Amphibious Combat Vehicles and Marine Personnel Carriers; and

(B) a fleet consisting of only Amphibious Combat Vehicles.

(b) SUBMITTAL DATE.—If required, the report under subsection (a) shall be submitted not later than the later of—

(1) the date that is 60 days after the date of the completion of the study referred to in subsection (a); or

(2) February 1, 2013.

**SEC. 244. REPORT ON CYBER AND INFORMATION TECHNOLOGY RESEARCH INVESTMENTS OF THE AIR FORCE.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report detailing the investment strategy of the Air Force with respect to the spectrum of—

(1) cyber science and technology;

(2) autonomy, command and control, and decision support technologies;

(3) connectivity and dissemination technologies; and

(4) processing and exploitation technologies.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An identification of the near-, mid-, and far-term science and technology priorities of the Air Force with respect to cyber and information-related technologies and the resources (including both funding and personnel) projected to address these priorities.

(2) A strategy to transition the results of the science and technology priorities described in paragraph (1) into weapon systems, including cyber tools.

(3) A description of how the Air Force will recruit, train, and retain a highly skilled workforce in cyber and information-related technologies, including the use of the authorities granted under the laboratory demonstration program established by section 342 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2721), as most recently amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 114 Stat. 1654A-315).

(4) A description of laboratory infrastructure and research facilities, including the Air Force Institute of Technology, that are necessary for the accomplishment of the science and technology priorities described in paragraph (1).

**SEC. 245. NATIONAL RESEARCH COUNCIL REVIEW OF DEFENSE SCIENCE AND TECHNICAL GRADUATE EDUCATION NEEDS.**

Contracts.

(a) **REVIEW.**—The Secretary of Defense shall enter into an agreement with the National Research Council to conduct a review of specialized degree-granting graduate programs of the Department of Defense in science, technology, engineering, mathematics, and management.

(b) **MATTERS INCLUDED.**—At a minimum, the review under subsection (a) shall address—

(1) the need by the Department of Defense and the military departments for military and civilian personnel with advanced degrees in science, technology, engineering, mathematics, and management, including a list of the numbers of such personnel needed by discipline;

(2) an analysis of the sources by which the Department of Defense and the military departments obtain military and civilian personnel with such advanced degrees;

(3) the need for educational institutions under the Department of Defense to meet the needs identified in paragraph (1);

(4) the costs and benefits of maintaining such educational institutions, including costs relating to in-house research;

(5) the ability of private institutions or distance-learning programs to meet the needs identified in paragraph (1);

(6) existing organizational structures, including reporting chains, within the military departments to manage the graduate education needs of the Department of Defense and the military departments in the fields described in paragraph (1); and

(7) recommendations for improving the ability of the Department of Defense to identify, manage, and source the graduate education needs of the Department in such fields.

(c) **REPORT.**—Not later than 30 days after the date on which the review under subsection (a) is completed, the Secretary shall submit to the congressional defense committees a report on the results of such review.

## Subtitle E—Other Matters

**SEC. 251. ELIGIBILITY FOR DEPARTMENT OF DEFENSE LABORATORIES TO ENTER INTO EDUCATIONAL PARTNERSHIPS WITH EDUCATIONAL INSTITUTIONS IN TERRITORIES AND POSSESSIONS OF THE UNITED STATES.**

(a) **ELIGIBILITY OF INSTITUTIONS IN TERRITORIES AND POSSESSIONS.**—Section 2194(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

Definition.

“(3) The term ‘United States’ includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.”.

(b) **TECHNICAL AMENDMENT.**—Paragraph (2) of such section is amended by inserting “(20 U.S.C. 7801)” before the period.

10 USC 2358  
note.

**SEC. 252. REGIONAL ADVANCED TECHNOLOGY CLUSTERS.**

(a) **DEVELOPMENT OF INNOVATIVE ADVANCED TECHNOLOGIES.**—The Secretary of Defense may use the research and engineering

network of the Department of Defense, including the organic industrial base, to support regional advanced technology clusters established by the Secretary of Commerce to encourage the development of innovative advanced technologies to address national security and homeland defense challenges.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the appropriate congressional committees a report describing—

(1) the participation of the Department of Defense in regional advanced technology clusters, including the number of—

- (A) clusters supported;
- (B) technologies developed and transitioned to acquisition programs;
- (C) products commercialized;
- (D) small businesses trained;
- (E) companies started; and
- (F) research and development facilities shared;

(2) implementation by the Department of processes and tools to facilitate collaboration with the clusters;

(3) agreements established by the Department with the Department of Commerce to jointly support the continued growth of the clusters;

(4) methods to evaluate the effectiveness of technology cluster policies;

(5) any additional required authorities and any impediments to supporting regional advanced technology clusters; and

(6) the use of any agreements entered into under the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and any access granted to facilities of the Department of Defense for research and development purposes.

(c) COLLABORATION.—The Secretary of Defense may meet, collaborate, and share resources with other Federal agencies for purposes of assisting in the use and appropriate growth of regional advanced technology clusters under this section.

(d) DEFINITIONS.—In this section:

(1) The term “appropriate congressional committees” means—

- (A) the congressional defense committees;
- (B) the Committee on Commerce, Science, and Transportation of the Senate; and
- (C) the Committee on Energy and Commerce of the House of Representatives.

(2) The term “regional advanced technology clusters” means geographic centers focused on building science and technology-based innovation capacity in areas of local and regional strength to foster economic growth and improve quality of life.

**SEC. 253. SENSE OF CONGRESS ON INCREASING THE COST-EFFECTIVENESS OF TRAINING EXERCISES FOR MEMBERS OF THE ARMED FORCES.**

It is the sense of Congress that—

(1) modeling and simulation will continue to play a critical role in the training of the members of the Armed Forces;

(2) while increased modeling and simulation has reduced overall costs of training of members of the Armed Forces,

there are still significant costs associated with the human resources required to execute certain training exercises where role-playing actors for certain characters such as opposing forces, the civilian populace, other government agencies, and non-governmental organizations are required;

(3) technological advances in areas such as varying levels of autonomy for systems, multi-player gaming techniques, and artificial intelligence could reduce the number of personnel required to support certain training exercises for members of the Armed Forces, and thereby reduce the overall cost of the exercises; and

(4) the Secretary of Defense should develop a plan to increase the use of emerging technologies in autonomous systems, the commercial gaming sector, and artificial intelligence for training exercises for members of the Armed Forces to increase training effectiveness and reduce costs.

## TITLE III—OPERATION AND MAINTENANCE

### Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.

### Subtitle B—Energy and Environment

Sec. 311. Training range sustainment plan and training range inventory.

Sec. 312. Authority of Secretary of a military department to enter into cooperative agreements with Indian tribes for land management associated with military installations and State-owned National Guard installations.

Sec. 313. Department of Defense guidance on environmental exposures at military installations and briefing regarding environmental exposures to members of the Armed Forces.

Sec. 314. Report on status of targets in implementation plan for operational energy strategy.

Sec. 315. Limitation on obligation of Department of Defense funds from Defense Production Act of 1950 for biofuel refinery construction.

Sec. 316. Sense of Congress on protection of Department of Defense airfields, training airspace, and air training routes.

### Subtitle C—Logistics and Sustainment

Sec. 321. Expansion and reauthorization of multi-trades demonstration project.

Sec. 322. Restoration and amendment of certain provisions relating to depot-level maintenance and core logistics capabilities.

Sec. 323. Rating chains for system program managers.

### Subtitle D—Readiness

Sec. 331. Intergovernmental support agreements with State and local governments.

Sec. 332. Expansion and reauthorization of pilot program for availability of working-capital funds for product improvements.

Sec. 333. Department of Defense national strategic ports study and Comptroller General studies and reports on strategic ports.

### Subtitle E—Reports

Sec. 341. Annual report on Department of Defense long-term corrosion strategy.

Sec. 342. Report on joint strategy for readiness and training in a C4ISR-denied environment.

Sec. 343. Comptroller General review of annual Department of Defense report on prepositioned materiel and equipment.

Sec. 344. Modification of report on maintenance and repair of vessels in foreign shipyards.

Sec. 345. Extension of deadline for Comptroller General report on Department of Defense service contract inventory.

### Subtitle F—Limitations and Extension of Authority

Sec. 351. Repeal of redundant authority to ensure interoperability of law enforcement and emergency responder training.



- Sec. 352. Aerospace control alert mission.
- Sec. 353. Limitation on authorization of appropriations for the National Museum of the United States Army.
- Sec. 354. Limitation on availability of funds for retirement or inactivation of Ticonderoga class cruisers or dock landing ships.
- Sec. 355. Renewal of expired prohibition on return of veterans memorial objects without specific authorization in law.

Subtitle G—National Commission on the Structure of the Air Force

- Sec. 361. Short title.
- Sec. 362. Establishment of Commission.
- Sec. 363. Duties of the Commission.
- Sec. 364. Powers of the Commission.
- Sec. 365. Commission personnel matters.
- Sec. 366. Termination of the Commission.
- Sec. 367. Funding.

Subtitle H—Other Matters

- Sec. 371. Military working dog matters.
- Sec. 372. Comptroller General review of handling, labeling, and packaging procedures for hazardous material shipments.

## Subtitle A—Authorization of Appropriations

### SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2013 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, as specified in the funding table in section 4301.

## Subtitle B—Energy and Environment

### SEC. 311. TRAINING RANGE SUSTAINMENT PLAN AND TRAINING RANGE INVENTORY.

Section 366 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2522; 10 U.S.C. 113 note), as most recently amended by section 348 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2159), is amended—

(1) in subsection (a)(5), by striking “each of fiscal years 2005 through 2013” and inserting “each fiscal year through fiscal year 2018”; and

(2) in subsection (c)(2), by striking “fiscal years 2005 through 2013” and inserting “each fiscal year through fiscal year 2018”.

### SEC. 312. AUTHORITY OF SECRETARY OF A MILITARY DEPARTMENT TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN TRIBES FOR LAND MANAGEMENT ASSOCIATED WITH MILITARY INSTALLATIONS AND STATE-OWNED NATIONAL GUARD INSTALLATIONS.

(a) INCLUSION OF INDIAN TRIBES.—Section 103A(a) of the Sikes Act (16 U.S.C. 670c–1(a)) is amended in the matter preceding paragraph (1) by inserting “Indian tribes,” after “local governments,”.

(b) INDIAN TRIBE DEFINED.—Section 100 of such Act (16 U.S.C. 670) is amended by adding at the end the following new paragraph:

“(6) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”.

Deadlines.

**SEC. 313. DEPARTMENT OF DEFENSE GUIDANCE ON ENVIRONMENTAL EXPOSURES AT MILITARY INSTALLATIONS AND BRIEFING REGARDING ENVIRONMENTAL EXPOSURES TO MEMBERS OF THE ARMED FORCES.**

10 USC 1074  
note.

(a) ISSUANCE OF GUIDANCE REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance to the military departments and appropriate defense agencies regarding environmental exposures on military installations.

(2) ELEMENTS.—The guidance issued pursuant to paragraph (1) shall address, at a minimum, the following:

(A) The criteria for when and under what circumstances public health assessments by the Agency for Toxic Substances and Disease Registry must be requested in connection with environmental contamination at military installations, including past incidents of environmental contamination.

(B) The procedures to be used to track and document the status and nature of responses to the findings and recommendations of the public health assessments of the Agency of Toxic Substances and Disease Registry that involve contamination at military installations.

(C) The appropriate actions to be undertaken to assess significant long-term health risks from past environmental exposures to military personnel and civilian individuals from living or working on military installations.

Records.

(3) SUBMISSION.—Not later than 30 days after the issuance of the guidance required by paragraph (1), the Secretary of Defense shall transmit to the congressional defense committees a copy of the guidance.

(b) BRIEFING REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide a briefing to the congressional defense committees regarding materiel solutions that would measure environmental exposures to members of the Armed Forces while in contingency operations.

(2) ELEMENTS.—The briefing required by paragraph (1) shall include, at a minimum, the following:

(A) Relevant materiel solutions in development or commercially available that would facilitate the identification of members of the Armed Forces who have individual exposures to environmental hazards, including burn pits, dust or sand, hazardous materials, and waste.

(B) A timeline, and estimated cost, of developing and deploying the materiel solutions described in subparagraph (A).

(C) Identification of the Department of Defense's process, and any systems, that collect and maintain exposure data and a description of how the Department of Defense could integrate data from the materiel solutions described in subparagraph (A) into those systems.

(D) An update regarding the sharing of environmental exposure data with the Secretary of Veterans Affairs for use in medical and treatment records of veterans, including how the materiel solutions described in subparagraph (A) can be used in determining the service-connectedness of health conditions and in identifying possible origins and causes of disease.

**SEC. 314. REPORT ON STATUS OF TARGETS IN IMPLEMENTATION PLAN FOR OPERATIONAL ENERGY STRATEGY.**

(a) **REPORT REQUIRED.**—If the annual report for fiscal year 2011 required by section 2925(b) of title 10, United States Code, is not submitted to the congressional defense committees by December 31, 2012, the Secretary of Defense shall submit, not later than June 30, 2013, to the congressional defense committees a report on the status of the targets established in the implementation plan for the operational energy strategy established pursuant to section 139b of such title, as contained in the document entitled “Operational Energy Strategy: Implementation Plan, Department of Defense, March 2012”.

(b) **ELEMENTS OF REPORT.**—The report required by subsection (a) shall describe, at a minimum, the following:

- (1) The status of each of the targets listed in the implementation plan.
- (2) The steps being taken to meet the targets.
- (3) The expected date of completion for each target, if the date is different from the date indicated in the implementation plan.
- (4) The reason for any delays in meeting the targets.

**SEC. 315. LIMITATION ON OBLIGATION OF DEPARTMENT OF DEFENSE FUNDS FROM DEFENSE PRODUCTION ACT OF 1950 FOR BIOFUEL REFINERY CONSTRUCTION.**

Amounts made available to the Department of Defense pursuant to the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) for fiscal year 2013 for biofuels production may not be obligated or expended for the construction of a biofuel refinery until the Department of Defense receives matching contributions from the Department of Energy and equivalent contributions from the Department of Agriculture for the same purpose.

**SEC. 316. SENSE OF CONGRESS ON PROTECTION OF DEPARTMENT OF DEFENSE AIRFIELDS, TRAINING AIRSPACE, AND AIR TRAINING ROUTES.**

It is the sense of Congress that—

- (1) Department of Defense airfields, training airspace, and air training routes are critical national assets that must be protected from encroachment or mission degradations to the maximum extent practicable;
- (2) placement or emplacement of obstructions near or on Department of Defense airfields, training airspace, or air training routes has the potential of increasing risk to military

aircraft and personnel as well as impacting training and readiness; and

(3) in the context of a Department of Defense operational risk assessment and the Department of Defense Siting Clearinghouse, the Department of Defense should develop and promulgate comprehensive guidance to assess the degree to which the potential encroachment of a project significantly impairs or degrades the capability of the Department to conduct missions or maintain readiness to the extent of presenting an unacceptable risk to national security with strong consideration given to the input provided by the military services.

## **Subtitle C—Logistics and Sustainment**

### **SEC. 321. EXPANSION AND REAUTHORIZATION OF MULTI-TRADES DEMONSTRATION PROJECT.**

(a) **EXPANSION.**—Section 338 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 10 U.S.C. 5013 note), as most recently amended by section 329 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 67), is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) **DEMONSTRATION PROJECT AUTHORIZED.**—In accordance with subsection 4703 of title 5, United States Code, the Secretary of a military department may carry out a demonstration project at facilities described in subsection (b) under which workers who are certified at the journey level as able to perform multiple trades shall be promoted by one grade level.”; and

(2) in subsection (b), by striking “Logistics Center, Navy Fleet Readiness Center,” and inserting “Logistics Complex, Navy Fleet Readiness Center, Navy shipyard, Marine Corps Logistics Base,”.

(b) **REAUTHORIZATION.**—Such section is further amended—

(1) in subsection (d), by striking “2013” and inserting “2018”; and

(2) in subsection (e), by striking “2014” and inserting “2019”.

### **SEC. 322. RESTORATION AND AMENDMENT OF CERTAIN PROVISIONS RELATING TO DEPOT-LEVEL MAINTENANCE AND CORE LOGISTICS CAPABILITIES.**

(a) **REPEAL.**—The following provisions of law are hereby repealed:

(1) Section 2460 of title 10, United States Code (as amended by section 321 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81)).

(2) Section 2464 of title 10, United States Code (as amended by section 327 of the National Defense Authorization Act for Fiscal Year 2012).

(b) **REVIVAL OF SUPERSEDED PROVISIONS.**—

(1) **DEFINITION OF DEPOT-LEVEL MAINTENANCE AND REPAIR.**—The provisions of section 2460 of title 10, United States Code, as in effect on December 30, 2011 (the day before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012), are hereby revived.

(2) CORE LOGISTICS CAPABILITIES.—(A) The provisions of section 2464 of 10, United States Code, as in effect on that date, are hereby revived.

(B) The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2464 and inserting the following new item:

10 USC  
prec. 2460.

“2464. Core logistics capabilities.”.

(c) AMENDMENT TO DEFINITION OF DEPOT-LEVEL MAINTENANCE AND REPAIR.—Subsection (b) of section 2460 of title 10, United States Code, as revived by subsection (b), is amended by striking “or the nuclear refueling of an aircraft carrier” and inserting “or the nuclear refueling or defueling of an aircraft carrier and any concurrent complex overhaul”.

(d) BIENNIAL CORE REPORT.—Section 2464 of such title, as revived by subsection (b), is amended by adding at the end the following new subsections:

“(d) BIENNIAL CORE REPORT.—Not later than April 1 of each even-numbered year, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (except for the Coast Guard), for the fiscal year after the fiscal year during which the report is submitted, each of the following:

“(1) The core depot-level maintenance and repair capability requirements and sustaining workloads, organized by work breakdown structure, expressed in direct labor hours.

“(2) The corresponding workloads necessary to sustain core depot-level maintenance and repair capability requirements, expressed in direct labor hours and cost.

“(3) In any case where core depot-level maintenance and repair capability requirements exceed or are expected to exceed sustaining workloads, a detailed rationale for any and all shortfalls and a plan either to correct or mitigate the effects of the shortfalls.

“(e) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall review each report submitted under subsection (d) for completeness and compliance and shall submit to the congressional defense committees findings and recommendations with respect to the report by not later than 60 days after the date on which the report is submitted to Congress.”.

Recommendations.  
Deadline.

(e) CONFORMING AMENDMENTS.—

(1) Section 2366a of title 10, United States Code, is amended by striking “core depot-level maintenance and repair capabilities” each place it appears and inserting “core logistics capabilities”.

(2) Section 2366b(A)(3)(F) of title 10, United States Code, is amended by striking “core depot-level maintenance and repair capabilities, as well as the associated logistics capabilities” and inserting “core logistics capabilities”.

(3) Section 801(c) of the National Defense Authorization Act for Fiscal Year 2012 (125 Stat. 1483; 10 U.S.C. 2366a note) is amended by striking “core depot-level maintenance and repair capabilities, as well as the associated logistics capabilities” and inserting “core logistics capabilities”.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on December 31, 2011, the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012, immediately after the enactment of that Act.

10 USC 2366a  
note.

10 USC 8013  
note.  
Compliance.

**SEC. 323. RATING CHAINS FOR SYSTEM PROGRAM MANAGERS.**

The Secretary of the Air Force, in managing system program management responsibilities for sustainment programs not assigned to a program executive officer or a direct reporting program manager, shall comply with the Department of Defense Instructions regarding assignment of program responsibility.

## Subtitle D—Readiness

**SEC. 331. INTERGOVERNMENTAL SUPPORT AGREEMENTS WITH STATE AND LOCAL GOVERNMENTS.**

(a) AGREEMENTS AUTHORIZED.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2336.

**“§ 2336. Intergovernmental support agreements with State and local governments**

Determination.

“(a) IN GENERAL.—(1) The Secretary concerned may enter into an intergovernmental support agreement with a State or local government to provide, receive, or share installation-support services if the Secretary determines that the agreement will serve the best interests of the department by enhancing mission effectiveness or creating efficiencies or economies of scale, including by reducing costs.

“(2) Notwithstanding any other provision of law, an intergovernmental support agreement under paragraph (1)—

“(A) may be entered into on a sole-source basis;

“(B) may be for a term not to exceed five years; and

“(C) may use, for installation-support services provided by a State or local government, wage grades normally paid by that State or local government.

“(3) An intergovernmental support agreement under paragraph (1) may only be used when the Secretary concerned or the State or local government, as the case may be, providing the installation-support services already provides such services for its own use.

“(b) EFFECT ON FIRST RESPONDER ARRANGEMENTS.—The authority provided by this section and limitations on the use of that authority are not intended to revoke, preclude, or otherwise interfere with existing or proposed mutual-aid agreements relating to police or fire protection services or other similar first responder agreements or arrangements.

“(c) AVAILABILITY OF FUNDS.—Funds available to the Secretary concerned for operation and maintenance may be used to pay for such installation-support services. The costs of agreements under this section for any fiscal year may be paid using annual appropriations made available for that year. Funds received by the Secretary as reimbursement for providing installation-support services pursuant to such an agreement shall be credited to the appropriation or account charged with providing installation support.

“(d) EFFECT ON OMB CIRCULAR A-76.—The Secretary concerned shall ensure that intergovernmental support agreements authorized by this section are not used to circumvent the requirements of Office of Management and Budget Circular A-76 regarding public-private competitions.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘installation-support services’ means those services, supplies, resources, and support typically provided by a local government for its own needs and without regard to whether such services, supplies, resources, and support are provided to its residents generally, except that the term does not include security guard or fire-fighting functions.

“(2) The term ‘local government’ includes a county, parish, municipality, city, town, township, local public authority, school district, special district, and any agency or instrumentality of a local government.

“(3) The term ‘State’ includes the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands, and any agency or instrumentality of a State.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

10 USC  
prec. 2301.

“2336. Intergovernmental support agreements with State and local governments.”.

**SEC. 332. EXPANSION AND REAUTHORIZATION OF PILOT PROGRAM FOR AVAILABILITY OF WORKING-CAPITAL FUNDS FOR PRODUCT IMPROVEMENTS.**

(a) EXPANSION.—Section 330 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 68) is amended—

(1) in subsection (a), by inserting “, the Secretary of the Navy, and the Secretary of the Air Force (in this section referred to as the ‘Secretary concerned’)” after “the Secretary of the Army”;

(2) in subsection (d)—

(A) by inserting “by the Secretary concerned” after “submitted”; and

(B) by inserting “by the Secretary concerned” after “used”; and

(3) in subsection (e)—

(A) in paragraph (1), by striking “the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, in consultation with the Assistant Secretary of the Army for Financial Management and Comptroller,” and inserting “the Secretary concerned”; and

(B) in paragraph (2), by striking “the Assistant Secretary of the Army for Acquisition, Logistics, and Technology” and inserting “the Secretary concerned”.

(b) COVERED PRODUCT IMPROVEMENTS.—Subsection (b) of such section is amended—

(1) by inserting “retrofit, modernization, upgrade, or rebuild of a” before “component”; and

(2) by striking “reliability and maintainability” and inserting “reliability, availability, and maintainability”.

(c) LIMITATION ON CERTAIN PROJECTS.—Subsection (c)(1) of such section is amended by striking “performance envelope” and inserting “capability”.

(d) REPORTING REQUIREMENT.—Subsection (e) of such section is amended—

(1) in paragraph (2), by striking “2012” and inserting “2017”; and

(2) in paragraph (3), by striking “60 days” and inserting “45 days”.

(e) EXTENSION.—Subsection (f) of such section, as amended by section 354 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1377), is further amended by striking “2014” and inserting “2018”.

(f) CLERICAL AMENDMENT.—The heading of such section is amended by striking “TO ARMY”.

**SEC. 333. DEPARTMENT OF DEFENSE NATIONAL STRATEGIC PORTS STUDY AND COMPTROLLER GENERAL STUDIES AND REPORTS ON STRATEGIC PORTS.**

(a) SENSE OF CONGRESS ON COMPLETION OF DOD REPORT.—It is the sense of Congress that the Secretary of Defense should expedite completion of the study of strategic ports in the United States called for in the conference report to accompany the National Defense Authorization Act for Fiscal Year 2012 (Conference Report 112–329) so that it can be submitted to Congress before December 31, 2012.

(b) COMPTROLLER GENERAL SUFFICIENCY REVIEW.—

(1) SUBMISSION OF DOD REPORT.—In addition to submitting the report referred to in subsection (a) to Congress, the Secretary of Defense shall submit the report to the Comptroller General of the United States.

(2) SUFFICIENCY REVIEW.—Not later than 90 days after receiving the report under paragraph (1), the Comptroller General shall—

(A) conduct a sufficiency review of the report; and

(B) submit to the congressional defense committees a report containing the results of the review.

(c) COMPTROLLER GENERAL STUDY AND REPORT ON STRATEGIC PORTS.—

(1) STUDY AND REPORT REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall—

(A) conduct a study of the programs and efforts of the Department of Defense related to the state of strategic ports with respect to the operational and readiness requirements of the Department; and

(B) submit to the congressional defense committees a report containing the findings of the study.

(2) ELEMENTS OF STUDY.—The study required by paragraph (1) shall include an assessment of—

(A) the extent to which the facilities at strategic ports meet the requirements of the Department of Defense;

(B) the extent to which the Department has identified gaps in the ability of existing strategic ports to meet its needs and identified and undertaken efforts to address any gaps; and

(C) the ability of the Department to oversee, coordinate, and provide security for military deployments through strategic ports.

(d) STRATEGIC PORT DEFINED.—In this section, the term “strategic port” means a United States port designated by the Secretary of Defense as a significant transportation hub important to the readiness and cargo throughput capacity of the Department of Defense.



## Subtitle E—Reports

### SEC. 341. ANNUAL REPORT ON DEPARTMENT OF DEFENSE LONG-TERM CORROSION STRATEGY.

Section 2228(e) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting “, including available validated data on return on investment for completed corrosion projects and activities” after “the strategy”;

(B) in subparagraph (E), by striking “For the fiscal year covered by the report and the preceding fiscal year” and inserting “For the fiscal year preceding the fiscal year covered by the report”; and

(C) by inserting at the end the following new subparagraph:

“(F) For the fiscal year preceding the fiscal year covered by the report, a description of the specific amount of funds used for military corrosion projects, the Technical Corrosion Collaboration pilot program, and other corrosion-related activities.”;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

### SEC. 342. REPORT ON JOINT STRATEGY FOR READINESS AND TRAINING IN A C4ISR-DENIED ENVIRONMENT.

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall submit to Congress a report on the readiness of the joint force to conduct operations in environments where there is no access to Command, Control, Communications, Computers, Intelligence, Surveillance, and Reconnaissance (in this section referred to as “C4ISR”) systems, including satellite communications, classified Internet protocol-based networks, and the Global Positioning System (in this section referred to as “GPS”).

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include a description of the steps taken and planned to be taken—

(1) to identify likely threats to the C4ISR systems of the United States, including both weapons and those states with such capabilities as well as the most likely areas in which C4ISR systems could be at risk;

(2) to identify vulnerabilities to the C4ISR systems of the United States that could result in a C4ISR-denied environment;

(3) to determine how the Armed Forces should respond in order to reconstitute C4ISR systems, prevent further denial of C4ISR systems, and develop counter-attack capabilities;

(4) to determine which types of joint operations could be feasible in an environment in which access to C4ISR systems is restricted or denied;

(5) to conduct training and exercises for sustaining combat and logistics operations in C4ISR-denied environments; and

(6) to propose changes to current tactics, techniques, and procedures to prepare to operate in an environment in which C4ISR systems are degraded or denied for 48-hour, 7-day, 30-day, or 60-day periods.

(c) **JOINT EXERCISE PLAN REQUIRED.**—Based on the findings of the report required by subsection (a), the Chairman of the Joint Chiefs of Staff shall develop a roadmap and joint exercise plan for the joint force to operate in an environment where access to C4ISR systems, including satellite communications, classified Internet protocol-based networks, and the GPS network, is denied. The plan and joint exercise program shall include—

(1) the development of alternatives to satellite communications, classified Internet protocol-based networks, and GPS for logistics, intelligence, surveillance, reconnaissance, and combat operations; and

(2) methods to mitigate dependency on satellite communications, classified Internet protocol-based networks, and GPS;

(3) methods to protect vulnerable satellite communications, classified Internet protocol-based networks, and GPS; and

(4) a joint exercise and training plan to include fleet battle experiments, to enable the force to operate in a satellite communications, Internet protocol-based network, and GPS-denied environment.

(d) **FORM OF REPORT.**—The report required to be submitted by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 343. COMPTROLLER GENERAL REVIEW OF ANNUAL DEPARTMENT OF DEFENSE REPORT ON PREPOSITIONED MATERIEL AND EQUIPMENT.**

Section 2229a(b)(1) of title 10, United States Code, is amended—

(1) by striking “By not later than 120 days after the date on which a report is submitted under subsection (a), the” and inserting “The”; and

(2) by striking “the report” and inserting “each report submitted under subsection (a)”.

**SEC. 344. MODIFICATION OF REPORT ON MAINTENANCE AND REPAIR OF VESSELS IN FOREIGN SHIPYARDS.**

Section 7310(c) of title 10, United States Code, is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking “The report” and inserting the following: “Except as provided in paragraph (4), the report”; and

(B) in subparagraph (A), by inserting after “justification under law” the following: “and operational justification”;

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following new paragraph (4):

“(4) In the case of a covered vessel described in subparagraph (C) of paragraph (5), the report shall not be required to include the information described in subparagraphs (A), (E), (F), (G), and (I) of paragraph (3).”; and

(4) in paragraph (5), as redesignated by paragraph (2) of this section, by adding at the end the following new subparagraph:

“(C) A vessel not described in subparagraph (A) or (B) that is operated pursuant to a contract entered into by the Secretary of the Navy and the Maritime Administration or

the United States Transportation Command in support of Department of Defense operations.”.

**SEC. 345. EXTENSION OF DEADLINE FOR COMPTROLLER GENERAL REPORT ON DEPARTMENT OF DEFENSE SERVICE CONTRACT INVENTORY.**

Section 803(c) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2402) is amended by striking “180 days” and inserting “270 days”.

## **Subtitle F—Limitations and Extension of Authority**

**SEC. 351. REPEAL OF REDUNDANT AUTHORITY TO ENSURE INTER-OPERABILITY OF LAW ENFORCEMENT AND EMERGENCY RESPONDER TRAINING.**

Section 372 of title 10, United States Code, is amended—  
(1) by striking “(a) IN GENERAL.—”; and  
(2) by striking subsection (b).

**SEC. 352. AEROSPACE CONTROL ALERT MISSION.**

10 USC 221 note.

(a) **CONSOLIDATED BUDGET EXHIBIT.**—The Secretary of Defense shall establish a consolidated budget justification display that fully identifies the baseline aerospace control alert budget for each of the military services and encompasses all programs and activities of the aerospace control alert mission for each of the following functions:

- (1) Procurement.
- (2) Operation and maintenance.
- (3) Research, development, testing, and evaluation.
- (4) Military construction.

(b) **REPORT.**—

(1) **REPORT TO CONGRESS.**—Not later than April 1, 2013, the Secretary of Defense shall submit to the congressional defense committees a report that provides a cost-benefit analysis and risk-based assessment of the aerospace control alert mission as it relates to expected future changes to the budget and force structure of such mission.

(2) **COMPTROLLER GENERAL REVIEW.**—Not later than 120 days after the date on which the Secretary submits the report required by paragraph (1), the Comptroller General of the United States shall—

(A) conduct a review of the Department of Defense cost-benefit analysis and risk-based assessment contained in the report; and

(B) submit to the congressional defense committees a report on the findings of such review.

(c) **SENSE OF CONGRESS ON THE ESSENTIAL SERVICE PROVIDED BY AIR FORCE WINGS PERFORMING AEROSPACE CONTROL ALERT MISSIONS.**—It is the sense of Congress that Air Force wings performing the 24-hour aerospace control alert missions provide an essential service in defending the sovereign airspace of the United States in the aftermath of the terrorist attacks upon the United States on September 11, 2001.

**SEC. 353. LIMITATION ON AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL MUSEUM OF THE UNITED STATES ARMY.**

Of the amounts authorized to be appropriated for Operation and Maintenance for fiscal year 2013, not more than \$5,000,000 shall be made available for the National Museum of the United States Army until the Secretary of the Army submits to the congressional defense committees certification in writing that sufficient private funding has been raised to fund the construction of the portion of the museum known as the “Baseline Museum” and that at least 50 percent of the Baseline Museum has been completed.

**SEC. 354. LIMITATION ON AVAILABILITY OF FUNDS FOR RETIREMENT OR INACTIVATION OF TICONDEROGA CLASS CRUISERS OR DOCK LANDING SHIPS.**

None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the Department of Defense may be obligated or expended to retire, prepare to retire, inactivate, or place in storage a cruiser or dock landing ship.

**SEC. 355. RENEWAL OF EXPIRED PROHIBITION ON RETURN OF VETERANS MEMORIAL OBJECTS WITHOUT SPECIFIC AUTHORIZATION IN LAW.**

(a) **CODIFICATION OF PROHIBITION.**—Section 2572 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) Except as provided in paragraph (3), and notwithstanding this section or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or an entity controlled by a foreign government, or otherwise transfer or convey such an object to any person or entity for purposes of the ultimate transfer or conveyance of the object to a foreign country or entity controlled by a foreign government.

Definitions.

“(2) In this subsection:

“(A) The term ‘entity controlled by a foreign government’ has the meaning given that term in section 2536(c)(1) of this title.

“(B) The term ‘veterans memorial object’ means any object, including a physical structure or portion thereof, that—

“(i) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

“(ii) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the armed forces; and

“(iii) was brought to the United States from abroad as a memorial of combat abroad.

“(3) The prohibition imposed by paragraph (1) does not apply to a transfer of a veterans memorial object if—

“(A) the transfer of that veterans memorial object is specifically authorized by law; or

“(B) the transfer is made after September 30, 2017.”.

(b) **REPEAL OF OBSOLETE SOURCE LAW.**—Section 1051 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 10 U.S.C. 2572 note) is repealed.

## Subtitle G—National Commission on the Structure of the Air Force

National Commission on the Structure of the Air Force Act of 2012.

### SEC. 361. SHORT TITLE.

This subtitle may be cited as the “National Commission on the Structure of the Air Force Act of 2012”.

### SEC. 362. ESTABLISHMENT OF COMMISSION.

(a) **ESTABLISHMENT.**—There is established the National Commission on the Structure of the Air Force (in this subtitle referred to as the “Commission”).

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Commission shall be composed of eight members, of whom—

(A) four shall be appointed by the President;

(B) one shall be appointed by the Chairman of the Committee on Armed Services of the Senate;

(C) one shall be appointed by the Ranking Member of the Committee on Armed Services of the Senate;

(D) one shall be appointed by the Chairman of the Committee on Armed Services of the House of Representatives; and

(E) one shall be appointed by the Ranking Member of the Committee on Armed Services of the House of Representatives.

(2) **APPOINTMENT DATE.**—The appointments of the members of the Commission shall be made not later than 90 days after the date of the enactment of this Act.

(3) **EFFECT OF LACK OF APPOINTMENT BY APPOINTMENT DATE.**—If one or more appointments under subparagraph (A) of paragraph (1) is not made by the appointment date specified in paragraph (2), the authority to make such appointment or appointments shall expire, and the number of members of the Commission shall be reduced by the number equal to the number of appointments so not made. If an appointment under subparagraph (B), (C), (D), or (E) of paragraph (1) is not made by the appointment date specified in paragraph (2), the authority to make an appointment under such subparagraph shall expire, and the number of members of the Commission shall be reduced by the number equal to the number otherwise appointable under such subparagraph.

(4) **EXPERTISE.**—In making appointments under this subsection, consideration should be given to individuals with expertise in reserve forces policy.

(c) **PERIOD OF APPOINTMENT; VACANCIES.**—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) **INITIAL MEETING.**—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) **MEETINGS.**—The Commission shall meet at the call of the Chair.

(f) **QUORUM.**—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

Appointments.  
President.  
Congress.

Deadline.

(g) CHAIR AND VICE CHAIRMAN.—The Commission shall select a Chair and Vice Chair from among its members.

**SEC. 363. DUTIES OF THE COMMISSION.**

(a) STUDY.—

(1) IN GENERAL.—The Commission shall undertake a comprehensive study of the structure of the Air Force to determine whether, and how, the structure should be modified to best fulfill current and anticipated mission requirements for the Air Force in a manner consistent with available resources.

(2) CONSIDERATIONS.—In considering the structure of the Air Force, the Commission shall give particular consideration to evaluating a structure that—

(A) meets current and anticipated requirements of the combatant commands;

(B) achieves an appropriate balance between the regular and reserve components of the Air Force, taking advantage of the unique strengths and capabilities of each;

(C) ensures that the regular and reserve components of the Air Force have the capacity needed to support current and anticipated homeland defense and disaster assistance missions in the United States;

(D) provides for sufficient numbers of regular members of the Air Force to provide a base of trained personnel from which the personnel of the reserve components of the Air Force could be recruited;

(E) maintains a peacetime rotation force to support operational tempo goals of 1:2 for regular members of the Air Forces and 1:5 for members of the reserve components of the Air Force; and

(F) maximizes and appropriately balances affordability, efficiency, effectiveness, capability, and readiness.

(b) REPORT.—Not later than February 1, 2014, the Commission shall submit to the President and the congressional defense committees a report which shall contain a detailed statement of the findings and conclusions of the Commission as a result of the study required by subsection (a), together with its recommendations for such legislation and administrative actions it may consider appropriate in light of the results of the study.

**SEC. 364. POWERS OF THE COMMISSION.**

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this subtitle. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

**SEC. 365. COMMISSION PERSONNEL MATTERS.**

(a) **COMPENSATION OF MEMBERS.**—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chair of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) **COMPENSATION.**—The Chair of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chair of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

**SEC. 366. TERMINATION OF THE COMMISSION.**

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 363.

**SEC. 367. FUNDING.**

Amounts authorized to be appropriated for fiscal year 2013 and available for operation and maintenance for the Air Force as specified in the funding table in section 4301 may be available for the activities of the Commission under this subtitle.

## Subtitle H—Other Matters

### SEC. 371. MILITARY WORKING DOG MATTERS.

(a) RETIREMENT OF MILITARY WORKING DOGS.—Section 2583 of title 10, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

“(f) TRANSFER OF RETIRED MILITARY WORKING DOGS.—If the Secretary of the military department concerned determines that a military working dog should be retired, and no suitable adoption is available at the military facility where the dog is located, the Secretary may transfer the dog—

“(1) to the 341st Training Squadron; or

“(2) to another location for adoption under this section.”.

(b) VETERINARY CARE FOR RETIRED MILITARY WORKING DOGS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 994.

#### “§ 994. Military working dogs: veterinary care for retired military working dogs

“(a) IN GENERAL.—The Secretary of Defense may establish and maintain a system to provide for the veterinary care of retired military working dogs. No funds may be provided by the Federal Government for this purpose.

“(b) ELIGIBLE DOGS.—A retired military working dog eligible for veterinary care under this section is any military working dog adopted under section 2583 of this title.

“(c) STANDARDS OF CARE.—The veterinary care provided under the system authorized by this section shall meet such standards as the Secretary shall establish and from time to time update.”.

10 USC  
prec. 991.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 50 of such title is amended by adding at the end the following new item:

“994. Military working dogs: veterinary care for retired military working dogs.”.

### SEC. 372. COMPTROLLER GENERAL REVIEW OF HANDLING, LABELING, AND PACKAGING PROCEDURES FOR HAZARDOUS MATERIAL SHIPMENTS.

(a) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall conduct a review of the policies and procedures of the Department of Defense for the handling, labeling, and packaging of hazardous material shipments.

(b) MATTERS INCLUDED.—The review conducted under subsection (a) shall address the following:

(1) The relevant statutes, regulations, and guidance and policies of the Department of Defense pertaining to the handling, labeling, and packaging procedures of hazardous material shipments to support military operations.

(2) The extent to which such guidance, policies, and procedures contribute to the safe, timely, and cost-effective handling of such material.

(3) The extent to which discrepancies in Department of Transportation guidance, policies, and procedures pertaining



to handling, labeling, and packaging of hazardous material shipments in commerce and similar Department of Defense guidance, policies, and procedures pertaining to the handling, labeling, and packaging of hazardous material shipments impact the safe, timely, and cost-effective handling of such material.

(4) Any additional matters that the Comptroller General determines will further inform the appropriate congressional committees on issues related to the handling, labeling, and packaging procedures for hazardous material shipments to members of the Armed Forces worldwide.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report of the review conducted under subsection (a).

(d) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term “appropriate congressional committees” means the following:

Definition.

- (1) The congressional defense committees.
- (2) The Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

## TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

### Subtitle A—Active Forces

- Sec. 401. End strengths for active forces.
- Sec. 402. Revision in permanent active duty end strength minimum levels.
- Sec. 403. Annual limitation on end strength reductions for regular component of the Army and Marine Corps.
- Sec. 404. Additional Marine Corps personnel for the Marine Corps Security Guard Program.

### Subtitle B—Reserve Forces

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for Reserves on active duty in support of the reserves.
- Sec. 413. End strengths for military technicians (dual status).
- Sec. 414. Fiscal year 2013 limitation on number of non-dual status technicians.
- Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

### Subtitle C—Authorization of Appropriations

- Sec. 421. Military personnel.

## Subtitle A—Active Forces

### SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2013, as follows:

- (1) The Army, 552,100.
- (2) The Navy, 322,700.
- (3) The Marine Corps, 197,300.
- (4) The Air Force, 329,460.

**SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.**

(a) **MINIMUM END STRENGTH.**—Subsection (b) of section 691 of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

“(1) For the Army, 542,700.

“(2) For the Navy, 322,700.

“(3) For the Marine Corps, 193,500.

“(4) For the Air Force, 329,460.”.

(b) **LIMITED REDUCTION AUTHORITY.**—Such section is further amended by inserting after subsection (d) the following new subsection:

“(e) The Secretary of Defense may reduce a number specified in subsection (b) by not more than 0.5 percent.”.

**SEC. 403. ANNUAL LIMITATION ON END STRENGTH REDUCTIONS FOR REGULAR COMPONENT OF THE ARMY AND MARINE CORPS.**

(a) **ANNUAL LIMITATION ON ARMY END STRENGTH REDUCTIONS.**—The end strength of the regular component of the Army shall not be reduced by more than 15,000 members during each of fiscal years 2014 through 2017 from the end strength of the regular component of the Army at the end of the preceding fiscal year.

(b) **ANNUAL LIMITATION ON MARINE CORPS END STRENGTH REDUCTIONS.**—The end strength of the regular component of the Marine Corps shall not be reduced by more than 5,000 members during each of fiscal years 2014 through 2017 from the end strength of the regular component of the Marine Corps at the end of the preceding fiscal year.

10 USC 5983  
note.

**SEC. 404. ADDITIONAL MARINE CORPS PERSONNEL FOR THE MARINE CORPS SECURITY GUARD PROGRAM.**

(a) **ADDITIONAL PERSONNEL.**—

Plans.

(1) **IN GENERAL.**—The Secretary of Defense shall develop and implement a plan to increase the number of members of the Marine Corps assigned to the Marine Corps Embassy Security Group at Quantico, Virginia, and Marine Security Group Regional Commands and Marine Security Group detachments at United States embassies, consulates, and other diplomatic facilities by up to 1,000 Marines.

(2) **PURPOSE.**—The purpose of the increase under paragraph (1) is to provide the additional end strength and the resources necessary to support enhanced Marine Corps security at United States embassies, consulates, and other diplomatic facilities, particularly at locations identified by the Secretary of State as in need of additional security because of threats to United States personnel and property.

(b) **CONSULTATION.**—The Secretary of Defense shall develop and implement the plan required by subsection (a) in consultation with the Secretary of State pursuant to the responsibility of the Secretary of State for diplomatic security under section 103 of the Diplomatic Security Act (22 U.S.C. 4802), and in accordance with any current memorandum of understanding between the Department of State and the Marine Corps on the operational and administrative supervision of the Marine Corps Security Guard Program.

(c) SUPPORTING INFORMATION FOR BUDGET REQUESTS.—The material submitted in support of the budget of the President for each fiscal year after fiscal year 2013, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, shall include the following with regard to the Marine Corps Security Guard Program:

(1) A description of the expanded security support to be provided by Marine Corps Security Guards to the Department of State during that fiscal year, including—

(A) any increased internal security to be provided at United States embassies, consulates, and other diplomatic facilities;

(B) any increased support for emergency action planning, training, and advising of host nation security forces; and

(C) any expansion of intelligence collection activities.

(2) A description of the current status of Marine Corps personnel assigned to the Marine Corps Security Guard Program as a result of the plan required by subsection (a).

(3) A description of the Department of Defense resources required during that fiscal year for the Marine Corps Security Guard Program, including total funding for personnel, operation and maintenance, and procurement, and for key supporting programs to enable both the current and expanded Program mission during that fiscal year.

(d) PRESERVATION OF FUNDING FOR MARINE CORPS UNDER NATIONAL MILITARY STRATEGY.—In determining the amounts to be requested for each fiscal year after fiscal year 2013 for the Marine Corps Security Guard Program and for additional personnel under the Program, the President shall ensure that amounts requested for the Marine Corps for that fiscal year do not degrade the readiness of the Marine Corps to fulfill the requirements of the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

President.

(e) REPORTING REQUIREMENTS.—

(1) MISSION ASSESSMENT.—Not later than October 1, 2013, the Secretary of Defense shall—

(A) conduct an assessment of the mission of the Marine Corps Security Guard Program and the procedural rules of engagement under the Program, in light of current and emerging threats to United States diplomatic personnel; and

(B) submit to Congress a report on the assessment, including a description and assessment of options to improve the Program to respond to such threats.

(2) NOTIFICATION OF CHANGES IN SCOPE OF PROGRAM IN RESPONSE TO CHANGING THREATS.—If the President determines that a modification (whether an increase or a decrease) in the scope of the Marine Corps Security Guard Program is necessary or advisable in light of any change in the nature of threats to United States embassies, consulates, and other diplomatic facilities abroad, the President shall—

President.

Determination.

(A) notify Congress of such modification and the change in the nature of threats prompting such modification; and

(B) take such modification into account in requesting an end strength and funds for the Program for any fiscal year in which such modification is in effect.

## Subtitle B—Reserve Forces

### SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2013, as follows:

- (1) The Army National Guard of the United States, 358,200.
- (2) The Army Reserve, 205,000.
- (3) The Navy Reserve, 62,500.
- (4) The Marine Corps Reserve, 39,600.
- (5) The Air National Guard of the United States, 105,700.
- (6) The Air Force Reserve, 70,880.
- (7) The Coast Guard Reserve, 9,000.

(b) END STRENGTH REDUCTIONS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

(c) END STRENGTH INCREASES.—Whenever units or individual members of the Selected Reserve of any reserve component are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

### SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2013, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

- (1) The Army National Guard of the United States, 32,060.
- (2) The Army Reserve, 16,277.
- (3) The Navy Reserve, 10,114.
- (4) The Marine Corps Reserve, 2,261.
- (5) The Air National Guard of the United States, 14,765.
- (6) The Air Force Reserve, 2,888.

### SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2013 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

- (1) For the Army National Guard of the United States, 27,210.
- (2) For the Army Reserve, 8,395.

- (3) For the Air National Guard of the United States, 22,180.
- (4) For the Air Force Reserve, 10,400.

**SEC. 414. FISCAL YEAR 2013 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.**

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2013, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2013, may not exceed 595.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2013, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term “non-dual status technician” has the meaning given that term in section 10217(a) of title 10, United States Code.

**SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.**

During fiscal year 2013, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 17,000.

(2) The Army Reserve, 13,000.

(3) The Navy Reserve, 6,200.

(4) The Marine Corps Reserve, 3,000.

(5) The Air National Guard of the United States, 16,000.

(6) The Air Force Reserve, 14,000.

## **Subtitle C—Authorization of Appropriations**

**SEC. 421. MILITARY PERSONNEL.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2013 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for military personnel, as specified in the funding table in section 4401.

(b) CONSTRUCTION OF AUTHORIZATION.—The authorization of appropriations in subsection (a) supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2013.

## **TITLE V—MILITARY PERSONNEL POLICY**

### **Subtitle A—Officer Personnel Policy Generally**

- Sec. 501. Limitation on number of Navy flag officers on active duty.
- Sec. 502. Reinstatement of authority for enhanced selective early retirement boards and early discharges.
- Sec. 503. Modification of definition of joint duty assignment to include all instructor assignments for joint training and education.
- Sec. 504. Exception to required retirement after 30 years of service for Regular Navy warrant officers in the grade of Chief Warrant Officer, W-5.
- Sec. 505. Extension of temporary authority to reduce minimum length of active service as a commissioned officer required for voluntary retirement as an officer.
- Sec. 506. Temporary increase in the time-in-grade retirement waiver limitation for lieutenant colonels and colonels in the Army, Air Force, and Marine Corps and commanders and captains in the Navy.
- Sec. 507. Modification to limitations on number of officers for whom service-in-grade requirements may be reduced for retirement in grade upon voluntary retirement.
- Sec. 508. Air Force Chief of Chaplains.

### **Subtitle B—Reserve Component Management**

- Sec. 511. Codification of staff assistant positions for Joint Staff related to National Guard and Reserve matters.
- Sec. 512. Automatic Federal recognition of promotion of certain National Guard warrant officers.
- Sec. 513. Availability of Transition Assistance Advisors to assist members of reserve components who serve on active duty for more than 180 consecutive days.

### **Subtitle C—General Service Authorities**

- Sec. 518. Authority for additional behavioral health professionals to conduct pre-separation medical exams for post-traumatic stress disorder.
- Sec. 519. Diversity in the Armed Forces and related reporting requirements.
- Sec. 520. Limitation on reduction in number of military and civilian personnel assigned to duty with service review agencies.
- Sec. 521. Extension of temporary increase in accumulated leave carryover for members of the Armed Forces.
- Sec. 522. Modification of authority to conduct programs on career flexibility to enhance retention of members of the Armed Forces.
- Sec. 523. Prohibition on waiver for commissioning or enlistment in the Armed Forces for any individual convicted of a felony sexual offense.
- Sec. 524. Quality review of Medical Evaluation Boards, Physical Evaluation Boards, and Physical Evaluation Board Liaison Officers.
- Sec. 525. Reports on involuntary separation of members of the Armed Forces.
- Sec. 526. Report on feasibility of developing gender-neutral occupational standards for military occupational specialties currently closed to women.
- Sec. 527. Report on education and training and promotion rates for pilots of remotely piloted aircraft.
- Sec. 528. Impact of numbers of members within the Integrated Disability Evaluation System on readiness of Armed Forces to meet mission requirements.

### **Subtitle D—Military Justice and Legal Matters**

- Sec. 531. Clarification and enhancement of the role of Staff Judge Advocate to the Commandant of the Marine Corps.
- Sec. 532. Additional information in reports on annual surveys of the Committee on the Uniform Code of Military Justice.
- Sec. 533. Protection of rights of conscience of members of the Armed Forces and chaplains of such members.
- Sec. 534. Reports on hazing in the Armed Forces.

### **Subtitle E—Member Education and Training Opportunities and Administration**

- Sec. 541. Transfer of Troops-to-Teachers Program from Department of Education to Department of Defense and enhancements to the Program.
- Sec. 542. Support of Naval Academy athletic and physical fitness programs.
- Sec. 543. Expansion of Department of Defense pilot program on receipt of civilian credentialing for military occupational specialty skills.

- Sec. 544. State consideration of military training in granting certain State certifications and licenses as a condition on the receipt of funds for veterans employment and training.
- Sec. 545. Department of Defense review of access to military installations by representatives of institutions of higher education.
- Sec. 546. Report on Department of Defense efforts to standardize educational transcripts issued to separating members of the Armed Forces.
- Sec. 547. Comptroller General of the United States reports on joint professional military education matters.

Subtitle F—Reserve Officers' Training Corps and Related Matters

- Sec. 551. Repeal of requirement for eligibility for in-State tuition of at least 50 percent of participants in Senior Reserve Officers' Training Corps program.
- Sec. 552. Consolidation of military department authority to issue arms, tentage, and equipment to educational institutions not maintaining units of Junior Reserve Officers' Training Corps.
- Sec. 553. Modification of requirements on plan to increase the number of units of the Junior Reserve Officers' Training Corps.
- Sec. 554. Comptroller General report on Reserve Officers' Training Corps programs.

Subtitle G—Defense Dependents' Education and Military Family Readiness

- Sec. 561. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 562. Impact aid for children with severe disabilities.
- Sec. 563. Amendments to the Impact Aid program.
- Sec. 564. Transitional compensation for dependent children who are carried during pregnancy at time of dependent-abuse offense committed by an individual while a member of the Armed Forces.
- Sec. 565. Modification of authority to allow Department of Defense domestic dependent elementary and secondary schools to enroll certain students.
- Sec. 566. Noncompetitive appointment authority regarding certain military spouses.
- Sec. 567. Report on future of family support programs of the Department of Defense.
- Sec. 568. Sense of Congress regarding support for Yellow Ribbon Day.

Subtitle H—Improved Sexual Assault Prevention and Response in the Armed Forces

- Sec. 570. Armed Forces Workplace and Gender Relations Surveys.
- Sec. 571. Authority to retain or recall to active duty reserve component members who are victims of sexual assault while on active duty.
- Sec. 572. Additional elements in comprehensive Department of Defense policy on sexual assault prevention and response.
- Sec. 573. Establishment of special victim capabilities within the military departments to respond to allegations of certain special victim offenses.
- Sec. 574. Enhancement to training and education for sexual assault prevention and response.
- Sec. 575. Modification of annual Department of Defense reporting requirements regarding sexual assaults.
- Sec. 576. Independent reviews and assessments of Uniform Code of Military Justice and judicial proceedings of sexual assault cases.
- Sec. 577. Retention of certain forms in connection with Restricted Reports on sexual assault at request of the member of the Armed Forces making the report.
- Sec. 578. General or flag officer review of and concurrence in separation of members of the Armed Forces making an Unrestricted Report of sexual assault.
- Sec. 579. Department of Defense policy and plan for prevention and response to sexual harassment in the Armed Forces.

Subtitle I—Suicide Prevention and Resilience

- Sec. 580. Enhancement of oversight and management of Department of Defense suicide prevention and resilience programs.
- Sec. 581. Reserve component suicide prevention and resilience program.
- Sec. 582. Comprehensive policy on prevention of suicide among members of the Armed Forces.
- Sec. 583. Study of resilience programs for members of the Army.

Subtitle J—Other Matters

- Sec. 584. Issuance of prisoner-of-war medal.

- Sec. 585. Technical amendments relating to the termination of the Armed Forces Institute of Pathology under defense base closure and realignment.
- Sec. 586. Modification of requirement for reports in Federal Register on institutions of higher education ineligible for contracts and grants for denial of ROTC or military recruiter access to campus.
- Sec. 587. Acceptance of gifts and services related to educational activities and voluntary services to account for missing persons.
- Sec. 588. Display of State, District of Columbia, commonwealth, and territorial flags by the Armed Forces.
- Sec. 589. Enhancement of authorities on admission of defense industry civilians to certain Department of Defense educational institutions and programs.
- Sec. 590. Extension of authorities to carry out a program of referral and counseling services to veterans at risk of homelessness who are transitioning from certain institutions.
- Sec. 591. Inspection of military cemeteries under the jurisdiction of Department of Defense.
- Sec. 592. Report on results of investigations and reviews conducted with respect to Port Mortuary Division of the Air Force Mortuary Affairs Operations Center at Dover Air Force Base.
- Sec. 593. Preservation of editorial independence of Stars and Stripes.
- Sec. 594. National public awareness and participation campaign for Veterans' History Project of American Folklife Center.
- Sec. 595. Report on accuracy of data in the Defense Enrollment Eligibility Reporting System.
- Sec. 596. Sense of Congress that the bugle call commonly known as Taps should be designated as the National Song of Military Remembrance.

## **Subtitle A—Officer Personnel Policy Generally**

### **SEC. 501. LIMITATION ON NUMBER OF NAVY FLAG OFFICERS ON ACTIVE DUTY.**

(a) **ADDITIONAL FLAG OFFICER AUTHORIZED.**—Section 526(a)(2) of title 10, United States Code, is amended by striking “160” and inserting “162”.

(b) **CORRESPONDING CHANGE IN COMPUTING NUMBER OF FLAG OFFICERS IN STAFF CORPS OF THE NAVY.**—Section 5150(c) of such title is amended by striking the last sentence.

(c) **MODIFICATION OF EFFECTIVE DATE OF CERTAIN REFORMS OF THE STRENGTH AND DISTRIBUTION LIMITATIONS APPLICABLE TO MARINE CORPS GENERAL OFFICERS.**—Paragraph (3) of section 502(b) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1387; 10 U.S.C. 525 note) is amended to read as follows:

“(3) **EFFECTIVE DATES.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on October 1, 2013.

“(B) **MARINE CORPS OFFICERS.**—The amendments made by paragraphs (1)(A)(iv) and (2)(D) shall take effect on October 1, 2012.”.

### **SEC. 502. REINSTATEMENT OF AUTHORITY FOR ENHANCED SELECTIVE EARLY RETIREMENT BOARDS AND EARLY DISCHARGES.**

Section 638a of title 10 United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “(1)” after “(a)”;

(B) by striking “, during the period beginning on October 1, 1990,” and all that follows through “December 31, 2012,”; and

(C) by adding at the end the following new paragraph:



“(2) Any authority provided to the Secretary of a military department under paragraph (1) shall expire on the date specified by the Secretary of Defense, but such expiration date may not be later than December 31, 2018.”;

Expiration date.

(2) in subsection (b), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3);

(3) in subsection (c), by adding at the end the following new paragraph:

“(4) In the case of an action under subsection (b)(2), the Secretary of Defense may also authorize the Secretary of the military department concerned to waive the five-year period specified in section 638(c) of this title if the Secretary of Defense determines that it is necessary for the Secretary of that military department to have such authority in order to meet mission needs.”; and

Waiver authority.

(4) in subsection (d)—

(A) by striking “subsection (b)(4)” each place it appears and inserting “subsection (b)(3)”; and

(B) in paragraph (2), by striking “except that during the period beginning on October 1, 2006, and ending on December 31, 2012,” in subparagraphs (A) and (B) and inserting “except that through December 31, 2018,”.

**SEC. 503. MODIFICATION OF DEFINITION OF JOINT DUTY ASSIGNMENT TO INCLUDE ALL INSTRUCTOR ASSIGNMENTS FOR JOINT TRAINING AND EDUCATION.**

Section 668(b)(1)(B) of title 10, United States Code, is amended by striking “assignments for joint” and all that follows through “Phase II” and inserting “student assignments for joint training and education”.

**SEC. 504. EXCEPTION TO REQUIRED RETIREMENT AFTER 30 YEARS OF SERVICE FOR REGULAR NAVY WARRANT OFFICERS IN THE GRADE OF CHIEF WARRANT OFFICER, W-5.**

Section 1305(a) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “A regular warrant officer (other than a regular Army warrant officer)” and inserting “Subject to paragraphs (2) and (3), a regular warrant officer”; and

(B) by striking “he” and inserting “the officer”; and

(2) by adding at the end the following new paragraph:

“(3) In the case of a regular Navy warrant officer in the grade of chief warrant officer, W-5, the officer shall be retired 60 days after the date on which the officer completes 33 years of total active service.”.

**SEC. 505. EXTENSION OF TEMPORARY AUTHORITY TO REDUCE MINIMUM LENGTH OF ACTIVE SERVICE AS A COMMISSIONED OFFICER REQUIRED FOR VOLUNTARY RETIREMENT AS AN OFFICER.**

(a) ARMY.—Section 3911(b)(2) of title 10, United States Code, is amended by striking “September 30, 2013” and inserting “September 30, 2018”.

(b) NAVY AND MARINE CORPS.—Section 6323(a)(2)(B) of such title is amended by striking “September 30, 2013” and inserting “September 30, 2018”.

(c) AIR FORCE.—Section 8911(b)(2) of such title is amended by striking “September 30, 2013” and inserting “September 30, 2018”.

**SEC. 506. TEMPORARY INCREASE IN THE TIME-IN-GRADE RETIREMENT  
WAIVER LIMITATION FOR LIEUTENANT COLONELS AND  
COLONELS IN THE ARMY, AIR FORCE, AND MARINE CORPS  
AND COMMANDERS AND CAPTAINS IN THE NAVY.**

Section 1370(a)(2)(F) of title 10, United States Code, is amended—

(1) by striking “the period ending on December 31, 2007” and inserting “fiscal years 2013 through 2018”;

(2) by striking “Air Force” and inserting “Army, Air Force, and Marine Corps”; and

(3) by striking “in the period”.

**SEC. 507. MODIFICATION TO LIMITATIONS ON NUMBER OF OFFICERS  
FOR WHOM SERVICE-IN-GRADE REQUIREMENTS MAY BE  
REDUCED FOR RETIREMENT IN GRADE UPON VOLUNTARY  
RETIREMENT.**

Section 1370(a)(2) of title 10, United States Code, is amended—

(1) in subparagraph (E)—

(A) by inserting “(i)” after “exceed”; and

(B) by inserting before the period at the end the following: “or (ii) in the case of officers of that armed force in a grade specified in subparagraph (G), two officers, whichever number is greater”; and

(2) by adding at the end the following new subparagraph:

“(G) Notwithstanding subparagraph (E), during fiscal years 2013 through 2017, the total number of brigadier generals and major generals of the Army, Air Force, and Marine Corps, and the total number of rear admirals (lower half) and rear admirals of the Navy, for whom a reduction is made under this section during any fiscal year of service-in-grade otherwise required under this paragraph may not exceed 10 percent of the authorized active-duty strength for that fiscal year for officers of that armed force in those grades.”.

**SEC. 508. AIR FORCE CHIEF OF CHAPLAINS.**

(a) ESTABLISHMENT OF POSITIONS; APPOINTMENT.—Chapter 805 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 8039.

**“§ 8039. Chief of Chaplains: appointment; duties**

President.

“(a) CHIEF OF CHAPLAINS.—(1) There is a Chief of Chaplains in the Air Force, appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force designated under section 8067(h) of this title as chaplains who—

“(A) are serving in the grade of colonel or above;

“(B) are serving on active duty; and

“(C) have served on active duty as a chaplain for at least eight years.

“(2) An officer appointed as the Chief of Chaplains shall be appointed for a term of three years. However, the President may terminate or extend the appointment at any time.

“(3) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Air Force and by law.

Regulations.

“(b) SELECTION BOARD.—Under regulations approved by the Secretary of Defense, the Secretary of the Air Force, in selecting an officer for recommendation to the President for appointment as the Chief of Chaplains, shall ensure that the officer selected

is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to the selection boards convened under chapter 36 of this title.

“(c) GRADE.—An officer appointed as Chief of Chaplains who holds a lower regular grade may be appointed in the regular grade of major general.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

10 USC  
prec. 8031.

“8039. Chief of Chaplains: appointment; duties.”.

## Subtitle B—Reserve Component Management

### SEC. 511. CODIFICATION OF STAFF ASSISTANT POSITIONS FOR JOINT STAFF RELATED TO NATIONAL GUARD AND RESERVE MATTERS.

(a) CODIFICATION OF EXISTING POSITIONS.—Chapter 5 of title 10, United States Code, is amended by inserting after section 155 the following new section:

#### “§ 155a. Assistants to the Chairman of the Joint Chiefs of Staff for National Guard matters and Reserve matters

10 USC 155a.

“(a) ESTABLISHMENT OF POSITIONS.—The Secretary of Defense shall establish the following positions within the Joint Staff:

“(1) Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters.

“(2) Assistant to the Chairman of the Joint Chiefs of Staff for Reserve Matters.

“(b) SELECTION.—(1) The Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters shall be selected by the Chairman from officers of the Army National Guard of the United States or the Air Guard of the United States who—

“(A) are recommended for such selection by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

“(B) have had at least 10 years of federally recognized commissioned service in the National Guard and significant joint duty experience, as determined by the Chairman; and

“(C) are in a grade above the grade of colonel.

“(2) The Assistant to the Chairman of the Joint Chiefs of Staff for Reserve Matters shall be selected by the Chairman from officers of the Army Reserve, the Navy Reserve, the Marine Corps Reserve, or the Air Force Reserve who—

“(A) are recommended for such selection by the Secretary of the military department concerned;

“(B) have had at least 10 years of commissioned service in their reserve component and significant joint duty experience, as determined by the Chairman; and

“(C) are in a grade above the grade of colonel or, in the case of the Navy Reserve, captain.

“(c) TERM OF OFFICE.—Each Assistant to the Chairman of the Joint Chiefs of Staff under subsection (a) serves at the pleasure

of the Chairman for a term of two years and may be continued in that assignment in the same manner for one additional term. However, in time of war there is no limit on the number of terms.

“(d) GRADE.—Each Assistant to the Chairman of the Joint Chiefs of Staff under subsection (a), while so serving, holds the grade of major general or, in the case of the Navy Reserve, rear admiral. Each such officer shall be considered to be serving in a position covered by the limited exclusion from the authorized strength of general officers and flag officers on active duty provided by section 526(b) of this title.

“(e) DUTIES.—(1) The Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters is an adviser to the Chairman on matters relating to the National Guard and performs the duties prescribed for that position by the Chairman.

“(2) The Assistant to the Chairman of the Joint Chiefs of Staff for Reserve Matters is an adviser to the Chairman on matters relating to the reserves and performs the duties prescribed for that position by the Chairman.

“(f) OTHER RESERVE COMPONENT REPRESENTATION ON JOINT STAFF.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop appropriate policy guidance to ensure that, to the maximum extent practicable, the level of representation of reserve component officers on the Joint Staff is commensurate with the significant role of the reserve components within the armed forces.”.

10 USC  
prec. 151.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 155 the following new item:

“155a. Assistants to the Chairman of the Joint Chiefs of Staff for National Guard matters and Reserve matters.”.

(c) REPEAL OF SUPERSEDED LAW.—Section 901 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 10 U.S.C. 155 note) is repealed.

**SEC. 512. AUTOMATIC FEDERAL RECOGNITION OF PROMOTION OF CERTAIN NATIONAL GUARD WARRANT OFFICERS.**

Section 310(a) of title 32, United States Code, is amended—

(1) by inserting “(1)” before “Notwithstanding”; and

(2) by adding at the end the following new paragraph:

“(2) Notwithstanding sections 307 and 309 of this title, if a warrant officer, W-1, of the National Guard is promoted to the grade of chief warrant officer, W-2, to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of chief warrant officer, W-2, effective as of the date on which that officer has completed the service in the grade prescribed by the Secretary concerned under section 12242 of title 10, if the warrant officer has remained in an active status since the warrant officer was so recommended.”.

10 USC 12681.

**SEC. 513. AVAILABILITY OF TRANSITION ASSISTANCE ADVISORS TO ASSIST MEMBERS OF RESERVE COMPONENTS WHO SERVE ON ACTIVE DUTY FOR MORE THAN 180 CONSECUTIVE DAYS.**

(a) TRANSITION ASSISTANCE ADVISOR PROGRAM AUTHORIZED.—The Chief of the National Guard Bureau may establish a program to provide professionals (to be known as Transition Assistance

Advisors) in each State to serve as points of contact to assist eligible members of the reserve components in accessing benefits and health care furnished under laws administered by the Secretary of Defense and benefits and health care furnished under laws administered by the Secretary of Veterans Affairs.

(b) **ELIGIBLE MEMBERS.**—To be eligible for assistance under this section, a member of a reserve component must have served on active duty in the Armed Forces for a period of more than 180 consecutive days.

(c) **DUTIES.**—The duties of a Transition Assistance Advisor include the following:

(1) To assist with the creation and execution of an individual transition plan for an eligible member of a reserve component and dependents of the member for the reintegration of the member into civilian life.

(2) To provide employment support services to the member and dependents of the member, including assistance with finding employment opportunities and identifying and obtaining assistance from programs within and outside of the Federal Government.

(3) To provide information on relocation, health care, mental health care, and financial support services available to the member and dependents of the member from the Department of Defense, the Department of Veterans Affairs, and other Federal, State, and local agencies.

(4) To provide information on educational support services available to the member, including Post-9/11 Educational Assistance under chapter 33 of title 38, United States Code.

(d) **TRANSITION PLANS.**—The individual transition plan referred to in subsection (c)(1) created for an eligible member of a reserve component shall include at a minimum the following:

(1) A plan for the transition of the member to civilian life, including with respect to employment, education, and health care.

(2) A description of the transition services that the member and dependents of the member will need to achieve their transition objectives, including information on any forms that the member will need to fill out to be eligible for such services.

(3) A point of contact for each agency or entity that can provide the transition services described in paragraph (2).

(4) Such other information determined to be essential for the transition of the member, as determined by the Chief of the National Guard Bureau in consultation with the Secretary of Defense and the Secretary of Veterans Affairs.

(e) **FUNDING.**—Funding for Transition Assistance Advisors for a fiscal year shall be derived from amounts authorized to be appropriated for operation and maintenance for the National Guard for that fiscal year.

(f) **STATE DEFINED.**—In this section, the term “State” means each of the several States of the United States, the District of Columbia, and any territory of the United States.

## Subtitle C—General Service Authorities

### SEC. 518. AUTHORITY FOR ADDITIONAL BEHAVIORAL HEALTH PROFESSIONALS TO CONDUCT PRE-SEPARATION MEDICAL EXAMS FOR POST-TRAUMATIC STRESS DISORDER.

Section 1177(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “or psychiatrist” and inserting “psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse”; and

(2) in paragraph (3), by striking “or psychiatrist” and inserting “, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse”.

### SEC. 519. DIVERSITY IN THE ARMED FORCES AND RELATED REPORTING REQUIREMENTS.

(a) PLAN TO ACHIEVE MILITARY LEADERSHIP REFLECTING DIVERSITY OF UNITED STATES POPULATION.—

(1) IN GENERAL.—Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 656.

#### “§ 656. Diversity in military leadership: plan

“(a) PLAN.—The Secretary of Defense (and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Department of the Navy) shall develop and implement a plan to accurately measure the efforts of the Department of Defense and the Coast Guard to achieve a dynamic, sustainable level of members of the armed forces (including reserve components) that, among both commissioned officers and senior enlisted personnel of each armed force, will reflect the diverse population of the United States eligible to serve in the armed forces, including gender specific, racial, and ethnic populations. Any metric established pursuant to this subsection may not be used in a manner that undermines the merit-based processes of the Department of Defense and the Coast Guard, including such processes for accession, retention, and promotion. Such metrics may not be combined with the identification of specific quotas based upon diversity characteristics. The Secretary concerned shall continue to account for diversified language and cultural skills among the total force of the armed forces.

Procedures.

“(b) METRICS TO MEASURE PROGRESS IN DEVELOPING AND IMPLEMENTING PLAN.—In developing and implementing the plan under subsection (a), the Secretary of Defense and the Secretary of Homeland Security shall develop a standard set of metrics and collection procedures that are uniform across the armed forces. The metrics required by this subsection shall be designed—

“(1) to accurately capture the inclusion and capability aspects of the armed forces’ broader diversity plans, including race, ethnic, and gender specific groups, as potential factors of force readiness that would supplement continued accounting by the Department of Defense and the Coast Guard of diversified language and cultural skills among the total force as part of the assessment of current and future national security needs; and

“(2) to be verifiable and systematically linked to strategic plans that will drive improvements.

“(c) DEFINITION OF DIVERSITY.—In developing and implementing the plan under subsection (a), the Secretary of Defense and the Secretary of Homeland Security shall develop a uniform definition of diversity.

“(d) CONSULTATION.—Not less than annually, the Secretary of Defense and the Secretary of Homeland Security shall meet with the Secretaries of the military departments, the Joint Chiefs of Staff, the Commandant of the Coast Guard, and senior enlisted members of the armed forces to discuss the progress being made toward developing and implementing the plan established under subsection (a).

“(e) COOPERATION WITH STATES.—The Secretary of Defense shall coordinate with the National Guard Bureau and States in tracking the progress of the National Guard toward developing and implementing the plan established under subsection (a).”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

10 USC  
prec. 651.

“656. Diversity in military leadership: plan.”.

(b) INCLUSION IN DOD MANPOWER REQUIREMENTS REPORT.—Section 115a of such title is amended by inserting after subsection (f) the following new subsection:

“(g) In each report submitted under subsection (a) during fiscal years 2013 through 2017, the Secretary shall also include a detailed discussion of the following:

“(1) The progress made in implementing the plan required by section 656 of this title to accurately measure the efforts of the Department to reflect the diverse population of the United States eligible to serve in the armed forces.

“(2) The number of members of the armed forces, including reserve components, listed by gender and race or ethnicity for each rank under each military department.

“(3) The number of members of the armed forces, including reserve components, who were promoted during the year covered by the report, listed by gender and race or ethnicity for each rank under each military department.

“(4) The number of members of the armed forces, including reserve components, who reenlisted or otherwise extended the commitment to military service during the year covered by the report, listed by gender and race or ethnicity for each rank under each military department.

“(5) The available pool of qualified candidates for the general officer grades of general and lieutenant general and the flag officer grades of admiral and vice admiral.”.

(c) COAST GUARD REPORT.—

(1) ANNUAL REPORT REQUIRED.—The Secretary of Homeland Security (or the Secretary of the Navy in the event the Coast Guard is operating as a service in the Department of the Navy) shall prepare an annual report addressing diversity among commissioned officers of the Coast Guard and Coast Guard Reserve and among enlisted personnel of the Coast Guard and Coast Guard Reserve. The report shall include—

(A) an assessment of the available pool of qualified candidates for the flag officer grades of admiral and vice admiral;

(B) the number of such officers and personnel, listed by gender and race or ethnicity for each rank;

(C) the number of such officers and personnel who were promoted during the year covered by the report, listed by gender and race or ethnicity for each rank; and

(D) the number of such officers and personnel who reenlisted or otherwise extended the commitment to the Coast Guard during the year covered by the report, listed by gender and race or ethnicity for each rank.

(2) SUBMISSION.—The report under paragraph (1) shall be submitted during each of fiscal years 2013 through 2017 not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31, United States Code. Each report shall be submitted to the Committee on Armed Services, the Committee on Transportation and Infrastructure, and the Committee on Homeland Security of the House of Representatives, and the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate.

**SEC. 520. LIMITATION ON REDUCTION IN NUMBER OF MILITARY AND CIVILIAN PERSONNEL ASSIGNED TO DUTY WITH SERVICE REVIEW AGENCIES.**

Section 1559(a) of title 10, United States Code, is amended by striking “December 31, 2013” and inserting “December 31, 2016”.

**SEC. 521. EXTENSION OF TEMPORARY INCREASE IN ACCUMULATED LEAVE CARRYOVER FOR MEMBERS OF THE ARMED FORCES.**

Section 701(d) of title 10, United States Code, is amended by striking “September 30, 2013” and inserting “September 30, 2015”.

**SEC. 522. MODIFICATION OF AUTHORITY TO CONDUCT PROGRAMS ON CAREER FLEXIBILITY TO ENHANCE RETENTION OF MEMBERS OF THE ARMED FORCES.**

(a) EXTENSION OF PROGRAMS TO CERTAIN ACTIVE GUARD AND RESERVE PERSONNEL.—Section 533 of Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (10 U.S.C. prec. 701 note) is amended—

(1) in subsection (a)(1), by inserting “and members on active Guard and Reserve duty” after “officers and enlisted members of the regular components”;

(2) by redesignating subsection (l) as subsection (m); and

(3) by inserting after subsection (k) the following new subsection (l):

“(l) DEFINITION.—In this section, the term ‘active Guard and Reserve duty’ has the meaning given that term in section 101(d)(6) of title 10, United States Code.”.

(b) AUTHORITY TO CARRY FORWARD UNUSED ACCRUED LEAVE.—Subsection (h) of such section is amended by adding at the end the following new paragraph:

“(5) LEAVE.—A member who participates in a pilot program is entitled to carry forward the leave balance existing as of the day on which the member begins participation and accumulated in accordance with section 701 of title 10, United States Code, but not to exceed 60 days.”.



(c) **AUTHORITY FOR DISABILITY PROCESSING.**—Subsection (j) of such section is amended—

(1) in the subsection heading, by striking “MEDICAL AND DENTAL CARE” and inserting “CONTINUED ENTITLEMENTS”;

(2) by striking “for purposes of the entitlement” and inserting “for purposes of—

“(1) the entitlement”;

(3) by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following new paragraph:

“(2) retirement or separation for physical disability under the provisions of chapters 55 and 61 of title 10, United States Code.”.

**SEC. 523. PROHIBITION ON WAIVER FOR COMMISSIONING OR ENLISTMENT IN THE ARMED FORCES FOR ANY INDIVIDUAL CONVICTED OF A FELONY SEXUAL OFFENSE.**

10 USC 504 note.

An individual may not be provided a waiver for commissioning or enlistment in the Armed Forces if the individual has been convicted under Federal or State law of a felony offense of any of the following:

(1) Rape.

(2) Sexual abuse.

(3) Sexual assault.

(4) Incest.

(5) Any other sexual offense.

**SEC. 524. QUALITY REVIEW OF MEDICAL EVALUATION BOARDS, PHYSICAL EVALUATION BOARDS, AND PHYSICAL EVALUATION BOARD LIAISON OFFICERS.**

10 USC 1222 note.

(a) **IN GENERAL.**—The Secretary of Defense shall standardize, assess, and monitor the quality assurance programs of the military departments to evaluate the following in the performance of their duties (including duties under chapter 61 of title 10, United States Code):

(1) Medical Evaluation Boards.

(2) Physical Evaluation Boards.

(3) Physical Evaluation Board Liaison Officers.

(b) **OBJECTIVES.**—The objectives of the quality assurance program shall be as follows:

(1) To ensure accuracy and consistency in the determinations and decisions of Medical Evaluation Boards and Physical Evaluation Boards.

(2) To otherwise monitor and sustain proper performance of the duties of Medical Evaluation Boards and Physical Evaluation Boards, and of Physical Evaluation Board Liaison Officers.

(3) Such other objectives as the Secretary shall specify for purposes of the quality assurance program.

(c) **REPORTS.**—

(1) **REPORT ON IMPLEMENTATION.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report setting forth the plan of the Secretary for the implementation of the requirements of this section.

(2) **ANNUAL REPORTS.**—Not later than one year after the date of the submittal of the report required by paragraph (1), and annually thereafter for the next four years, the Secretary shall submit to the appropriate committees of Congress

a report setting forth an assessment of the implementation of the requirements of this section during the one-year period ending on the date of the report under this paragraph. Each report shall include, in particular, an assessment of the extent to which the quality assurance program under the requirements of this section meets the objectives specified in subsection (b).

(3) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Armed Services and the Committee on Veterans’ Affairs of the Senate; and

(B) the Committee on Armed Services and the Committee on Veterans’ Affairs of the House of Representatives.

**SEC. 525. REPORTS ON INVOLUNTARY SEPARATION OF MEMBERS OF THE ARMED FORCES.**

(a) **PERIODIC REPORTS REQUIRED.**—Not later than 30 days after the end of each half-year period during calendar years 2013 and 2014, the Secretary of each military department shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the number of members of the regular components of the Armed Forces under the jurisdiction of such Secretary who were involuntarily separated from active duty in the Armed Forces (for reasons other than for cause) to meet force reduction requirements during the six-month period covered by the report.

(b) **ELEMENTS.**—Each report on an Armed Force under subsection (a) shall set forth the following for the period covered by the report:

(1) The total number members of that Armed Force involuntarily separated from active duty in the Armed Forces (for reasons other than for cause) to meet force reduction requirements.

(2) The number of members covered by paragraph (1) separately set forth by grade, by total years of service in the Armed Forces at the time of separation, and by military occupational specialty or rating (or competitive category in the case of officers).

(3) The number of members covered by paragraph (1) who received involuntary separation pay, or who are authorized to receive temporary retired pay, in connection with the separation.

(4) The number of members covered by paragraph (1) who completed transition assistance programs relating to future employment.

(5) The average number of months members covered by paragraph (1) were deployed to overseas contingency operations, separately set forth by grade.

**SEC. 526. REPORT ON FEASIBILITY OF DEVELOPING GENDER-NEUTRAL OCCUPATIONAL STANDARDS FOR MILITARY OCCUPATIONAL SPECIALTIES CURRENTLY CLOSED TO WOMEN.**

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report evaluating the feasibility of incorporating gender-neutral occupational standards for military occupational specialties closed, as of the date of the enactment of this Act, to female members of the Armed Forces.

**SEC. 527. REPORT ON EDUCATION AND TRAINING AND PROMOTION RATES FOR PILOTS OF REMOTELY PILOTED AIRCRAFT.**

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Air Force and the Chief of Staff of the Air Force shall jointly submit to the congressional defense committees a report on education and training and promotion rates for Air Force pilots of remotely piloted aircraft (RPA).

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) A detailed analysis of the reasons for persistently lower average education and training and promotion rates for Air Force pilots of remotely piloted aircraft.

(2) An assessment of the long-term impact on the Air Force of the sustainment of such lower rates.

(3) A plan to raise such rates, including—

(A) a description of the near-term and longer-term actions the Air Force intends to undertake to implement the plan; and

(B) an analysis of the potential direct and indirect impacts of the plan on the achievement and sustainment of the combat air patrol objectives of the Air Force for remotely piloted aircraft.

**SEC. 528. IMPACT OF NUMBERS OF MEMBERS WITHIN THE INTEGRATED DISABILITY EVALUATION SYSTEM ON READINESS OF ARMED FORCES TO MEET MISSION REQUIREMENTS.**

(a) **ANNUAL IMPACT STATEMENT.**—In the materials submitted to Congress in support of the budget for the Department of Defense for each of fiscal years 2014 through 2018, the Secretary of each military department shall include a statement concerning the extent to which the number of members of an Armed Force under the jurisdiction of the Secretary who are within the Integrated Disability Evaluation System impacts—

(1) the readiness of that Armed Force to meet on-going mission requirements; and

(2) dwell time for other members of that Armed Force.

(b) **RESPONSE PLAN.**—If the statement of the Secretary of a military department under subsection (a) for a fiscal year concludes that an adverse impact on readiness or dwell time of an Armed Force is occurring, the Secretary shall include with the budget materials a plan describing how the Armed Force will mitigate the impact.

## **Subtitle D—Military Justice and Legal Matters**

**SEC. 531. CLARIFICATION AND ENHANCEMENT OF THE ROLE OF STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS.**

(a) **APPOINTMENT BY THE PRESIDENT AND PERMANENT APPOINTMENT TO GRADE OF MAJOR GENERAL.**—Subsection (a) of section 5046 of title 10, United States Code, is amended—

(1) in the first sentence, by striking “detailed” and inserting “appointed by the President, by and with the advice and consent of the Senate,”; and

(2) by striking the second sentence and inserting the following new sentence: “If the officer to be appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a grade lower than the grade of major general immediately before the appointment, the officer shall be appointed in the grade of major general.”.

(b) DUTIES, AUTHORITY, AND ACCOUNTABILITY.—Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) The Staff Judge Advocate to the Commandant of the Marine Corps, under the direction of the Commandant of the Marine Corps and the Secretary of the Navy, shall—

“(1) perform such duties relating to legal matters arising in the Marine Corps as may be assigned to the Staff Judge Advocate;

“(2) perform the functions and duties, and exercise the powers, prescribed for the Staff Judge Advocate to the Commandant of the Marine Corps in chapter 47 (the Uniform Code of Military Justice) and chapter 53 of this title; and

“(3) perform such other duties as may be assigned to the Staff Judge Advocate.”.

(c) COMPOSITION OF HEADQUARTERS, MARINE CORPS.—Section 5041(b) of such title is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph (4):

“(4) The Staff Judge Advocate to the Commandant of the Marine Corps.”.

(d) SUPERVISION OF CERTAIN LEGAL SERVICES.—

(1) ADMINISTRATION OF MILITARY JUSTICE.—Section 806(a) of such title (article 6(a) of the Uniform Code of Military Justice) is amended in the third sentence by striking “The Judge Advocate General” and all that follows through “shall” and inserting “The Judge Advocates General, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, or senior members of their staffs, shall”.

(2) DELIVERY OF LEGAL ASSISTANCE.—Section 1044(b) of such title is amended by inserting “, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps,” after “jurisdiction of the Secretary”.

**SEC. 532. ADDITIONAL INFORMATION IN REPORTS ON ANNUAL SURVEYS OF THE COMMITTEE ON THE UNIFORM CODE OF MILITARY JUSTICE.**

Subsection (c)(2) of section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice), is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) Information from the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps on the following:

“(i) The appellate review process, including—

“(I) information on compliance with processing time goals;

“(II) discussions of the circumstances surrounding cases in which general court-martial or special court-martial convictions are reversed as a result of command influence or denial of the right to a speedy review or otherwise remitted due to loss of records of trial or other administrative deficiencies; and

“(III) discussions of cases in which a provision of this chapter is held unconstitutional.

“(ii) Measures implemented by each armed force to ensure the ability of judge advocates to competently participate as trial and defense counsel in, and preside as military judges over, capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

“(iii) The independent views of the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps on the sufficiency of resources available within their respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.”.

**SEC. 533. PROTECTION OF RIGHTS OF CONSCIENCE OF MEMBERS OF THE ARMED FORCES AND CHAPLAINS OF SUCH MEMBERS.**

10 USC  
prec. 1030 note.

(a) PROTECTION OF RIGHTS OF CONSCIENCE.—

(1) ACCOMMODATION.—The Armed Forces shall accommodate the beliefs of a member of the armed forces reflecting the conscience, moral principles, or religious beliefs of the member and, in so far as practicable, may not use such beliefs as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

(2) DISCIPLINARY OR ADMINISTRATIVE ACTION.—Nothing in paragraph (1) precludes disciplinary or administrative action for conduct that is proscribed by chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), including actions and speech that threaten good order and discipline.

(b) PROTECTION OF CHAPLAIN DECISIONS RELATING TO CONSCIENCE, MORAL PRINCIPLES, OR RELIGIOUS BELIEFS.—No member of the Armed Forces may—

(1) require a chaplain to perform any rite, ritual, or ceremony that is contrary to the conscience, moral principles, or religious beliefs of the chaplain; or

(2) discriminate or take any adverse personnel action against a chaplain, including denial of promotion, schooling, training, or assignment, on the basis of the refusal by the chaplain to comply with a requirement prohibited by paragraph (1).

(c) REGULATIONS.—The Secretary of Defense shall issue regulations implementing the protections afforded by this section.

**SEC. 534. REPORTS ON HAZING IN THE ARMED FORCES.**

(a) REPORTS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, each Secretary of a military department (and the Secretary of Homeland Security in the case

of the Coast Guard) shall submit to the congressional committees specified in subsection (c) a report on hazing in each Armed Force under the jurisdiction of the Secretary.

(b) ELEMENTS.—The report on an Armed Force required by subsection (a) shall include the following:

(1) An evaluation of the definition of hazing contained in the Secretary of Defense Policy Memorandum dated August 28, 1997.

(2) A discussion of the policies of the Armed Force for preventing and responding to incidents of hazing.

(3) A description of the methods implemented to track and report, including report anonymously, incidents of hazing in the Armed Force.

(4) An assessment by the Secretary submitting the report of the following:

(A) The scope of the problem of hazing in the Armed Force.

(B) The training on recognizing and preventing hazing provided members of the Armed Force.

(C) The actions taken to prevent and respond to hazing incidents in the Armed Force.

(D) The extent to which the Uniform Code of Military Justice specifically addresses the prosecution of persons subject to the Code who are alleged to have committed hazing.

(E) The feasibility of establishing a database to track, respond to, and resolve incidents of hazing.

(5) A description of the additional actions, if any, the Secretary submitting the report proposes to take to further address the incidence of hazing in the Armed Force.

(6) Any recommended changes to the Uniform Code of Military Justice or the Manual for Courts-Martial to improve the prosecution of persons alleged to have committed hazing in the Armed Forces.

(c) SUBMISSION OF REPORTS.—The reports required by subsection (a) shall be submitted—

(1) to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate; and

(2) to the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives.

## **Subtitle E—Member Education and Training Opportunities and Administration**

### **SEC. 541. TRANSFER OF TROOPS-TO-TEACHERS PROGRAM FROM DEPARTMENT OF EDUCATION TO DEPARTMENT OF DEFENSE AND ENHANCEMENTS TO THE PROGRAM.**

(a) TRANSFER OF FUNCTIONS.—

(1) TRANSFER.—The responsibility and authority for operation and administration of the Troops-to-Teachers Program in chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.) is transferred from the Secretary of Education to the Secretary of Defense.

(2) MEMORANDUM OF AGREEMENT.—In connection with the transfer of responsibility and authority for operation and administration of the Troops-to-Teachers Program from the Secretary of Education to the Secretary of Defense under paragraph (1), the Secretaries shall enter into a memorandum of agreement pursuant to which the Secretary of Education will undertake the following:

(A) Disseminate information about the Troops-to-Teachers Program to eligible schools (as defined in subsection (a) of section 1154 of title 10, United States Code, as added by subsection (b)).

(B) Advise the Department of Defense on how to prepare eligible members of the Armed Forces described in subsection (d) of such section 1154 to become participants in the Program, to meet the requirements necessary to become a teacher in a school described in subsection (b)(2) of such section 1154, and to find post-service employment in an eligible school.

(C) Advise the Department of Defense on how to identify teacher preparation programs for participants in the Program.

(D) Inform the Department of Defense of academic subject areas with critical teacher shortages.

(E) Identify geographic areas with critical teacher shortages, especially in high-need schools (as defined in subsection (a) of such section 1154).

(3) EFFECTIVE DATE.—The transfer of responsibility and authority for operation and administration of the Troops-to-Teachers Program under paragraph (1) shall take effect—

(A) on the first day of the first month beginning more than 90 days after the date of the enactment of this Act; or

(B) on such earlier date as the Secretary of Education and the Secretary of Defense may jointly provide.

(b) ENACTMENT OF PROGRAM AUTHORITY IN TITLE 10, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 58 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 1154. Assistance to eligible members and former members to obtain employment as teachers: Troops-to-Teachers Program**

10 USC 1154.

“(a) DEFINITIONS.—In this section:

“(1) CHARTER SCHOOL.—The term ‘charter school’ has the meaning given that term in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i(1)).

“(2) ELIGIBLE SCHOOL.—The term ‘eligible school’ means—

“(A) a public school, including a charter school, at which—

“(i) at least 30 percent of the students enrolled in the school are from families with incomes below 185 percent of poverty level (as defined by the Office of Management and Budget and revised at least annually in accordance with section 9(b)(1) of the Richard B. Russell National School Lunch Act (42

U.S.C. 1758(b)(1)) applicable to a family of the size involved; or

“(ii) at least 13 percent of the students enrolled in the school qualify for assistance under part B of the Individuals with Disabilities Education Act (20 U.S.C.1411 et seq.); or

“(B) a Bureau-funded school as defined in section 1141(3) of the Education Amendments of 1978 (25 U.S.C. 2021(3)).

“(3) HIGH-NEED SCHOOL.—The term ‘high-need school’ means—

“(A) an elementary or middle school in which at least 50 percent of the enrolled students are children from low-income families, based on the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the number of children eligible to receive medical assistance under the Medicaid program, or a composite of these indicators;

“(B) a high school in which at least 40 percent of enrolled students are children from low-income families, which may be calculated using comparable data from feeder schools; or

“(C) a school that is in a local educational agency that is eligible under section 6211(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7345(b)).

“(4) MEMBER OF THE ARMED FORCES.—The term ‘member of the armed forces’ includes a retired or former member of the armed forces.

“(5) PARTICIPANT.—The term ‘participant’ means an eligible member of the armed forces selected to participate in the Program.

“(6) PROGRAM.—The term ‘Program’ means the Troops-to-Teachers Program authorized by this section.

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Defense.

“(8) ADDITIONAL TERMS.—The terms ‘elementary school’, ‘local educational agency’, ‘secondary school’, and ‘State’ have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(b) PROGRAM AUTHORIZATION.—The Secretary of Defense may carry out a Troops-to-Teachers Program—

“(1) to assist eligible members of the armed forces described in subsection (d) to meet the requirements necessary to become a teacher in a school described in paragraph (2); and

“(2) to facilitate the employment of such members—

“(A) by local educational agencies or charter schools that the Secretary of Education identifies as—

“(i) receiving grants under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; or



“(ii) experiencing a shortage of teachers, in particular a shortage of science, mathematics, special education, foreign language, or career or technical teachers; and

“(B) in elementary schools or secondary schools, or as career or technical teachers.

“(c) COUNSELING AND REFERRAL SERVICES.—The Secretary may provide counseling and referral services to members of the armed forces who do not meet the eligibility criteria described in subsection (d), including the education qualification requirements under paragraph (3)(B) of such subsection.

“(d) ELIGIBILITY AND APPLICATION PROCESS.—

“(1) ELIGIBLE MEMBERS.—The following members of the armed forces are eligible for selection to participate in the Program:

“(A) Any member who—

“(i) on or after October 1, 1999, becomes entitled to retired or retainer pay under this title or title 14;

“(ii) has an approved date of retirement that is within one year after the date on which the member submits an application to participate in the Program; or

“(iii) has been transferred to the Retired Reserve.

“(B) Any member who, on or after January 8, 2002—

“(i)(I) is separated or released from active duty after four or more years of continuous active duty immediately before the separation or release; or

“(II) has completed a total of at least six years of active duty service, six years of service computed under section 12732 of this title, or six years of any combination of such service; and

“(ii) executes a reserve commitment agreement for a period of not less than three years under paragraph (5)(B).

“(C) Any member who, on or after January 8, 2002, is retired or separated for physical disability under chapter 61 of this title.

“(2) SUBMISSION OF APPLICATIONS.—(A) Selection of eligible members of the armed forces to participate in the Program shall be made on the basis of applications submitted to the Secretary within the time periods specified in subparagraph (B). An application shall be in such form and contain such information as the Secretary may require.

“(B) In the case of an eligible member of the armed forces described in subparagraph (A)(i), (B), or (C) of paragraph (1), an application shall be considered to be submitted on a timely basis if the application is submitted not later than three years after the date on which the member is retired, separated, or released from active duty, whichever applies to the member.

“(3) SELECTION CRITERIA; EDUCATIONAL BACKGROUND REQUIREMENTS; HONORABLE SERVICE REQUIREMENT.—(A) The Secretary shall prescribe the criteria to be used to select eligible members of the armed forces to participate in the Program.

“(B) If a member of the armed forces is applying for the Program to receive assistance for placement as an elementary school or secondary school teacher, the Secretary shall require

the member to have received a baccalaureate or advanced degree from an accredited institution of higher education.

“(C) If a member of the armed forces is applying for the Program to receive assistance for placement as a career or technical teacher, the Secretary shall require the member—

“(i) to have received the equivalent of one year of college from an accredited institution of higher education or the equivalent in military education and training as certified by the Department of Defense; or

“(ii) to otherwise meet the certification or licensing requirements for a career or technical teacher in the State in which the member seeks assistance for placement under the Program.

“(D) A member of the armed forces is eligible to participate in the Program only if the member’s last period of service in the armed forces was honorable, as characterized by the Secretary concerned. A member selected to participate in the Program before the retirement of the member or the separation or release of the member from active duty may continue to participate in the Program after the retirement, separation, or release only if the member’s last period of service is characterized as honorable by the Secretary concerned.

“(4) SELECTION PRIORITIES.—In selecting eligible members of the armed forces to receive assistance under the Program, the Secretary—

“(A) shall give priority to members who—

“(i) have educational or military experience in science, mathematics, special education, foreign language, or career or technical subjects; and

“(ii) agree to seek employment as science, mathematics, foreign language, or special education teachers in elementary schools or secondary schools or in other schools under the jurisdiction of a local educational agency; and

“(B) may give priority to members who agree to seek employment in a high-need school.

“(5) OTHER CONDITIONS ON SELECTION.—(A) Subject to subsection (i), the Secretary may not select an eligible member of the armed forces to participate in the Program and receive financial assistance unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by the United States under subsection (e) with respect to the member.

“(B) The Secretary may not select an eligible member of the armed forces described in paragraph (1)(B)(i) to participate in the Program and receive financial assistance under subsection (e) unless the member executes a written agreement to serve as a member of the Selected Reserve of a reserve component of the armed forces for a period of not less than three years.

“(e) PARTICIPATION AGREEMENT AND FINANCIAL ASSISTANCE.—

“(1) PARTICIPATION AGREEMENT.—(A) An eligible member of the armed forces selected to participate in the Program under subsection (b) and to receive financial assistance under this subsection shall be required to enter into an agreement with the Secretary in which the member agrees—

“(i) within such time as the Secretary may require, to meet the requirements necessary to become a teacher in a school described in subsection (b)(2); and

“(ii) to accept an offer of full-time employment as an elementary school teacher, secondary school teacher, or career or technical teacher for not less than three school years in an eligible school to begin the school year after obtaining that certification or licensing.

“(B) The Secretary may waive the three-year commitment described in subparagraph (A)(ii) for a participant if the Secretary determines such waiver to be appropriate. If the Secretary provides the waiver, the participant shall not be considered to be in violation of the agreement and shall not be required to provide reimbursement under subsection (f), for failure to meet the three-year commitment.

Waiver authority.

“(2) VIOLATION OF PARTICIPATION AGREEMENT; EXCEPTIONS.—A participant shall not be considered to be in violation of the participation agreement entered into under paragraph (1) during any period in which the participant—

“(A) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

“(B) is serving on active duty as a member of the armed forces;

“(C) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

“(D) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

“(E) is unable to find full-time employment as a teacher in an eligible elementary school or secondary school or as a career or technical teacher for a single period not to exceed 27 months; or

“(F) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

“(3) STIPEND AND BONUS FOR PARTICIPANTS.—(A) Subject to subparagraph (C), the Secretary may pay to a participant a stipend to cover expenses incurred by the participant to obtain the required educational level, certification, or licensing. Such stipend may not exceed \$5,000 and may vary by participant.

“(B)(i) Subject to subparagraph (C), the Secretary may pay a bonus to a participant who agrees in the participation agreement under paragraph (1) to accept full-time employment as an elementary school teacher, secondary school teacher, or career or technical teacher for not less than three school years in an eligible school.

“(ii) The amount of the bonus may not exceed \$5,000, unless the eligible school is a high-need school, in which case the amount of the bonus may not exceed \$10,000. Within such limits, the bonus may vary by participant and may take into account the priority placements as determined by the Secretary.

“(C)(i) The total number of stipends that may be paid under subparagraph (A) in any fiscal year may not exceed 5,000.

“(ii) The total number of bonuses that may be paid under subparagraph (B) in any fiscal year may not exceed 3,000.

“(iii) A participant may not receive a stipend under subparagraph (A) if the participant is eligible for benefits under chapter 33 of title 38.

“(iv) The combination of a stipend under subparagraph (A) and a bonus under subparagraph (B) for any one participant may not exceed \$10,000.

“(4) TREATMENT OF STIPEND AND BONUS.—A stipend or bonus paid under this subsection to a participant shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

“(f) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—

“(1) REIMBURSEMENT REQUIRED.—A participant who is paid a stipend or bonus under this subsection shall be subject to the repayment provisions of section 373 of title 37 under the following circumstances:

“(A) The participant fails to meet the requirements necessary to become a teacher in a school described in subsection (b)(2) or to obtain employment as an elementary school teacher, secondary school teacher, or career or technical teacher as required by the participation agreement under subsection (e)(1).

“(B) The participant voluntarily leaves, or is terminated for cause from, employment as an elementary school teacher, secondary school teacher, or career or technical teacher during the three years of required service in violation of the participation agreement.

“(C) The participant executed a written agreement with the Secretary concerned under subsection (d)(5)(B) to serve as a member of a reserve component of the armed forces for a period of three years and fails to complete the required term of service.

“(2) AMOUNT OF REIMBURSEMENT.—A participant required to reimburse the Secretary for a stipend or bonus paid to the participant under subsection (e) shall pay an amount that bears the same ratio to the amount of the stipend or bonus as the unserved portion of required service bears to the three years of required service.

“(3) INTEREST.—Any amount owed by a participant under this subsection shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the participant is first notified of the amount due.

“(4) EXCEPTIONS TO REIMBURSEMENT REQUIREMENT.—A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive the reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

“(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—Except as provided in subsection (e)(3)(C)(iii), the receipt by a participant of a stipend or bonus under subsection (e) shall not reduce or otherwise affect the entitlement of the

Waiver authority.

participant to any benefits under chapter 30 or 33 of title 38 or chapter 1606 of this title.

“(h) PARTICIPATION BY STATES.—

“(1) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The Secretary may permit States participating in the Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

“(2) ASSISTANCE TO STATES.—(A) Subject to subparagraph (B), the Secretary may make grants to States participating in the Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members of the armed forces for participation in the Program and facilitating the employment of participants as elementary school teachers, secondary school teachers, and career or technical teachers.

“(B) The total amount of grants made under subparagraph (A) in any fiscal year may not exceed \$5,000,000.

“(i) LIMITATION ON TOTAL FISCAL-YEAR OBLIGATIONS.—The total amount obligated by the Secretary under the Program for any fiscal year may not exceed \$15,000,000.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

10 USC  
prec. 1141.

“1154. Assistance to eligible members and former members to obtain employment as teachers: Troops-to-Teachers Program.”.

(c) CONFORMING AMENDMENT.—Section 1142(b)(4)(C) of such title is amended by striking “under section 2302” and all that follows through “6672”).

(d) TERMINATION OF DEPARTMENT OF EDUCATION TROOPS-TO-TEACHERS PROGRAM.—

(1) TERMINATION.—Subject to paragraph (3), chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.) is repealed.

20 USC  
6671–6677.

(2) CLERICAL AMENDMENT.—The table of contents in section 2 of the Elementary and Secondary Education Act of 1965 is amended by striking the items relating to chapter A of subpart 1 of part C of title II of such Act.

(3) EXISTING AGREEMENTS.—The repeal of chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.) by paragraph

20 USC 6671  
note.

(1) shall not affect—

(A) the validity or terms of any agreement entered into under such chapter, as in effect immediately before such repeal, before the effective date of the transfer of the Troops-to-Teachers Program under subsection (a); or

(B) the authority to pay assistance, make grants, or obtain reimbursement in connection with such an agreement as in effect before the effective date of the transfer of the Troops-to-Teachers Program under subsection (a).

#### **SEC. 542. SUPPORT OF NAVAL ACADEMY ATHLETIC AND PHYSICAL FITNESS PROGRAMS.**

(a) IN GENERAL.—Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 6981.

**“§ 6981. Support of athletic and physical fitness programs****“(a) AUTHORITY.—**

**“(1) CONTRACTS AND COOPERATIVE AGREEMENTS.—**The Secretary of the Navy may enter into contracts and cooperative agreements with the Naval Academy Athletic Association for the purpose of supporting the athletic and physical fitness programs of the Naval Academy. Notwithstanding section 2304(k) of this title, the Secretary may enter such contracts or cooperative agreements on a sole source basis pursuant to section 2304(c)(5) of this title. Notwithstanding chapter 63 of title 31, a cooperative agreement under this section may be used to acquire property or services for the direct benefit or use of the Naval Academy.

**“(2) LEASES.—**The Secretary may enter into leases, in accordance with section 2667 of this title, or licenses with the Association for the purpose of supporting the athletic and physical fitness programs of the Naval Academy. Any such lease or license shall be deemed to satisfy the conditions of section 2667(h)(2) of this title.

**“(b) USE OF NAVY PERSONAL PROPERTY BY THE ASSOCIATION.—**The Secretary may allow the Association to use, at no cost, personal property of the Department of the Navy to assist the Association in supporting the athletic and physical fitness programs of the Naval Academy.

**“(c) ACCEPTANCE OF SUPPORT.—**

**“(1) SUPPORT RECEIVED FROM THE ASSOCIATION.—**Notwithstanding section 1342 of title 31, the Secretary may accept from the Association funds, supplies, and services for the support of the athletic and physical fitness programs of the Naval Academy. For purposes of this section, employees or personnel of the Association may not be considered to be employees of the United States.

**“(2) FUNDS RECEIVED FROM NCAA.—**The Secretary may accept funds from the National Collegiate Athletic Association to support the athletic and physical fitness programs of the Naval Academy.

**“(3) LIMITATION.—**The Secretary shall ensure that contributions under this subsection do not reflect unfavorably on the ability of the Department of the Navy, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner, or compromise the integrity or appearance of integrity of any program of the Department of the Navy, or any individual involved in such a program.

**“(d) RETENTION AND USE OF FUNDS.—**Notwithstanding section 2260(d) of this title, funds received under this section may be retained for use in support of athletic and physical fitness programs of the Naval Academy and shall remain available until expended.

**“(e) TRADEMARKS AND SERVICE MARKS.—**

**“(1) LICENSING, MARKETING, AND SPONSORSHIP AGREEMENTS.—**An agreement under subsection (a)(1) may, consistent with sections 2260 (other than subsection (d)) and 5022(b)(3) of this title, authorize the Association to enter into licensing, marketing, and sponsorship agreements relating to trademarks and service marks identifying the Naval Academy, subject to the approval of the Department of the Navy.

“(2) LIMITATIONS.—No such licensing, marketing, or sponsorship agreement may be entered into if it would reflect unfavorably on the ability of the Department of the Navy, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner, or if the Secretary determines that the use of the trademark or service mark would compromise the integrity or appearance of integrity of any program of the Department of the Navy, or any individual involved in such a program.

“(f) SERVICE ON ASSOCIATION BOARD OF CONTROL.—The Association is a designated entity for which authorization under sections 1033(a) and 1589(a) of this title may be provided.

“(g) CONDITIONS.—The authority provided in this section with respect to the Association is available only so long as the Association continues to—

“(1) qualify as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 and operates in accordance with this section, the laws of the State of Maryland, and the constitution and bylaws of the Association; and

“(2) operate exclusively to support the athletic and physical fitness programs of the Naval Academy.

“(h) ASSOCIATION DEFINED.—In this section, the term ‘Association’ means the Naval Academy Athletic Association.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

10 USC  
prec. 6951.

“6981. Support of athletic and physical fitness programs.”

**SEC. 543. EXPANSION OF DEPARTMENT OF DEFENSE PILOT PROGRAM ON RECEIPT OF CIVILIAN CREDENTIALING FOR MILITARY OCCUPATIONAL SPECIALTY SKILLS.**

(a) EXPANSION OF PROGRAM.—Subsection (b)(1) of section 558 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1418; 10 U.S.C. 2015 note) is amended by striking “or more than five”.

(b) USE OF INDUSTRY-RECOGNIZED CERTIFICATIONS.—Subsection (b) of such section is further amended—

(1) by striking “and” at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

“(2) consider utilizing industry-recognized certifications or licensing standards for civilian occupational skills comparable to the specialties or codes so designated; and”.

**SEC. 544. STATE CONSIDERATION OF MILITARY TRAINING IN GRANTING CERTAIN STATE CERTIFICATIONS AND LICENSES AS A CONDITION ON THE RECEIPT OF FUNDS FOR VETERANS EMPLOYMENT AND TRAINING.**

(a) IN GENERAL.—Section 4102A(c) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(9)(A) As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title for any program year, the Secretary may require the State—

“(i) to demonstrate that when the State approves or denies a certification or license described in subparagraph (B) for

a veteran the State takes into consideration any training received or experience gained by the veteran while serving on active duty in the Armed Forces; and

“(ii) to disclose to the Secretary in writing the following:

“(I) Criteria applicants must satisfy to receive a certification or license described in subparagraph (B) by the State.

“(II) A description of the standard practices of the State for evaluating training received by veterans while serving on active duty in the Armed Forces and evaluating the documented work experience of such veterans during such service for purposes of approving or denying a certification or license described in subparagraph (B).

“(III) Identification of areas in which training and experience described in subclause (II) fails to meet criteria described in subclause (I).”

“(B) A certification or license described in this subparagraph is any of the following:

“(i) A license to be a nonemergency medical professional.

“(ii) A license to be an emergency medical professional.

“(iii) A commercial driver’s license.

“(C) The Secretary shall share the information the Secretary receives under subparagraph (A)(ii) with the Secretary of Defense to help the Secretary of Defense improve training for military occupational specialties so that individuals who receive such training are able to receive a certification or license described in subparagraph (B) from a State.

“(D) The Secretary shall publish on the Internet website of the Department available to the public—

“(i) any guidance the Secretary gives the Secretary of Defense with respect to carrying out this section; and

“(ii) any information the Secretary receives from a State pursuant to subparagraph (A).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to a program year beginning on or after the date of the enactment of this Act.

Web posting.  
Public  
information.

38 USC 4102A  
note.

**SEC. 545. DEPARTMENT OF DEFENSE REVIEW OF ACCESS TO MILITARY INSTALLATIONS BY REPRESENTATIVES OF INSTITUTIONS OF HIGHER EDUCATION.**

(a) **REVIEW REQUIRED.**—The Secretary of Defense shall conduct a review to assess the extent of access that representatives of institutions of higher education have to military installations.

(b) **ELEMENTS OF REVIEW.**—The review required by subsection (a) shall include, at a minimum, an assessment of the following:

(1) The policies and procedures that govern the availability and the degree to which representatives of institutions of higher education obtain access to military installations for marketing and recruitment purposes to members of the Armed Forces and their families.

(2) The extent to which persons employed by institutions of higher education who have authorized access to military installations are engaged in the unauthorized or inappropriate marketing of products and services to members of the Armed Forces through such access.

(3) The policies and regulations that are in effect to prevent inappropriate marketing of educational products and services



on military installations and the effectiveness or shortcomings, and the adequacy of the enforcement, of those policies and regulations.

(c) **REPORT.**—Not later than 270 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review required by subsection (a). The report shall include any recommendations for statutory or regulatory change that the Secretary considers appropriate to enhance the protection of members of the Armed Forces from inappropriate marketing and recruitment on military installations by representatives of institutions of higher education.

**SEC. 546. REPORT ON DEPARTMENT OF DEFENSE EFFORTS TO STANDARDIZE EDUCATIONAL TRANSCRIPTS ISSUED TO SEPARATING MEMBERS OF THE ARMED FORCES.**

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the efforts of the Department of Defense to standardize the educational transcripts issued to members of the Armed Forces on their separation from the Armed Forces.

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) A description of the similarities and differences between the educational transcripts issued to members separating from the each of the Armed Forces.

(2) A description of any assessments done by the Department, or in conjunction with educational institutions, to identify shortcomings in the transcripts issued to separating members in connection with their ability to qualify for civilian educational credits.

(3) A description of the implementation plan for the Joint Services Transcript, including a schedule and the elements of existing educational transcripts to be incorporated into the Joint Services Transcript.

**SEC. 547. COMPTROLLER GENERAL OF THE UNITED STATES REPORTS ON JOINT PROFESSIONAL MILITARY EDUCATION MATTERS.**

(a) **REPORT ON REVIEW OF MILITARY EDUCATION COORDINATION COUNCIL REPORT.**—

(1) **REVIEW OF METHODOLOGY.**—The Comptroller General of the United States shall review the methodology used by the Military Education Coordination Council in compiling the report on joint professional military education that is to be submitted to the Director of Joint Force Development by March 1, 2013, pursuant to the Joint Staff Memorandum, Joint Staff Review, dated July 16, 2012. The review shall include an examination of the analytical approach used by the Council for that report, including the types of information considered, the cost savings identified, the benefits of options considered, the time frames for implementation, and transparency.

(2) **REPORT.**—Not later than 90 days after receiving from the Director of Joint Force Development the report described in paragraph (1), the Comptroller General shall submit to the

Committees on Armed Services of the Senate and the House of Representatives a report on the review under paragraph (1) of the report described in that paragraph. The report of the Comptroller General under this paragraph shall set forth the following:

(A) The results of the review under paragraph (1).

(B) Such recommendations as the Comptroller General considers appropriate in light of the results of the review.

(b) REPORT ON JOINT PROFESSIONAL MILITARY EDUCATION RESEARCH INSTITUTIONS.—

(1) REPORT REQUIRED.—Not later than January 31, 2014, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the assessment by the Comptroller General of the work performed by joint professional military education research institutions in support of professional military education and the broader mission of the Department of Defense, the military departments, and the Defense Agencies.

(2) ELEMENTS.—The report required by paragraph (1) shall include an assessment of the following:

(A) The systems, mechanisms, and structures within the senior and intermediate joint professional military education colleges and universities for oversight, governance, and management of the joint professional military education research institutions, including systems, mechanisms, and structures relating to the development of policies and budgets for research.

(B) The factors contributing to and the extent of growth in the number and size of joint professional military education research institutions since 2000.

(C) The causes and extent of cost growth at joint professional military education research institutions since 2000.

(D) The focus of research activity conducted by the joint professional military education research institutions, and the extent to which each joint professional military education research institution performs a unique research function or engages in similar or duplicative efforts with other components or elements of the Department of Defense.

(E) The measures of effectiveness used by the joint professional military education research institutions, the senior and intermediate joint professional military education colleges and universities, and other oversight entities to evaluate the performance of the joint professional military education research institutions in meeting established goals or objectives.

(3) DEFINITIONS.—In this subsection:

(A) The term “joint professional military education research institutions” means subordinate organizations (including centers, institutes, and schools) under the senior and intermediate joint professional military education colleges and universities for which research is the primary mission or reason for existence.

(B) The term “senior and intermediate joint professional military education colleges and universities” means the following:

(i) The National Defense University.

- (ii) The Army War College.
- (iii) The Navy War College.
- (iv) The Air University.
- (v) The Air War College.
- (vi) The Marine Corp University.

## Subtitle F—Reserve Officers’ Training Corps and Related Matters

### SEC. 551. REPEAL OF REQUIREMENT FOR ELIGIBILITY FOR IN-STATE TUITION OF AT LEAST 50 PERCENT OF PARTICIPANTS IN SENIOR RESERVE OFFICERS’ TRAINING CORPS PROGRAM.

Section 2107(c)(1) of title 10, United States Code, is amended by striking the third sentence.

### SEC. 552. CONSOLIDATION OF MILITARY DEPARTMENT AUTHORITY TO ISSUE ARMS, TENTAGE, AND EQUIPMENT TO EDU- CATIONAL INSTITUTIONS NOT MAINTAINING UNITS OF JUNIOR RESERVE OFFICERS’ TRAINING CORPS.

(a) CONSOLIDATION.—Chapter 102 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2034. Educational institutions not maintaining units of  
Junior Reserve Officers’ Training Corps: issuance  
of arms, tentage, and equipment** 10 USC 2034.

“The Secretary of a military department may issue arms, tentage, and equipment to an educational institution at which no unit of the Junior Reserve Officers’ Training Corps is maintained if the educational institution—

“(1) offers a course in military training prescribed by that Secretary; and

“(2) has a student body of at least 50 students who are in a grade above the eighth grade.”

(b) REPEAL OF SEPARATE AUTHORITIES.—Sections 4651, 7911, and 9651 of such title are repealed.

(c) CLERICAL AMENDMENTS.—

(1) CONSOLIDATED AUTHORITY.—The table of sections at the beginning of chapter 102 of such title is amended by adding at the end the following new item:

10 USC  
prec. 2031.

“2034. Educational institutions not maintaining units of Junior Reserve Officers’ Training Corps: issuance of arms, tentage, and equipment.”.

(2) ARMY AUTHORITY.—The table of sections at the beginning of chapter 441 of such title is amended by striking the item relating to section 4651.

10 USC  
prec. 4651.

(3) NAVY AUTHORITY.—The table of sections at the beginning of chapter 667 of such title is amended by striking the item relating to section 7911.

10 USC  
prec. 7911.

(4) AIR FORCE AUTHORITY.—The table of sections at the beginning of chapter 941 of such title is amended by striking the item relating to section 9651.

10 USC  
prec. 9651.

**SEC. 553. MODIFICATION OF REQUIREMENTS ON PLAN TO INCREASE THE NUMBER OF UNITS OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS.**

10 USC 2031  
note.

(a) **NUMBER OF UNITS COVERED BY PLAN.**—Subsection (a) of section 548 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4466) is amended by striking “not less than 3,700 units” and inserting “not less than 3,000, and not more than 3,700, units”.

(b) **ADDITIONAL EXCEPTION.**—Subsection (b) of such section is amended—

- (1) in paragraph (1), by striking “or” at the end;
- (2) in paragraph (2), by striking the period at the end and inserting “; or”; and
- (3) by adding at the end the following new paragraph:  
“(3) if the Secretaries of the military departments determine that the level of support of all kinds (including appropriated funds) provided to youth development programs within the Armed Forces is consistent with funding limitations and the achievement of the objectives of such programs.”.

(c) **SUBMITTAL OF REVISED PLAN AND IMPLEMENTATION REPORTS.**—Subsection (e) of such section is amended to read as follows:

“(e) **TIME FOR SUBMISSION.**—Not later than March 31, 2013, the Secretary of Defense shall submit to the congressional defense committees a revised plan under subsection (a) to reflect amendments made to subsections (a) and (b) during fiscal year 2013 and a new report under subsection (d) to address the revised plan. The Secretary shall submit an updated report not later than March 31 of each of 2015, 2018, and 2020.”.

**SEC. 554. COMPTROLLER GENERAL REPORT ON RESERVE OFFICERS' TRAINING CORPS PROGRAMS.**

(a) **REPORT REQUIRED.**—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the assessment of the Comptroller General regarding the following:

- (1) Whether the Reserve Officers' Training Corps (ROTC) programs of the military departments are effectively meeting, and structured to meet, current and projected requirements for newly commissioned officers in the Armed Forces.
- (2) The cost-effectiveness and unit productivity of the current Reserve Officers' Training Corps programs.
- (3) The adequacy of current oversight and criteria for the establishment and disestablishment of units of the Reserve Officers' Training Corps.

(b) **ELEMENTS.**—The report required by subsection (a) shall include, at a minimum, the following:

- (1) A list of the units of the Reserve Officers' Training Corps by Armed Force, and by college or university, and the number of cadets and midshipman currently enrolled by class or year group.
- (2) The number of officers commissioned in 2012 from the Reserve Officers' Training Corps programs, and the number projected to be commissioned over the period of the current future-years defense program under section 221 of title 10,

United States Code, from each unit listed under paragraph (1).

(3) An assessment of the requirements of each Armed Force for newly commissioned officers in 2012 and the strategic planning regarding such requirements over the period of the current future-years defense program.

(4) The number of military and civilian personnel of the Department of Defense assigned to lead and manage units of the Reserve Officers' Training Corps, and the grades of the military personnel so assigned.

(5) An assessment of Department of Defense-wide and Armed-Force specific standards regarding the productivity of units of the Reserve Officers' Training Corps, and an assessment of compliance with such standards.

(6) An assessment of the projected use by the Armed Forces of the procedures available to the Armed Forces to respond to overages in the number of cadets and midshipmen in the Reserve Officers' Training Corps programs.

(7) A description of the plans of the Armed Forces to retain or disestablish units of the Reserve Officers' Training Corps that do not meet productivity standards.

## **Subtitle G—Defense Dependents' Education and Military Family Readiness**

### **SEC. 561. CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.**

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—Of the amount authorized to be appropriated for fiscal year 2013 by section 301 and available for operation and maintenance for Defense-wide activities as specified in the funding table in section 4301, \$25,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 20 U.S.C. 7703b).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—

(1) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Section 572(b)(4) of the National Defense Authorization Act for Fiscal Year 2006 (20 U.S.C. 7703b(b)(4)) is amended by striking “September 30, 2012” and inserting “September 30, 2014”.

(2) AMOUNT OF ASSISTANCE AUTHORIZED.—Of the amount authorized to be appropriated for fiscal year 2013 by section 301 and available for operation and maintenance for Defense-wide activities as specified in the funding table in section 4301, \$5,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (20 U.S.C. 7703b).

(c) **REPEAL OF OBSOLETE FUNDING REFERENCE.**—Section 572 of the National Defense Authorization Act for Fiscal Year 2006 (20 U.S.C. 7703b) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(d) **LOCAL EDUCATIONAL AGENCY DEFINED.**—In this section, the term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

**SEC. 562. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.**

Of the amount authorized to be appropriated for fiscal year 2013 pursuant to section 301 and available for operation and maintenance for Defense-wide activities as specified in the funding table in section 4301, \$5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-77; 20 U.S.C. 7703a).

**SEC. 563. AMENDMENTS TO THE IMPACT AID PROGRAM.**

(a) **SHORT TITLE.**—This section may be cited as the “Impact Aid Improvement Act of 2012”.

(b) **AMENDMENTS TO THE IMPACT AID PROGRAM.**—Title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) is amended—

(1) in section 8002 (20 U.S.C. 7702)—

(A) in subsection (a)—

(i) by striking “for a fiscal year ending prior to October 1, 2003”; and

(ii) by inserting “or (h)” after “subsection (b)”; and

(B) in subsection (b)—

(i) in paragraph (2), by striking “aggregate assessed” and inserting “estimated taxable”; and

(ii) by striking paragraph (3) and inserting the following:

“(3) **DETERMINATION OF TAXABLE VALUE FOR ELIGIBLE FEDERAL PROPERTY.**—

“(A) **IN GENERAL.**—In determining the estimated taxable value of such acquired Federal property for fiscal year 2010 and each succeeding fiscal year, the Secretary shall—

“(i) first determine the total taxable value for the purpose of levying property tax for school purposes for current expenditures of real property located within the boundaries of such local educational agency;

“(ii) then determine the per acre value of the eligible Federal property by dividing the total taxable value as determined in clause (i) by the difference between the total acres located within the boundaries of the local educational agency and the number of Federal acres eligible under this section; and

“(iii) then determine the total taxable value of the eligible Federal property by multiplying the per acre value as calculated under clause (ii) by the number of Federal acres eligible under this section.

“(B) **SPECIAL RULE.**—In the case of Federal property eligible under this section that is within the boundaries

Impact Aid  
Improvement Act  
of 2012.  
20 USC 6301  
note.

of 2 or more local educational agencies, such a local educational agency may ask the Secretary to calculate the per acre value of each such local educational agency as provided under subparagraph (A) and apply the average of these per acre values to the acres of the Federal property in such agency.”; and

(C) in subsection (h)—

(i) in paragraph (1)—

(I) in the paragraph heading, by striking “FOR PRE-1995 RECIPIENTS ” and inserting “FOR PRE-2010 RECIPIENTS”; and

(II) by striking subparagraphs (A) and (B) and inserting the following:

“(A) IN GENERAL.—The Secretary shall first make a foundation payment to each local educational agency that is determined by the Secretary to be eligible to receive a payment under this section for the fiscal year involved and that filed a timely application, and met, or has been determined by statute to meet, the eligibility requirements of subsection (a) for fiscal year 2009. Payment.

“(B) AMOUNT.—

“(i) IN GENERAL.—The amount of a payment under subparagraph (A) for a local educational agency shall be equal to the greater of 90 percent of the payment the local educational agency received from dollars appropriated for fiscal year 2009 or 90 percent of the average payment that the local educational agency received from dollars appropriated for fiscal years 2006, 2007, 2008, and 2009, and shall be calculated without regard to the maximum payment provisions in subsection (b)(1)(C).

“(ii) EXCEPTION.—In calculating such average payment for a local educational agency that did not receive a payment under subsection (b) for 1 or more of the fiscal years between fiscal year 2006 and 2009, inclusive, the lowest such payment made to the agency for fiscal year 2006, 2007, 2008, or 2009, shall be treated as the payment that the agency received under subsection (b) for each fiscal year for which the agency did not receive such a payment.”; and

(ii) by striking paragraphs (2) through (4) and inserting the following:

“(2) FOUNDATION PAYMENTS FOR NEW APPLICANTS.—

“(A) FIRST YEAR.—From any amounts remaining after making payments under paragraph (1) and subsection (i)(1) for the fiscal year involved, the Secretary shall make a payment, in an amount determined in accordance with subparagraph (C), to each local educational agency that the Secretary determines eligible for a payment under this section for a fiscal year after fiscal year 2009 and that did not receive a payment under paragraph (1) for the fiscal year for which such agency was determined eligible for such payment.

“(B) SECOND AND SUCCEEDING YEARS.—For any succeeding fiscal year after the first fiscal year that a local educational agency receives a foundation payment under subparagraph (A), the amount of the local educational

agency's foundation payment under this paragraph for such succeeding fiscal year shall be equal to the local educational agency's foundation payment under this paragraph for the first fiscal year.

Determination.

“(C) AMOUNTS.—The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

“(i) Calculate the local educational agency's maximum payment under subsection (b).

“(ii) Calculate the percentage that the amount appropriated under section 8014(a) for the most recent fiscal year for which the Secretary has completed making payments under this section is of the total maximum payments for such fiscal year for all local educational agencies eligible for a payment under subsection (b) and multiply the agency's maximum payment by such percentage.

“(iii) Multiply the amount determined under clause (ii) by 90 percent.

“(D) INSUFFICIENT FUNDS.—If the amount appropriated under section 8014(a) of this title is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

“(3) REMAINING FUNDS.—From any funds remaining after making payments under paragraphs (1) and (2) for the fiscal year involved, the Secretary shall make a payment to each local educational agency that received a foundation payment under paragraph (1) or (2) or subsection (i)(1), for the fiscal year involved in an amount that bears the same relation to the remainder as a percentage share determined for the local educational agency (by dividing the maximum amount that the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies) bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved, except that, for the purpose of calculating a local educational agency's maximum amount under subsection (b), data from the most current fiscal year shall be used.

Deadline.

“(4) DATA.—For each local educational agency that received a payment under this section for fiscal year 2010 through the fiscal year in which the Impact Aid Improvement Act of 2012 is enacted, the Secretary shall not make a payment under paragraph (3) to a local educational agency that fails to submit, within 60 days of the date the Secretary notifies the agency that the information is needed, the data necessary to calculate the maximum amount of a payment under subsection (b) for that local educational agency.”;

(2) by striking section 8003(a)(4) (20 U.S.C. 7703(a)(4)) and inserting the following:

“(4) MILITARY INSTALLATION AND INDIAN HOUSING UNDERGOING RENOVATION OR REBUILDING.—

Effective date.  
Determination.  
Certification.

“(A) MILITARY INSTALLATION HOUSING.—Beginning in fiscal year 2014, in determining the amount of a payment for a local educational agency for children described in



paragraph (1)(D)(i), the Secretary shall consider those children as if they were children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that those children would have resided in housing on Federal property if the housing was not undergoing renovation or rebuilding. The total number of children treated as children described in paragraph (1)(B) shall not exceed the lessor of—

“(i) the total number of children eligible under paragraph (1)(B) for the year prior to the initiation of the housing project on Federal property undergoing renovation or rebuilding; or

“(ii) the total number of Federally connected children enrolled at the local educational agency as stated in the application filed for the payment for the year for which the determination is made.

“(B) INDIAN LANDS.—Beginning in fiscal year 2014, in determining the amount of a payment for a local educational agency that received a payment for children that resided on Indian lands in accordance with paragraph (1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application, the Secretary shall consider those children to be children described in paragraph (1)(C) if the Secretary determines on the basis of a certification provided to the Secretary by a designated representative of the Secretary of the Interior or the Secretary of Housing and Urban Development that those children would have resided in housing on Indian lands if the housing was not undergoing renovation or rebuilding. The total number of children treated as children described in paragraph (1)(C) shall not exceed the lessor of—

“(i) the total number of children eligible under paragraph (1)(C) for the year prior to the initiation of the housing project on Indian lands undergoing renovation or rebuilding; or

“(ii) the total number of Federally connected children enrolled at the local educational agency as stated in the application filed for the payment for the year for which the determination is made.

“(C) ELIGIBLE HOUSING.—Renovation or rebuilding shall be defined as projects considered as capitalization, modernization, or restoration, as defined by the Secretary of Defense or the Secretary of the Interior (as the case may be) and are projects that last more than 30 days, but do not include ‘sustainment projects’ such as painting, carpeting, or minor repairs.”; and  
(3) in section 8010 (20 U.S.C. 7710)—

(A) in subsection (c)(1), by striking “paragraph (3) of this subsection” both places the term appears and inserting “paragraph (2)”; and

(B) by adding at the end the following:

“(d) TIMELY PAYMENTS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay a local educational agency the full amount that the agency is eligible to receive under this title for a fiscal year

not later than September 30 of the second fiscal year following the fiscal year for which such amount has been appropriated if, not later than 1 calendar year following the fiscal year in which such amount has been appropriated, such local educational agency submits to the Secretary all the data and information necessary for the Secretary to pay the full amount that the agency is eligible to receive under this title for such fiscal year.

Applicability.

“(2) PAYMENTS WITH RESPECT OF FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—For a fiscal year in which the amount appropriated under section 8014 is insufficient to pay the full amount a local educational agency is eligible to receive under this title, paragraph (1) shall be applied by substituting ‘is available to pay the agency’ for ‘the agency is eligible to receive’ each place the term appears.”.

20 USC 7702  
note.  
Time period.

(c) EFFECTIVE DATE, IMPLEMENTATION, AND REPEAL.—

(1) IN GENERAL.—The amendments made by subsection (b) shall be effective for a 2-year period beginning on the date of enactment of this Act.

(2) EFFECTIVE DATE.—Notwithstanding section 8005(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7705(d)), subsection (b)(1), and the amendments made by subsection (b)(1), shall take effect with respect to applications submitted under section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) for fiscal year 2010.

(3) IMPLEMENTATION.—The Secretary of Education shall carry out the amendments made by this section without regard to the rulemaking procedures under section 553 of title 5, United States Code.

Applicability.  
20 USC 7702,  
7703, 7710.

(4) REPEAL.—The amendments made by subsection (b) shall be repealed on the day after the 2-year period described in paragraph (1) and title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) shall be applied as if such subsection and the amendments made by such subsection had never been enacted.

**SEC. 564. TRANSITIONAL COMPENSATION FOR DEPENDENT CHILDREN WHO ARE CARRIED DURING PREGNANCY AT TIME OF DEPENDENT-ABUSE OFFENSE COMMITTED BY AN INDIVIDUAL WHILE A MEMBER OF THE ARMED FORCES.**

(a) IN GENERAL.—Section 1059 of title 10, United States Code, is amended—

(1) in subsection (f), by adding at the end the following new paragraph:

“(4) Payment to a child under this section shall not cover any period before the birth of the child.”; and

(2) in subsection (l), by striking “at the time of the dependent-abuse offense resulting in the separation of the former member” in the matter preceding paragraph (1) and inserting “or eligible spouse at the time of the dependent-abuse offense resulting in the separation of the former member or who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member and was subsequently born alive to the eligible spouse or former spouse”.

(b) PROSPECTIVE APPLICABILITY.—No benefits shall accrue by reason of the amendments made by this section for any month that begins before the date of the enactment of this Act. 10 USC 1059 note.

**SEC. 565. MODIFICATION OF AUTHORITY TO ALLOW DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS TO ENROLL CERTAIN STUDENTS.**

Section 2164 of title 10, United States Code, is amended by adding at the end the following new subsections:

“(k) ENROLLMENT OF RELOCATED DEFENSE DEPENDENTS’ EDUCATION SYSTEM STUDENTS.—(1) The Secretary of Defense may authorize the enrollment in a Department of Defense education program provided by the Secretary pursuant to subsection (a) of a dependent of a member of the armed forces or a dependent of a Federal employee who is enrolled in the defense dependents’ education system established under section 1402 of the Defense Dependents’ Education Act of 1978 (20 U.S.C. 921) if—

“(A) the dependents departed the overseas location as a result of a evacuation order;

“(B) the designated safe haven of the dependent is located within reasonable commuting distance of a school operated by the Department of Defense education program; and

“(C) the school possesses the capacity and resources necessary to enable the student to attend the school.

“(2) Unless waived by the Secretary of Defense, a dependent described in paragraph (1) who is enrolled in a school operated by the Department of Defense education program pursuant to such paragraph may attend the school only through the end of the school year.

“(l) ENROLLMENT IN VIRTUAL ELEMENTARY AND SECONDARY EDUCATION PROGRAM.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary may authorize the enrollment in the virtual elementary and secondary education program established as a component of the Department of Defense education program of a dependent of a member of the armed forces on active duty who—

Regulations.

“(A) is enrolled in an elementary or secondary school operated by a local educational agency or another accredited educational program in the United States (other than a school operated by the Department of Defense education program); and

“(B) immediately before such enrollment, was enrolled in the defense dependents’ education system established under section 1402 of the Defense Dependents’ Education Act of 1978 (20 U.S.C. 921).

“(2) Enrollment of a dependent described in paragraph (1) pursuant to such paragraph shall be on a tuition basis.”.

**SEC. 566. NONCOMPETITIVE APPOINTMENT AUTHORITY REGARDING CERTAIN MILITARY SPOUSES.**

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following new section:

**“§ 3330d. Appointment of certain military spouses**

10 USC 3330d.

“(a) DEFINITIONS.—In this section:

“(1) The term ‘active duty’—

“(A) has the meaning given that term in section 101(d)(1) of title 10;

“(B) includes full-time National Guard duty (as defined in section 101(d)(5) of title 10); and

“(C) for a member of a reserve component (as described in section 10101 of title 10), does not include training duties or attendance at a service school.

“(2) The term ‘agency’—

“(A) has the meaning given the term ‘Executive agency’ in section 105 of this title; and

“(B) does not include the Government Accountability Office.

“(3) The term ‘geographic area of the permanent duty station’ means the area from which individuals reasonably can be expected to travel daily to and from work at the location of a member’s permanent duty station.

“(4) The term ‘permanent change of station’ means the assignment, detail, or transfer of a member of the Armed Forces who is on active duty and serving at a permanent duty station under a competent authorization or order that does not—

“(A) specify the duty as temporary;

“(B) provide for assignment, detail, or transfer, after that different permanent duty station, to a further different permanent duty station; or

“(C) direct return to the initial permanent duty station.

“(5) The term ‘relocating spouse of a member of the Armed Forces’ means an individual who—

“(A) is married to a member of the Armed Forces (on or prior to a permanent change of station of the member) who is ordered to active duty for a period of more than 180 consecutive days;

“(B) relocates to the member’s permanent duty station; and

“(C) before relocating as described in subparagraph (B), resided outside the geographic area of the permanent duty station.

“(6) The term ‘spouse of a disabled or deceased member of the Armed Forces’ means an individual—

“(A) who is married to a member of the Armed Forces who—

“(i) is retired, released, or discharged from the Armed Forces; and

“(ii) on the date on which the member retires, is released, or is discharged, has a disability rating of 100 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

“(B) who—

“(i) was married to a member of the Armed Forces on the date on which the member dies while on active duty in the Armed Forces; and

“(ii) has not remarried.

“(b) APPOINTMENT AUTHORITY.—The head of an agency may appoint noncompetitively—

“(1) a relocating spouse of a member of the Armed Forces;

or

“(2) a spouse of a disabled or deceased member of the Armed Forces.

“(c) SPECIAL RULES REGARDING RELOCATING SPOUSE.—

“(1) IN GENERAL.—An appointment of a relocating spouse of a member of the Armed Forces under this section may only be to a position the duty station for which is within the geographic area of the permanent duty station of the member of the Armed Forces, unless there is no agency with a position with a duty station within the geographic area of the permanent duty station of the member of the Armed Forces.

“(2) SINGLE PERMANENT APPOINTMENT PER DUTY STATION.—A relocating spouse of a member of the Armed Forces may not receive more than 1 permanent appointment under this section for each time the spouse relocates as described in subparagraphs (B) and (C) of subsection (a)(5).

“(d) SPECIAL RULES REGARDING SPOUSE OF A DISABLED OR DECEASED MEMBER OF THE ARMED FORCES.—

“(1) IN GENERAL.—An appointment of an eligible spouse as described in subparagraph (A) or (B) of subsection (a)(6) is not restricted to a geographical area.

“(2) SINGLE PERMANENT APPOINTMENT.—A spouse of a disabled or deceased member of the Armed Forces may not receive more than 1 permanent appointment under this section.”.

(b) REGULATIONS.—Not later than 180 after the date of the enactment of this Act, the Director of the Office of Personnel Management shall amend section 315.612 of title 5, Code of Federal Regulations (relating to noncompetitive appointment of certain military spouses), in accordance with the amendment made by subsection (a) and promulgate or amend any other regulations necessary to carry out the amendment made by subsection (a).

(c) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3330c the following new item:

Deadline.  
5 USC 3330d  
note.

5 USC  
prec. 3301.

“3330d. Appointment of certain military spouses.”.

**SEC. 567. REPORT ON FUTURE OF FAMILY SUPPORT PROGRAMS OF THE DEPARTMENT OF DEFENSE.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the anticipated future of the family support programs of the Department of Defense during the five-year period beginning on the date of the submittal of the report as end strengths for the Armed Forces are reduced and the Armed Forces are drawn down from combat operations in Afghanistan.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the current family support programs of each of the Armed Forces and the Department of Defense, including the name, scope and intended purpose of each program.

(2) An assessment of the current costs of the family support programs covered by paragraph (1), and an estimate of the costs of anticipated family support programs of the Armed Forces and Department over the period covered by the report.

(3) An assessment of the costs and other consequences associated with the elimination or reduction of any current

family support programs covered by paragraph (1) over the period covered by the report.

(4) An assessment of the family support programs of each of the Armed Forces covered by paragraph (1), including any planned or anticipated changes to the programs over the period covered by the report.

**SEC. 568. SENSE OF CONGRESS REGARDING SUPPORT FOR YELLOW RIBBON DAY.**

Congress supports the goals and ideals of Yellow Ribbon Day in honor of members of the Armed Forces and other individuals of the United States who are serving overseas apart from their families and loved ones.

**Subtitle H—Improved Sexual Assault Prevention and Response in the Armed Forces**

**SEC. 570. ARMED FORCES WORKPLACE AND GENDER RELATIONS SURVEYS.**

(a) **ADDITIONAL CONTENT OF SURVEYS.**—Subsection (c) of section 481 of title 10, United States Code, is amended—

(1) by striking “harassment and discrimination” and inserting “harassment, assault, and discrimination”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

“(2) The specific types of assault that have occurred, and the number of times each respondent has been assaulted during the preceding year.”;

(4) in paragraph (4), as so redesignated, by striking “discrimination” and inserting “discrimination, harassment, and assault”; and

(5) by adding at the end the following new paragraph:

“(5) Any other issues relating to discrimination, harassment, or assault as the Secretary of Defense considers appropriate.”.

(b) **TIME FOR CONDUCTING OF SURVEYS.**—Such section is further amended—

(1) in subsection (a)(1), by striking “four quadrennial surveys (each in a separate year)” and inserting “four surveys”; and

(2) by striking subsection (d) and inserting the following new subsection:

“(d) **WHEN SURVEYS REQUIRED.**—(1) One of the two Armed Forces Workplace and Gender Relations Surveys shall be conducted in 2014 and then every second year thereafter and the other Armed Forces Workplace and Gender Relations Survey shall be conducted in 2015 and then every second year thereafter, so that one of the two surveys is being conducted each year.

“(2) The two Armed Forces Workplace and Equal Opportunity Surveys shall be conducted at least once every four years. The two surveys may not be conducted in the same year.”.

**SEC. 571. AUTHORITY TO RETAIN OR RECALL TO ACTIVE DUTY  
RESERVE COMPONENT MEMBERS WHO ARE VICTIMS OF  
SEXUAL ASSAULT WHILE ON ACTIVE DUTY.**

(a) IN GENERAL.—Chapter 1209 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 12323. Active duty pending line of duty determination  
required for response to sexual assault** 10 USC 12323.

“(a) CONTINUATION ON ACTIVE DUTY.—In the case of a member of a reserve component who is the alleged victim of sexual assault committed while on active duty and who is expected to be released from active duty before the determination is made regarding whether the member was assaulted while in the line of duty (in this section referred to as a ‘line of duty determination’), the Secretary concerned, upon the request of the member, may order the member to be retained on active duty until completion of the line of duty determination. A member eligible for continuation on active duty under this subsection shall be informed as soon as practicable after the alleged assault of the option to request continuation on active duty under this subsection.

“(b) RETURN TO ACTIVE DUTY.—In the case of a member of a reserve component not on active duty who is the alleged victim of a sexual assault that occurred while the member was on active duty and when the line of duty determination is not completed, the Secretary concerned, upon the request of the member, may order the member to active duty for such time as necessary for completion of the line of duty determination.

“(c) REGULATIONS.—The Secretaries of the military departments shall prescribe regulations to carry out this section, subject to guidelines prescribed by the Secretary of Defense. The guidelines of the Secretary of Defense shall provide that—

Guidelines.  
Deadlines.

“(1) a request submitted by a member described in subsection (a) or (b) to continue on active duty, or to be ordered to active duty, respectively, must be decided within 30 days from the date of the request; and

“(2) if the request is denied, the member may appeal to the first general officer or flag officer in the chain of command of the member, and in the case of such an appeal a decision on the appeal must be made within 15 days from the date of the appeal.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of such title is amended adding at the end the following new item:

10 USC  
prec. 12301.

“12323. Active duty pending line of duty determination required for response to sexual assault.”.

**SEC. 572. ADDITIONAL ELEMENTS IN COMPREHENSIVE DEPARTMENT  
OF DEFENSE POLICY ON SEXUAL ASSAULT PREVENTION  
AND RESPONSE.**

(a) POLICY MODIFICATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall modify the revised comprehensive policy for the Department of Defense sexual assault prevention and response program required by section 1602 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4430; 10 U.S.C. 1561 note) to include in the policy the following new requirements:

Deadline.

## Records.

(1) Subject to subsection (b), a requirement that the Secretary of each military department establish a record on the disposition of any Unrestricted Report of sexual assault involving a member of the Armed Forces, whether such disposition is court martial, nonjudicial punishment, or other administrative action.

(2) A requirement that the Secretary of each military department establish policies to require the processing for administrative separation of any member of the Armed Forces under the jurisdiction of such Secretary whose conviction for a covered offense is final and who is not punitively discharged from the Armed Forces in connection with such conviction. Such requirement—

Procedures.  
Regulations.

(A) shall ensure that any separation decision is based on the full facts of the case and that due process procedures are provided under regulations prescribed by the Secretary of Defense; and

(B) shall not be interpreted to limit or alter the authority of the Secretary of the military department concerned to process members of the Armed Forces for administrative separation for other offenses or under other provisions of law.

Deadline.  
Assessment.

(3) A requirement that the commander of each military command and other units specified by the Secretary of Defense for purposes of the policy shall conduct, within 120 days after the commander assumes command and at least annually thereafter while retaining command, a climate assessment of the command or unit for purposes of preventing and responding to sexual assaults. The climate assessment shall include an opportunity for members of the Armed Forces to express their opinions regarding the manner and extent to which their leaders, including commanders, respond to allegations of sexual assault and complaints of sexual harassment and the effectiveness of such response.

Communication  
and tele-  
communications.

(4) A requirement to post and widely disseminate information about resources available to report and respond to sexual assaults, including the establishment of hotline phone numbers and Internet websites available to all members of the Armed Forces.

## Notification.

(5) A requirement for a general education campaign to notify members of the Armed Forces regarding the authorities available under chapter 79 of title 10, United States Code, for the correction of military records when a member experiences any retaliatory personnel action for making a report of sexual assault or sexual harassment.

(b) ADDITIONAL REQUIREMENTS REGARDING DISPOSITION  
RECORDS OF SEXUAL ASSAULT REPORTS.—

(1) ELEMENTS.—The record of the disposition of an Unrestricted Report of sexual assault established under subsection (a)(1) shall include information regarding the following, as appropriate:

(A) Documentary information collected about the incident, other than investigator case notes.

(B) Punishment imposed, including the sentencing by judicial or non-judicial means, including incarceration, fines, restriction, and extra duty as a result of military



court-martial, Federal or local court and other sentencing, or any other punishment imposed.

(C) Adverse administrative actions taken against the subject of the investigation, if any.

(D) Any pertinent referrals made for the subject of the investigation, offered as a result of the incident, such as drug and alcohol counseling and other types of counseling or intervention.

(2) RETENTION OF RECORDS.—The Secretary of Defense shall require that—

(A) the disposition records established pursuant to subsection (a)(1) be retained for a period of not less than 20 years; and

(B) information from the records that satisfies the reporting requirements established in section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note) be incorporated into the Defense Sexual Assault Incident Database and maintained for the same period as applies to retention of the records under subparagraph (A).

(c) COVERED OFFENSE DEFINED.—For purposes of subsection (a)(2), the term “covered offense” means the following:

(1) Rape or sexual assault under subsection (a) or (b) of section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice).

(2) Forcible sodomy under section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice).

(3) An attempt to commit an offense specified in paragraph (1) or (2) under section 880 of title 10, United States Code (article 80 of the Uniform Code of Military Justice).

**SEC. 573. ESTABLISHMENT OF SPECIAL VICTIM CAPABILITIES WITHIN THE MILITARY DEPARTMENTS TO RESPOND TO ALLEGATIONS OF CERTAIN SPECIAL VICTIM OFFENSES.**

10 USC 1561  
note.

(a) ESTABLISHMENT REQUIRED.—Under regulations prescribed by the Secretary of Defense, the Secretary of each military department shall establish special victim capabilities for the purposes of—

Regulations.

(1) investigating and prosecuting allegations of child abuse, serious domestic violence, or sexual offenses; and

(2) providing support for the victims of such offenses.

(b) PERSONNEL.—The special victim capabilities developed under subsection (a) shall include specially trained and selected—

(1) investigators from the Army Criminal Investigative Command, Naval Criminal Investigative Service, or Air Force Office of Special Investigations;

(2) judge advocates;

(3) victim witness assistance personnel; and

(4) administrative paralegal support personnel.

(c) TRAINING, SELECTION, AND CERTIFICATION STANDARDS.—The Secretary of Defense shall prescribe standards for the training, selection, and certification of personnel who will provide special victim capabilities for a military department.

(d) DISCRETION REGARDING EXTENT OF CAPABILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of a military department shall determine the extent to which

Determination.

special victim capabilities will be established within the military department and prescribe regulations for the management and use of the special victim capabilities.

(2) **REQUIRED ELEMENTS.**—At a minimum, the special victim capabilities established within a military department must provide effective, timely, and responsive world-wide support for the purposes described in subsection (a).

Deadlines.  
Reports.

(e) **TIME FOR ESTABLISHMENT.**—

(1) **IMPLEMENTATION PLAN.**—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(A) the plans and time lines of the Secretaries of the military departments for the establishment of the special victims capabilities; and

(B) an assessment by the Secretary of Defense of the plans and time lines.

(2) **INITIAL CAPABILITIES.**—Not later than one year after the date of the enactment of this Act, the Secretary of each military department shall have available an initial special victim capability consisting of the personnel specified in subsection (b).

Deadline.

(f) **EVALUATION OF EFFECTIVENESS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—

Criteria.

(1) prescribe the common criteria to be used by the Secretaries of the military departments to measure the effectiveness and impact of the special victim capabilities from the investigative, prosecutorial, and victim's perspectives; and

Reports.

(2) require the Secretaries of the military departments to collect and report the data used to measure such effectiveness and impact.

(g) **SPECIAL VICTIM CAPABILITIES DEFINED.**—In this section, the term “special victim capabilities” means a distinct, recognizable group of appropriately skilled professionals who work collaboratively to achieve the purposes described in subsection (a). This section does not require that the special victim capabilities be created as separate military unit or have a separate chain of command.

#### **SEC. 574. ENHANCEMENT TO TRAINING AND EDUCATION FOR SEXUAL ASSAULT PREVENTION AND RESPONSE.**

Section 585 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1434; 10 U.S.C. 1561 note) is amended by adding at the end the following new subsections:

“(d) **COMMANDERS’ TRAINING.**—The Secretary of Defense shall provide for the inclusion of a sexual assault prevention and response training module in the training for new or prospective commanders at all levels of command. The training shall be tailored to the responsibilities and leadership requirements of members of the Armed Forces as they are assigned to command positions. Such training shall include the following:

“(1) Fostering a command climate that does not tolerate sexual assault.

“(2) Fostering a command climate in which persons assigned to the command are encouraged to intervene to prevent potential incidents of sexual assault.

“(3) Fostering a command climate that encourages victims of sexual assault to report any incident of sexual assault.

“(4) Understanding the needs of, and the resources available to, the victim after an incident of sexual assault.

“(5) Use of military criminal investigative organizations for the investigation of alleged incidents of sexual assault.

“(6) Available disciplinary options, including court-martial, non-judicial punishment, administrative action, and deferral of discipline for collateral misconduct, as appropriate.

“(e) EXPLANATION TO BE INCLUDED IN INITIAL ENTRY AND ACCESSION TRAINING.—

“(1) REQUIREMENT.—The Secretary of Defense shall require that the matters specified in paragraph (2) be carefully explained to each member of the Army, Navy, Air Force, and Marine Corps at the time of (or within fourteen duty days after)—

“(A) the member’s initial entrance on active duty; or

“(B) the member’s initial entrance into a duty status with a reserve component.

“(2) MATTERS TO BE EXPLAINED.—This subsection applies with respect to the following: Applicability.

“(A) Department of Defense policy with respect to sexual assault.

“(B) The resources available with respect to sexual assault reporting and prevention and the procedures to be followed by a member seeking to access those resources.”.

**SEC. 575. MODIFICATION OF ANNUAL DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS REGARDING SEXUAL ASSAULTS.**

(a) GREATER DETAIL IN CASE SYNOPSIS PORTION OF REPORT.—Section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4433; 10 U.S.C. 1561 note) is amended by adding at the end the following new subsection:

“(f) ADDITIONAL DETAILS FOR CASE SYNOPSIS PORTION OF REPORT.—The Secretary of each military department shall include in the case synopsis portion of each report described in subsection (b)(3) the following additional information:

“(1) If charges are dismissed following an investigation conducted under section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), the case synopsis shall include the reason for the dismissal of the charges.

“(2) If the case synopsis states that a member of the Armed Forces accused of committing a sexual assault was administratively separated or, in the case of an officer, allowed to resign in lieu of facing a court-martial, the case synopsis shall include the characterization (honorable, general, or other than honorable) given the service of the member upon separation.

“(3) The case synopsis shall indicate whether a member of the Armed Forces accused of committing a sexual assault was ever previously accused of a substantiated sexual assault or was admitted to the Armed Forces under a moral waiver granted with respect to prior sexual misconduct.

“(4) The case synopsis shall indicate the branch of the Armed Forces of each member accused of committing a sexual assault and the branch of the Armed Forces of each member who is a victim of a sexual assault.

“(5) If the case disposition includes non-judicial punishment, the case synopsis shall explicitly state the nature of the punishment.

“(6) The case synopsis shall indicate whether alcohol was involved in any way in a substantiated sexual assault incident.”.

(b) **ADDITIONAL ELEMENTS OF EACH REPORT.**—Subsection (b) of such section is amended by adding at the end the following new paragraphs:

“(7) The number of applications submitted under section 673 of title 10, United States Code, during the year covered by the report for a permanent change of station or unit transfer for members of the Armed Forces on active duty who are the victim of a sexual assault or related offense, the number of applications denied, and, for each application denied, a description of the reasons why the application was denied.

“(8) An analysis and assessment of trends in the incidence, disposition, and prosecution of sexual assaults by units, commands, and installations during the year covered by the report, including trends relating to prevalence of incidents, prosecution of incidents, and avoidance of incidents.

“(9) An assessment of the adequacy of sexual assault prevention and response activities carried out by training commands during the year covered by the report.

“(10) An analysis of the specific factors that may have contributed to sexual assault during the year covered by the report, an assessment of the role of such factors in contributing to sexual assaults during that year, and recommendations for mechanisms to eliminate or reduce the incidence of such factors or their contributions to sexual assaults.”.

10 USC 1561  
note.

(c) **APPLICATION OF AMENDMENTS.**—The amendments made by this section shall apply beginning with the report regarding sexual assaults involving members of the Armed Forces required to be submitted by March 1, 2014, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

**SEC. 576. INDEPENDENT REVIEWS AND ASSESSMENTS OF UNIFORM CODE OF MILITARY JUSTICE AND JUDICIAL PROCEEDINGS OF SEXUAL ASSAULT CASES.**

Establishment.

(a) **INDEPENDENT REVIEWS AND ASSESSMENTS REQUIRED.**—

(1) **RESPONSE SYSTEMS TO ADULT SEXUAL ASSAULT CRIMES.**—The Secretary of Defense shall establish a panel to conduct an independent review and assessment of the systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses under section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), for the purpose of developing recommendations regarding how to improve the effectiveness of such systems.

(2) **JUDICIAL PROCEEDINGS SINCE FISCAL YEAR 2012 AMENDMENTS.**—The Secretary of Defense shall establish a panel to conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice involving adult sexual assault and related offenses since the

amendments made to the Uniform Code of Military Justice by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1404) for the purpose of developing recommendations for improvements to such proceedings.

(b) ESTABLISHMENT OF INDEPENDENT REVIEW PANELS.—

(1) COMPOSITION.—

(A) RESPONSE SYSTEMS PANEL.—The panel required by subsection (a)(1) shall be composed of nine members, five of whom are appointed by the Secretary of Defense and one member each appointed by the chairman and ranking member of the Committees on Armed Services of the Senate and the House of Representatives.

(B) JUDICIAL PROCEEDINGS PANEL.—The panel required by subsection (a)(2) shall be appointed by the Secretary of Defense and consist of five members, two of whom must have also served on the panel established under subsection (a)(1).

(2) QUALIFICATIONS.—The members of each panel shall be selected from among private United States citizens who collectively possess expertise in military law, civilian law, the investigation, prosecution, and adjudication of sexual assaults in State and Federal criminal courts, victim advocacy, treatment for victims, military justice, the organization and missions of the Armed Forces, and offenses relating to rape, sexual assault, and other adult sexual assault crimes.

(3) CHAIR.—The chair of each panel shall be appointed by the Secretary of Defense from among the members of the panel.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the panel. Any vacancy in a panel shall be filled in the same manner as the original appointment.

(5) DEADLINE FOR APPOINTMENTS.—

(A) RESPONSE SYSTEMS PANEL.—All original appointments to the panel required by subsection (a)(1) shall be made not later than 120 days after the date of the enactment of this Act.

(B) JUDICIAL PROCEEDINGS PANEL.—All original appointments to the panel required by subsection (a)(2) shall be made before the termination date of the panel established under subsection (a)(1), but no later than 30 days before the termination date.

(6) MEETINGS.—A panel shall meet at the call of the chair.

(7) FIRST MEETING.—The chair shall call the first meeting of a panel not later than 60 days after the date of the appointment of all the members of the panel.

Deadline.

(c) REPORTS AND DURATION.—

(1) RESPONSE SYSTEMS PANEL.—The panel established under subsection (a)(1) shall terminate upon the earlier of the following:

(A) Thirty days after the panel has submitted a report of its findings and recommendations, through the Secretary of Defense, to the Committees on Armed Services of the Senate and the House of Representatives.

(B) Eighteen months after the first meeting of the panel, by which date the panel is expected to have made its report.

## (2) JUDICIAL PROCEEDINGS PANEL.—

(A) FIRST REPORT.—The panel established under subsection (a)(2) shall submit a first report, including any proposals for legislative or administrative changes the panel considers appropriate, to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives not later than 180 days after the first meeting of the panel.

(B) SUBSEQUENT REPORTS.—The panel established under subsection (a)(2) shall submit subsequent reports during fiscal years 2014 through 2017.

(C) TERMINATION.—The panel established under subsection (a)(2) shall terminate on September 30, 2017.

## (d) DUTIES OF PANELS.—

Recommendations.

(1) RESPONSE SYSTEMS PANEL.—In conducting a systemic review and assessment, the panel required by subsection (a)(1) shall provide recommendations on how to improve the effectiveness of the investigation, prosecution, and adjudication of crimes involving adult sexual assault and related offenses under section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice). The review shall include the following:

(A) Using criteria the panel considers appropriate, an assessment of the strengths and weaknesses of the systems, including the administration of the Uniform Code of the Military Justice, and the investigation, prosecution, and adjudication, of adult sexual assault crimes during the period 2007 through 2011.

(B) A comparison of military and civilian systems for the investigation, prosecution, and adjudication of adult sexual assault crimes. This comparison shall include an assessment of differences in providing support and protection to victims and the identification of civilian best practices that may be incorporated into any phase of the military system.

(C) An assessment of advisory sentencing guidelines used in civilian courts in adult sexual assault cases and whether it would be advisable to promulgate sentencing guidelines for use in courts-martial.

(D) An assessment of the training level of military defense and trial counsel, including their experience in defending or prosecuting adult sexual assault crimes and related offenses, as compared to prosecution and defense counsel for similar cases in the Federal and State court systems.

(E) An assessment and comparison of military court-martial conviction rates with those in the Federal and State courts and the reasons for any differences.

(F) An assessment of the roles and effectiveness of commanders at all levels in preventing sexual assaults and responding to reports of sexual assault.

(G) An assessment of the strengths and weakness of proposed legislative initiatives to modify the current role of commanders in the administration of military justice and the investigation, prosecution, and adjudication of adult sexual assault crimes.

(H) An assessment of the adequacy of the systems and procedures to support and protect victims in all phases of the investigation, prosecution, and adjudication of adult sexual assault crimes, including whether victims are provided the rights afforded by section 3771 of title 18, United States Code, Department of Defense Directive 1030.1, and Department of Defense Instruction 1030.2.

(I) Such other matters and materials the panel considers appropriate.

(2) JUDICIAL PROCEEDINGS PANEL.—The panel required by subsection (a)(2) shall perform the following duties:

(A) Assess and make recommendations for improvements in the implementation of the reforms to the offenses relating to rape, sexual assault, and other sexual misconduct under the Uniform Code of Military Justice that were enacted by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1404).

(B) Review and evaluate current trends in response to sexual assault crimes whether by courts-martial proceedings, non-judicial punishment and administrative actions, including the number of punishments by type, and the consistency and appropriateness of the decisions, punishments, and administrative actions based on the facts of individual cases.

(C) Identify any trends in punishments rendered by military courts, including general, special, and summary courts-martial, in response to sexual assault, including the number of punishments by type, and the consistency of the punishments, based on the facts of each case compared with the punishments rendered by Federal and State criminal courts.

(D) Review and evaluate court-martial convictions for sexual assault in the year covered by the most-recent report required by subsection (c)(2) and the number and description of instances when punishments were reduced or set aside upon appeal and the instances in which the defendant appealed following a plea agreement, if such information is available.

(E) Review and assess those instances in which prior sexual conduct of the alleged victim was considered in a proceeding under section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), and any instances in which prior sexual conduct was determined to be inadmissible.

(F) Review and assess those instances in which evidence of prior sexual conduct of the alleged victim was introduced by the defense in a court-martial and what impact that evidence had on the case.

(G) Building on the data compiled as a result of paragraph (1)(D), assess the trends in the training and experience levels of military defense and trial counsel in adult sexual assault cases and the impact of those trends in the prosecution and adjudication of such cases.

(H) Monitor trends in the development, utilization and effectiveness of the special victims capabilities required by section 573 of this Act.

(I) Monitor the implementation of the April 20, 2012, Secretary of Defense policy memorandum regarding withholding initial disposition authority under the Uniform Code of Military Justice in certain sexual assault cases.

(J) Consider such other matters and materials as the panel considers appropriate for purposes of the reports.

(3) UTILIZATION OF OTHER STUDIES.—In conducting reviews and assessments and preparing reports, a panel may review, and incorporate as appropriate, the data and findings of applicable ongoing and completed studies.

(e) AUTHORITY OF PANELS.—

(1) HEARINGS.—A panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the panel considers appropriate to carry out its duties under this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—Upon request by the chair of a panel, a department or agency of the Federal Government shall provide information that the panel considers necessary to carry out its duties under this section.

(f) PERSONNEL MATTERS.—

(1) PAY OF MEMBERS.—Members of a panel shall serve without pay by reason of their work on the panel.

(2) TRAVEL EXPENSES.—The members of a panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance or services for the panel.

(3) STAFFING AND RESOURCES.—The Secretary of Defense shall provide staffing and resources to support the panels, except that the Secretary may not assign primary responsibility for such staffing and resources to the Sexual Assault Prevention and Response Office.

10 USC 1561  
note.

**SEC. 577. RETENTION OF CERTAIN FORMS IN CONNECTION WITH RESTRICTED REPORTS ON SEXUAL ASSAULT AT REQUEST OF THE MEMBER OF THE ARMED FORCES MAKING THE REPORT.**

(a) PERIOD OF RETENTION.—At the request of a member of the Armed Forces who files a Restricted Report on an incident of sexual assault involving the member, the Secretary of Defense shall ensure that all copies of Department of Defense Form 2910 and Department of Defense Form 2911 filed in connection with the Restricted Report be retained for the longer of—

(1) 50 years commencing on the date of signature of the member on Department of Defense Form 2910; or

(2) the time provided for the retention of such forms in connection with Unrestricted Reports on incidents of sexual assault involving members of the Armed Forces under Department of Defense Directive-Type Memorandum (DTM) 11-062, entitled “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault”, or any successor directive or policy.

(b) PROTECTION OF CONFIDENTIALITY.—Any Department of Defense form retained under subsection (a) shall be retained in a manner that protects the confidentiality of the member of the Armed Forces concerned in accordance with procedures for the



protection of confidentiality of information in Restricted Reports under Department of Defense memorandum JTF-SAPR-009, relating to the Department of Defense policy on confidentiality for victims of sexual assault, or any successor policy or directive.

**SEC. 578. GENERAL OR FLAG OFFICER REVIEW OF AND CONCURRENCE IN SEPARATION OF MEMBERS OF THE ARMED FORCES MAKING AN UNRESTRICTED REPORT OF SEXUAL ASSAULT.**

10 USC 1561  
note.

(a) **REVIEW REQUIRED.**—The Secretary of Defense shall develop a policy to require a general officer or flag officer of the Armed Forces to review the circumstances of, and grounds for, the proposed involuntary separation of any member of the Armed Forces who—

Policy.

(1) made an Unrestricted Report of a sexual assault;

(2) within one year after making the Unrestricted Report of a sexual assault, is recommended for involuntary separation from the Armed Forces; and

(3) requests the review on the grounds that the member believes the recommendation for involuntary separation from the Armed Forces was initiated in retaliation for making the report.

(b) **CONCURRENCE REQUIRED.**—If a review is requested by a member of the Armed Forces as authorized by subsection (a), the concurrence of the general officer or flag officer conducting the review of the proposed involuntary separation of the member is required in order to separate the member.

(c) **SUBMISSION OF POLICY.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the policy developed under subsection (a).

Deadline.  
Reports.

(d) **APPLICATION OF POLICY.**—The policy developed under subsection (a) shall take effect on the date of the submission of the policy to Congress under subsection (c) and apply to members of the Armed Forces described in subsection (a) who are proposed to be involuntarily separated from the Armed Forces on or after that date.

Effective date.

**SEC. 579. DEPARTMENT OF DEFENSE POLICY AND PLAN FOR PREVENTION AND RESPONSE TO SEXUAL HARASSMENT IN THE ARMED FORCES.**

10 USC 1561  
note.

(a) **COMPREHENSIVE PREVENTION AND RESPONSE POLICY.**—

(1) **POLICY REQUIRED.**—The Secretary of Defense shall develop a comprehensive policy to prevent and respond to sexual harassment in the Armed Forces. The policy shall provide for the following:

(A) Training for members of the Armed Forces on the prevention of sexual harassment.

(B) Mechanisms for reporting incidents of sexual harassment in the Armed Forces, including procedures for reporting anonymously.

(C) Mechanisms for responding to and resolving incidents of alleged sexual harassment incidences involving members of the Armed Forces, including through the prosecution of offenders.

(2) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the

House of Representatives a report setting forth the policy required by paragraph (1).

(3) CONSULTATION.—The Secretary of Defense shall prepare the policy and report required by this subsection in consultation with the Secretaries of the military departments and the Equal Opportunity Office of the Department of Defense.

(b) DATA COLLECTION AND REPORTING REGARDING SUBSTANTIATED INCIDENTS OF SEXUAL HARASSMENT.—

(1) PLAN REQUIRED.—The Secretary of Defense shall develop a plan to collect information and data regarding substantiated incidents of sexual harassment involving members of the Armed Forces. The plan shall specifically deal with the need to identify cases in which a member is accused of multiple incidents of sexual harassment.

Deadline.

(2) SUBMISSION OF PLAN.—Not later than June 1, 2013, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives the plan developed under paragraph (1).

(3) REPORTING REQUIREMENT.—As part of the reports required to be submitted in 2014 under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4433; 10 U.S.C. 1561 note), the Secretary of Defense shall include information and data collected under the plan during the preceding year regarding substantiated incidents of sexual harassment involving members of the Armed Forces.

## Subtitle I—Suicide Prevention and Resilience

10 USC 1071  
note.

### SEC. 580. ENHANCEMENT OF OVERSIGHT AND MANAGEMENT OF DEPARTMENT OF DEFENSE SUICIDE PREVENTION AND RESILIENCE PROGRAMS.

Establishment.

(a) IN GENERAL.—The Secretary of Defense shall, acting through the Under Secretary of Defense for Personnel and Readiness, establish within the Office of the Secretary of Defense a position with responsibility for oversight of all suicide prevention and resilience programs of the Department of Defense (including those of the military departments and the Armed Forces).

(b) SCOPE OF RESPONSIBILITIES.—The individual serving in the position established under subsection (a) shall have the responsibilities as follows:

(1) To establish a uniform definition of resiliency for use in the suicide prevention and resilience programs and preventative behavioral health programs of the Department of Defense (including those of the military departments and the Armed Forces).

(2) To oversee the implementation of the comprehensive policy on the prevention of suicide among members of the Armed Forces required by section 582.

### SEC. 581. RESERVE COMPONENT SUICIDE PREVENTION AND RESILIENCE PROGRAM.

(a) CODIFICATION, TRANSFER OF RESPONSIBILITY, AND EXTENSION.—

(1) IN GENERAL.—Chapter 1007 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 10219. Suicide prevention and resilience program**

10 USC 10219.

“(a) PROGRAM REQUIREMENT.—The Secretary of Defense shall establish and carry out a program to provide members of the National Guard and Reserves and their families with training in suicide prevention, resilience, and community healing and response to suicide, including provision of such training at Yellow Ribbon Reintegration Program events and activities authorized under section 582 of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 10101 note).

“(b) SUICIDE PREVENTION TRAINING.—Under the program, the Secretary shall provide members of the National Guard and Reserves with training in suicide prevention. Such training may include—

“(1) describing the warning signs for suicide and teaching effective strategies for prevention and intervention;

“(2) examining the influence of military culture on risk and protective factors for suicide; and

“(3) engaging in interactive case scenarios and role plays to practice effective intervention strategies.

“(c) COMMUNITY RESPONSE TRAINING.—Under the program, the Secretary shall provide the families and communities of members of the National Guard and Reserves with training in responses to suicide that promote individual and community healing. Such training may include—

“(1) enhancing collaboration among community members and local service providers to create an integrated, coordinated community response to suicide;

“(2) communicating best practices for preventing suicide, including safe messaging, appropriate memorial services, and media guidelines;

“(3) addressing the impact of suicide on the military and the larger community, and the increased risk that can result; and

“(4) managing resources to assist key community and military service providers in helping the families, friends, and fellow servicemembers of a suicide victim through the processes of grieving and healing.

“(d) COMMUNITY TRAINING ASSISTANCE.—The program shall include the provision of assistance with such training to the local communities of those servicemembers and families, to be provided in coordination with local community programs.

“(e) COLLABORATION.—In carrying out the program, the Secretary shall collect and analyze ‘lessons learned’ and suggestions from State National Guard and Reserve organizations with existing or developing suicide prevention and community response programs.

“(f) TERMINATION.—The program under this section shall terminate on October 1, 2017.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1007 of such title is amended by adding at the end the following new item:

10 USC  
prec. 10201.

“10219. Suicide prevention and resilience program.”.

(b) REPEAL OF SUPERSEDED PROVISION.—Subsection (i) of section 582 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 10101 note) is repealed.

10 USC 1071  
note.

**SEC. 582. COMPREHENSIVE POLICY ON PREVENTION OF SUICIDE  
AMONG MEMBERS OF THE ARMED FORCES.**

Deadline.

(a) COMPREHENSIVE POLICY REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, acting through the Under Secretary of Defense for Personnel and Readiness, develop within the Department of Defense a comprehensive policy on the prevention of suicide among members of the Armed Forces. In developing the policy, the Secretary shall consider recommendations from the operational elements of the Armed Forces regarding the feasibility of the implementation and execution of particular elements of the policy.

Recommendations.

(b) ELEMENTS.—The policy required by subsection (a) shall cover each of the following:

(1) Increased awareness among members of the Armed Forces about mental health conditions and the stigma associated with mental health conditions and mental health care.

(2) The means of identifying members who are at risk for suicide (including enhanced means for early identification and treatment of such members).

(3) The continuous access by members to suicide prevention services, including suicide crisis services.

(4) The means to evaluate and assess the effectiveness of the suicide prevention and resilience programs and preventative behavioral health programs of the Department of Defense (including those of the military departments and the Armed Forces), including the development of metrics for that purpose.

(5) The means to evaluate and assess the current diagnostic tools and treatment methods in the programs referred to in paragraph (4) to ensure clinical best practices are used in such programs.

(6) The standard of care for suicide prevention to be used throughout the Department.

(7) The training of mental health care providers on suicide prevention.

(8) The training standards for behavioral health care providers to ensure that such providers receive training on clinical best practices and evidence-based treatments as information on such practices and treatments becomes available.

(9) The integration of mental health screenings and suicide risk and prevention for members into the delivery of primary care for such members.

(10) The standards for responding to attempted or completed suicides among members, including guidance and training to assist commanders in addressing incidents of attempted or completed suicide within their units.

(11) The means to ensure the protection of the privacy of members seeking or receiving treatment relating to suicide.

(12) Such other matters as the Secretary considers appropriate in connection with the prevention of suicide among members.

**SEC. 583. STUDY OF RESILIENCE PROGRAMS FOR MEMBERS OF THE ARMY.**

(a) **STUDY REQUIRED.**—The Secretary of the Army shall conduct a study of resilience programs within the Army for the purpose of assessing the effectiveness of the current Comprehensive Soldier and Family Fitness (CSF2) Program of the Army, while verifying the current means of the Army to reduce trends in high risk or self-destructive behavior and to prepare members of the Army to manage stressful or traumatic situations by training members in resilience strategies and techniques.

(b) **ELEMENTS.**—In conducting the study, the Secretary of the Army shall determine the effectiveness and quality of training under the Comprehensive Soldier and Family Fitness program in—

(1) enhancing individual performance through resiliency techniques and use of positive and sports psychology; and

(2) identifying and responding to early signs of high-risk behavior in members of the Army.

(c) **USE OF SCIENCE-BASED EVIDENCE AND TECHNIQUES.**—In conducting the study, the Secretary of the Army shall utilize scientific evidence, including professionally accepted measurements and assessments, to evaluate those interventions that show positive results and those interventions that have no impact.

(d) **DURATION OF STUDY.**—The study shall be conducted through September 30, 2014.

(e) **REPORT ON STUDY RESULTS.**—Not later than October 31, 2014, the Secretary of the Army shall submit to the Committees on Armed Forces of the Senate and the House of Representatives a report containing the results of the study. The report shall include the following:

(1) A description of the trends in high risk or self-destructive behavior among members of the Army.

(2) A description and measurements of the effectiveness of Comprehensive Soldier and Family Fitness Program training in enhancing individual performance through resiliency techniques, utilization of positive psychology.

(3) Such recommendations or other information as the Secretary considers appropriate.

## **Subtitle J—Other Matters**

**SEC. 584. ISSUANCE OF PRISONER-OF-WAR MEDAL.**

Section 1128 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “or” at the end of paragraph (2);

(B) by striking “; or” at the end of paragraph (3) and inserting a period; and

(C) by striking paragraph (4);

(2) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

“(b) Under uniform regulations prescribed by the Secretary of Defense, the Secretary concerned may issue a prisoner-of-war medal to any person who, while serving in any capacity with the armed forces, was held captive under circumstances not covered

Regulations.

by paragraph (1), (2), or (3) of subsection (a), but which the Secretary concerned finds were comparable to those circumstances under which persons have generally been held captive by enemy armed forces during periods of armed conflict.”.

**SEC. 585. TECHNICAL AMENDMENTS RELATING TO THE TERMINATION OF THE ARMED FORCES INSTITUTE OF PATHOLOGY UNDER DEFENSE BASE CLOSURE AND REALIGNMENT.**

Section 177 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by striking “those professional societies” and all that follows through “the Armed Forces Institute of Pathology” and inserting “the professional societies and organizations that support the activities of the American Registry of Pathology”; and

(ii) by striking the second sentence; and

(B) in paragraph (3), by striking “with the concurrence of the Director of the Armed Forces Institute of Pathology”;

(2) in subsection (b)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively; and

(3) in subsection (d), by striking “to the Director” and all that follows through “it deems desirable,” and inserting “annually to its Board and supporting organizations referred to in subsection (a)(2)”.

**SEC. 586. MODIFICATION OF REQUIREMENT FOR REPORTS IN FEDERAL REGISTER ON INSTITUTIONS OF HIGHER EDUCATION INELIGIBLE FOR CONTRACTS AND GRANTS FOR DENIAL OF ROTC OR MILITARY RECRUITER ACCESS TO CAMPUS.**

Section 983 of title 10, United States Code, is amended by striking subsection (f).

**SEC. 587. ACCEPTANCE OF GIFTS AND SERVICES RELATED TO EDUCATIONAL ACTIVITIES AND VOLUNTARY SERVICES TO ACCOUNT FOR MISSING PERSONS.**

(a) **ACTIVITIES BENEFITTING EDUCATION AS SERVICES ELIGIBLE FOR ACCEPTANCE.**—Section 2601(i)(2) of title 10, United States Code, is amended by inserting “education,” before “morale.”.

(b) **ACCEPTANCE OF VOLUNTARY SERVICES RELATED TO ACCOUNTING FOR MISSING PERSONS.**—Section 1588(a) of such title is amended by adding at the end the following new paragraph: “(9) Voluntary services to facilitate accounting for missing persons.”.

**SEC. 588. DISPLAY OF STATE, DISTRICT OF COLUMBIA, COMMONWEALTH, AND TERRITORIAL FLAGS BY THE ARMED FORCES.**

(a) **DISPLAY.**—Subsection (a) of section 2249b of title 10, United States Code, is amended to read as follows:

“(a) **DISPLAY OF FLAGS BY ARMED FORCES.**—The Secretary of Defense shall ensure that, whenever the official flags of all 50 States are displayed by the armed forces, such display shall include the flags of the District of Columbia, the Commonwealth of Puerto

Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.”.

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**“§ 2249b. Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces”.**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 134 of such title is amended by striking the item relating to section 2249b and inserting the following new item:

10 USC prec.  
2241.

“2249b. Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces.”.

**SEC. 589. ENHANCEMENT OF AUTHORITIES ON ADMISSION OF DEFENSE INDUSTRY CIVILIANS TO CERTAIN DEPARTMENT OF DEFENSE EDUCATIONAL INSTITUTIONS AND PROGRAMS.**

(a) NAVY DEFENSE PRODUCT DEVELOPMENT PROGRAM.—Section 7049(a) of title 10, United States Code, is amended—

(1) in the second sentence, by inserting “or professional continuing education certificate” after “master’s degree”; and

(2) in the last sentence, by inserting before the period at the end the following: “or an appropriate professional continuing education certificate, as applicable”.

(b) UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.—Section 9314a(a) of such title is amended—

(1) in paragraph (1), by inserting “or professional continuing education certificate” after “graduate degree”; and

(2) in paragraph (3), by inserting before the period at the end the following: “or an appropriate professional continuing education certificate, as applicable”.

(c) REQUEST FOR INCREASE IN NUMBER OF DEFENSE INDUSTRY CIVILIANS AUTHORIZED FOR ADMISSION.—If the Secretary of Defense determines that it is in the best interest of the Department of Defense to increase the maximum number of defense industry employees authorized to be enrolled in the Naval Defense Development Program or the Air Force Institute of Technology at any one time, as specified in sections 7049(a) and 9314a(a) of title 10, United States Code, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a request for such an increase, including draft legislation to effectuate the increase.

10 USC 7049  
note.  
Determination.

**SEC. 590. EXTENSION OF AUTHORITIES TO CARRY OUT A PROGRAM OF REFERRAL AND COUNSELING SERVICES TO VETERANS AT RISK OF HOMELESSNESS WHO ARE TRANSITIONING FROM CERTAIN INSTITUTIONS.**

Section 2023(d) of title 38, United States Code, is amended by striking “September 30, 2012” and inserting “September 30, 2013”.

**SEC. 591. INSPECTION OF MILITARY CEMETERIES UNDER THE JURISDICTION OF DEPARTMENT OF DEFENSE.**

(a) DOD INSPECTOR GENERAL INSPECTION OF ARLINGTON NATIONAL CEMETERY AND UNITED STATES SOLDIERS’ AND AIRMEN’S

HOME NATIONAL CEMETERY.—Section 1(d) of Public Law 111-339 (124 Stat. 3592) is amended—

(1) in paragraph (1), by striking “The Secretary” in the first sentence and inserting “Subject to paragraph (2), the Secretary”; and

Reports.  
Assessment.

(2) in paragraph (2), by adding at the end the following new sentence: “However, in the case of the report required to be submitted during 2013, the assessment described in paragraph (1) shall be conducted, and the report shall be prepared and submitted, by the Inspector General of the Department of Defense instead of the Secretary of the Army.”.

(b) TIME FOR SUBMISSION OF REPORT AND PLAN OF ACTION REGARDING INSPECTION OF CEMETERIES AT MILITARY INSTALLATIONS.—Section 592(d)(2) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1443) is amended—

(1) by striking “December 31, 2012” and inserting “June 29, 2013”; and

(2) by striking “April 1, 2013” and inserting “October 1, 2013”.

**SEC. 592. REPORT ON RESULTS OF INVESTIGATIONS AND REVIEWS CONDUCTED WITH RESPECT TO PORT MORTUARY DIVISION OF THE AIR FORCE MORTUARY AFFAIRS OPERATIONS CENTER AT DOVER AIR FORCE BASE.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report of the investigations and reviews that were conducted with respect to the improper handling and preparation of the remains of deceased members of the Armed Forces and civilians at the Port Mortuary Division of the Air Force Mortuary Affairs Operations Center at Dover Air Force Base. The investigations and reviews considered shall include—

- (1) the 436th Air Wing Inspector General review;
- (2) the Air Force Office of Special Investigations report;
- (3) the Air Force Office of Inspector General investigation;
- (4) the Office of Special Counsel review;
- (5) the Defense Health Board’s Dover Port Mortuary Independent Review Subcommittee report; and

(6) any other reviews or investigations of operations at Dover Port Mortuary that have been conducted since January 1, 2011.

(b) ELEMENTS OF REPORT.—The report shall—

(1) summarize and evaluate the recommendations made, and the actions undertaken, as a result of the investigations and reviews, and the current status of implementation of such recommendations and actions; and

(2) provide any additional recommendations for improvement of operations at Dover Port Mortuary, including any best practices for casualty notification, family support, and mortuary affairs operations.

**SEC. 593. PRESERVATION OF EDITORIAL INDEPENDENCE OF STARS AND STRIPES.**

Extension.  
Contracts.

(a) MAINTENANCE OF GEOGRAPHIC SEPARATION.—To preserve the actual and perceived editorial and management independence of the Stars and Stripes newspaper, the Secretary of Defense shall



extend the lease for the commercial office space in the District of Columbia currently occupied by the editorial and management operations of the Stars and Stripes newspaper until such time as the Secretary provides space and information technology and other support for such operations in a Government-owned facility in the National Capital Region geographically remote from facilities of the Defense Media Activity at Fort Meade, Maryland.

(b) IMPLEMENTATION REPORT.—Not later than February 1, 2013, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the implementation of subsection (a).

**SEC. 594. NATIONAL PUBLIC AWARENESS AND PARTICIPATION CAMPAIGN FOR VETERANS' HISTORY PROJECT OF AMERICAN FOLKLIFE CENTER.**

20 USC 2142  
note.

(a) IN GENERAL.—The Director of the American Folklife Center at the Library of Congress shall carry out a national public awareness and participation campaign for the program required by section 3(a) of the Veterans' Oral History Project Act (20 U.S.C. 2142(a)). Such campaign shall provide for the following:

(1) Encouraging the people of the United States, veterans organizations, community groups, and national organizations to participate in such program.

(2) Ensuring greater awareness and participation throughout the United States in such program.

(3) Providing meaningful opportunities for learning about the experiences of veterans.

(4) Complementing the efforts supporting the readjustment and successful reintegration of veterans into civilian life after service in the Armed Forces.

(b) COORDINATION AND COOPERATION.—To the degree practicable, the Director shall, in carrying out the campaign required by subsection (a), coordinate and cooperate with veterans service organizations.

(c) VETERANS SERVICE ORGANIZATION DEFINED.—In this section, the term “veterans service organization” means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

**SEC. 595. REPORT ON ACCURACY OF DATA IN THE DEFENSE ENROLLMENT ELIGIBILITY REPORTING SYSTEM.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to improve the completeness and accuracy of the data contained in the Defense Enrollment Eligibility Reporting System (DEERS) in order—

(1) to provide for the standardization of identification credentials required for eligibility, enrollment, transactions, and updates across all Department of Defense installations; and

(2) to ensure that persons issued military identification cards and receiving benefits based on DEERS data are actually eligible for such cards and benefits.

**SEC. 596. SENSE OF CONGRESS THAT THE BUGLE CALL COMMONLY KNOWN AS TAPS SHOULD BE DESIGNATED AS THE NATIONAL SONG OF MILITARY REMEMBRANCE.**

It is the sense of Congress that the bugle call commonly known as “Taps” should be designated as the National Song of Military Remembrance.

**TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS**

Subtitle A—Pay and Allowances

- Sec. 601. Fiscal year 2013 increase in military basic pay.
- Sec. 602. Extension of authority to provide temporary increase in rates of basic allowance for housing under certain circumstances.
- Sec. 603. Basic allowance for housing for two-member couples when one member is on sea duty.
- Sec. 604. Rates of basic allowance for housing for members performing active Guard and Reserve duty.
- Sec. 605. Payment of benefit for nonparticipation of eligible members in Post-Deployment/Mobilization Respite Absence program due to Government error.

Subtitle B—Bonuses and Special and Incentive Pays

- Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.
- Sec. 612. One-year extension of certain bonus and special pay authorities for health care professionals.
- Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.
- Sec. 614. One-year extension of authorities relating to title 37 consolidated special pay, incentive pay, and bonus authorities.
- Sec. 615. One-year extension of authorities relating to payment of other title 37 bonuses and special pays.
- Sec. 616. Increase in maximum amount of officer affiliation bonus for officers in the Selected Reserve.
- Sec. 617. Increase in maximum amount of incentive bonus for reserve component members who convert military occupational specialty to ease personnel shortages.

Subtitle C—Travel and Transportation Allowances

- Sec. 621. Permanent change of station allowances for members of Selected Reserve units filling a vacancy in another unit after being involuntarily separated.
- Sec. 622. Authority for comprehensive program for space-available travel on Department of Defense aircraft.

Subtitle D—Benefits and Services for Members Being Separated or Recently Separated

- Sec. 631. Extension of authority to provide two years of commissary and exchange benefits after separation.
- Sec. 632. Transitional use of military family housing.

Subtitle E—Disability, Retired Pay, and Survivor Benefits

- Sec. 641. Repeal of requirement for payment of Survivor Benefit Plan premiums when participant waives retired pay to provide a survivor annuity under Federal Employees Retirement System and terminating payment of the Survivor Benefit Plan annuity.
- Sec. 642. Repeal of automatic enrollment in Family Servicemembers’ Group Life Insurance for members of the Armed Forces married to other members.
- Sec. 643. Clarification of computation of combat-related special compensation for chapter 61 disability retirees.

Subtitle F—Commissary and Nonappropriated Fund Instrumentality Benefits and Operations

- Sec. 651. Repeal of certain recordkeeping and reporting requirements applicable to commissary and exchange stores overseas.

- Sec. 652. Treatment of Fisher House for the Families of the Fallen and Meditation Pavilion at Dover Air Force Base, Delaware, as a Fisher House.

Subtitle G—Military Lending

- Sec. 661. Additional enhancements of protections on consumer credit for members of the Armed Forces and their dependents.  
 Sec. 662. Effect of violations of protections on consumer credit extended to members of the Armed Forces and their dependents.  
 Sec. 663. Consistent definition of dependent for purposes of applying limitations on terms of consumer credit extended to certain members of the Armed Forces and their dependents.

Subtitle H—Military Compensation and Retirement Modernization Commission

- Sec. 671. Purpose, scope, and definitions.  
 Sec. 672. Military Compensation and Retirement Modernization Commission.  
 Sec. 673. Commission hearings and meetings.  
 Sec. 674. Principles and procedure for Commission recommendations.  
 Sec. 675. Consideration of Commission recommendations by the President.  
 Sec. 676. Executive Director.  
 Sec. 677. Staff.  
 Sec. 678. Judicial review precluded.  
 Sec. 679. Termination.  
 Sec. 680. Funding.

Subtitle I—Other Matters

- Sec. 681. Equal treatment for members of Coast Guard Reserve called to active duty under title 14, United States Code.  
 Sec. 682. Report regarding Department of Veterans Affairs claims process transformation plan.

## Subtitle A—Pay and Allowances

### SEC. 601. FISCAL YEAR 2013 INCREASE IN MILITARY BASIC PAY.

37 USC 1009  
note.

(a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—The adjustment to become effective during fiscal year 2013 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) **INCREASE IN BASIC PAY.**—Effective on January 1, 2013, the rates of monthly basic pay for members of the uniformed services are increased by 1.7 percent.

Effective date.

### SEC. 602. EXTENSION OF AUTHORITY TO PROVIDE TEMPORARY INCREASE IN RATES OF BASIC ALLOWANCE FOR HOUSING UNDER CERTAIN CIRCUMSTANCES.

Section 403(b)(7)(E) of title 37, United States Code, is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

### SEC. 603. BASIC ALLOWANCE FOR HOUSING FOR TWO-MEMBER COUPLES WHEN ONE MEMBER IS ON SEA DUTY.

(a) **IN GENERAL.**—Subparagraph (C) of section 403(f)(2) of title 37, United States Code, is amended to read as follows:

“(C) Notwithstanding section 421 of this title, a member of a uniformed service in a pay grade below pay grade E–6 who is assigned to sea duty and is married to another member of a uniformed service is entitled to a basic allowance for housing subject to the limitations of subsection (e).”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on January 1, 2013.

37 USC 403 note.

**SEC. 604. RATES OF BASIC ALLOWANCE FOR HOUSING FOR MEMBERS PERFORMING ACTIVE GUARD AND RESERVE DUTY.**

(a) **TREATMENT OF ACTIVE GUARD AND RESERVE DUTY.**—Section 403(g) of title 37, United States Code, is amended by adding at the end the following new paragraph:

Applicability.

“(6)(A) This paragraph applies with respect to a member of a reserve component who performs active Guard and Reserve duty (as defined in section 101(d)(6) of title 10).

“(B) The rate of basic allowance for housing to be paid to a member described in subparagraph (A) shall be based on the member’s permanent duty station, even during instances in which the member is mobilized for service on active duty other than active Guard and Reserve duty.

“(C)(i) During transitions in service status from active Guard and Reserve duty to other active duty and back to active Guard and Reserve duty, or following the start of new periods of service resulting from a change in orders, a member described in subparagraph (A) shall be considered as retaining uninterrupted eligibility to receive a basic allowance for housing in an area as provided for under subsections (b)(6) and (c)(2) so long as the member remains on active duty without a break in service.

“(ii) Clause (i) does not apply if the member’s permanent duty station changes as a result of orders directing a permanent change in station with the authority for the movement of household goods.

“(iii) For purposes of clause (i), a break in active service occurs when one or more calendar days between active service periods do not qualify as active service.

Applicability.

“(D) Subsections (d)(3) and (o) also apply to a member described in subparagraph (A).”.

37 USC 403 note.

(b) **TRANSITIONAL PROVISIONS.**—

(1) **IN GENERAL.**—The basic allowance for housing paid to a member of a reserve component described in subparagraph (A) of paragraph (6) of section 403(g) of title 37, United States Code, as added by subsection (a), who on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013 is being paid basic allowance for housing at a rate that is based on a housing area other than the member’s permanent duty station, shall be paid at that current rate until the member is assigned to perform duty at the member’s permanent duty station, at which time the member shall be paid basic allowance for housing at the prevailing permanent duty station housing area rate or at the permanent duty station housing rate for which the member has qualified under such paragraph (6).

(2) **ALTERNATIVE RATE.**—The Secretary of a military department, with the approval of the Secretary of Defense, may pay a member covered by paragraph (1) and under the jurisdiction of that Secretary a basic allowance for housing at a rate higher than the rate provided under such paragraph to ensure that the member is treated fairly and equitably or to serve the best interests of the United States.

**SEC. 605. PAYMENT OF BENEFIT FOR NONPARTICIPATION OF ELIGIBLE MEMBERS IN POST-DEPLOYMENT/MOBILIZATION RESPITE ABSENCE PROGRAM DUE TO GOVERNMENT ERROR.**

(a) **PAYMENT OF BENEFIT.**—

(1) IN GENERAL.—Upon application, the Secretary concerned shall make a payment to each individual described in paragraph (2) of \$200 for each day of nonparticipation of such individual in the Post-Deployment/Mobilization Respite Absence program as described in that paragraph.

(2) COVERED INDIVIDUALS.—An individual described in this paragraph is an individual who—

(A) was eligible for participation as a member of the Armed Forces in the Post-Deployment/Mobilization Respite Absence program; but

(B) as determined by the Secretary concerned pursuant to an application for the correction of the military records of such individual pursuant to section 1552 of title 10, United States Code, or other process as determined by the Secretary, did not participate in one or more days in the program for which the individual was so eligible due to Government error.

(b) DECEASED INDIVIDUALS.—

(1) APPLICATIONS.—If an individual otherwise covered by subsection (a) is deceased, the application required by that subsection shall be made by the individual's legal representative.

(2) PAYMENT.—If an individual to whom payment would be made under subsection (a) is deceased at time of payment, payment shall be made in the manner specified in section 1552(c)(2) of title 10, United States Code, or other process as determined by the Secretary concerned.

(c) PAYMENT IN LIEU OF ADMINISTRATIVE ABSENCE.—Payment under subsection (a) with respect to a day described in that subsection shall be in lieu of any entitlement of the individual concerned to a day of administrative absence for such day.

(d) CONSTRUCTION.—

(1) CONSTRUCTION WITH OTHER PAY.—Any payment with respect to an individual under subsection (a) is in addition to any other pay provided by law.

(2) CONSTRUCTION OF AUTHORITY.—It is the sense of Congress that—

(A) the sole purpose of the authority in this section is to remedy administrative errors; and

(B) the authority in this section is not intended to establish any entitlement in connection with the Post-Deployment/Mobilization Respite Absence program.

(e) DEFINITIONS.—In this section, the terms “Post-Deployment/Mobilization Respite Absence program” and “Secretary concerned” have the meaning given such terms in section 604(f) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2350).

## **Subtitle B—Bonuses and Special and Incentive Pays**

### **SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.**

The following sections of title 37, United States Code, are amended by striking “December 31, 2012” and inserting “December 31, 2013”:

(1) Section 308b(g), relating to Selected Reserve reenlistment bonus.

(2) Section 308c(i), relating to Selected Reserve affiliation or enlistment bonus.

(3) Section 308d(c), relating to special pay for enlisted members assigned to certain high-priority units.

(4) Section 308g(f)(2), relating to Ready Reserve enlistment bonus for persons without prior service.

(5) Section 308h(e), relating to Ready Reserve enlistment and reenlistment bonus for persons with prior service.

(6) Section 308i(f), relating to Selected Reserve enlistment and reenlistment bonus for persons with prior service.

37 USC 478a.

(7) Section 408a(e), relating to reimbursement of travel expenses for inactive-duty training outside of normal commuting distance.

(8) Section 910(g), relating to income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service.

**SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR HEALTH CARE PROFESSIONALS.**

(a) **TITLE 10 AUTHORITIES.**—The following sections of title 10, United States Code, are amended by striking “December 31, 2012” and inserting “December 31, 2013”:

(1) Section 2130a(a)(1), relating to nurse officer candidate accession program.

(2) Section 16302(d), relating to repayment of education loans for certain health professionals who serve in the Selected Reserve.

(b) **TITLE 37 AUTHORITIES.**—The following sections of title 37, United States Code, are amended by striking “December 31, 2012” and inserting “December 31, 2013”:

(1) Section 302c–1(f), relating to accession and retention bonuses for psychologists.

(2) Section 302d(a)(1), relating to accession bonus for registered nurses.

(3) Section 302e(a)(1), relating to incentive special pay for nurse anesthetists.

(4) Section 302g(e), relating to special pay for Selected Reserve health professionals in critically short wartime specialties.

(5) Section 302h(a)(1), relating to accession bonus for dental officers.

(6) Section 302j(a), relating to accession bonus for pharmacy officers.

(7) Section 302k(f), relating to accession bonus for medical officers in critically short wartime specialties.

(8) Section 302l(g), relating to accession bonus for dental specialist officers in critically short wartime specialties.

**SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.**

The following sections of title 37, United States Code, are amended by striking “December 31, 2012” and inserting “December 31, 2013”:

(1) Section 312(f), relating to special pay for nuclear-qualified officers extending period of active service.

(2) Section 312b(c), relating to nuclear career accession bonus.

(3) Section 312c(d), relating to nuclear career annual incentive bonus.

**SEC. 614. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO TITLE 37 CONSOLIDATED SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES.**

The following sections of title 37, United States Code, are amended by striking “December 31, 2012” and inserting “December 31, 2013”:

(1) Section 331(h), relating to general bonus authority for enlisted members.

(2) Section 332(g), relating to general bonus authority for officers.

(3) Section 333(i), relating to special bonus and incentive pay authorities for nuclear officers.

(4) Section 334(i), relating to special aviation incentive pay and bonus authorities for officers.

(5) Section 335(k), relating to special bonus and incentive pay authorities for officers in health professions.

(6) Section 351(h), relating to hazardous duty pay.

(7) Section 352(g), relating to assignment pay or special duty pay.

(8) Section 353(i), relating to skill incentive pay or proficiency bonus.

(9) Section 355(h), relating to retention incentives for members qualified in critical military skills or assigned to high priority units.

**SEC. 615. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER TITLE 37 BONUSES AND SPECIAL PAYS.**

The following sections of title 37, United States Code, are amended by striking “December 31, 2012” and inserting “December 31, 2013”:

(1) Section 301b(a), relating to aviation officer retention bonus.

(2) Section 307a(g), relating to assignment incentive pay.

(3) Section 308(g), relating to reenlistment bonus for active members.

(4) Section 309(e), relating to enlistment bonus.

(5) Section 324(g), relating to accession bonus for new officers in critical skills.

(6) Section 326(g), relating to incentive bonus for conversion to military occupational specialty to ease personnel shortage.

(7) Section 327(h), relating to incentive bonus for transfer between armed forces.

(8) Section 330(f), relating to accession bonus for officer candidates.

**SEC. 616. INCREASE IN MAXIMUM AMOUNT OF OFFICER AFFILIATION BONUS FOR OFFICERS IN THE SELECTED RESERVE.**

Section 308j(d) of title 37, United States Code, is amended by striking “\$10,000” and inserting “\$20,000”.

**SEC. 617. INCREASE IN MAXIMUM AMOUNT OF INCENTIVE BONUS FOR RESERVE COMPONENT MEMBERS WHO CONVERT MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGES.**

Section 326(c)(1) of title 37, United States Code, is amended by striking “\$4,000, in the case of a member of a regular component of the armed forces, and \$2,000, in the case of a member of a reserve component of the armed forces.” and inserting “\$4,000.”.

## **Subtitle C—Travel and Transportation Allowances**

**SEC. 621. PERMANENT CHANGE OF STATION ALLOWANCES FOR MEMBERS OF SELECTED RESERVE UNITS FILLING A VACANCY IN ANOTHER UNIT AFTER BEING INVOLUNTARILY SEPARATED.**

(a) TRAVEL AND TRANSPORTATION ALLOWANCES GENERALLY.—Section 474 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(6) upon filling a vacancy in a Selected Reserve unit at a duty station that is more than 150 miles from the member’s residence if—

“(A) during the preceding three years the member was involuntarily separated under other than adverse conditions (as characterized by the Secretary concerned) while assigned to a unit of the Selected Reserve certified by the Secretary concerned as having been adversely affected by force structure reductions during the period beginning on October 1, 2012, and ending on December 31, 2018;

“(B) the involuntary separation occurred during the period beginning on October 1, 2012, and ending on December 31, 2018; and

“(C) the member is—

“(i) qualified in a skill designated as critically short by the Secretary concerned; or

“(ii) filling a vacancy in a Selected Reserve unit with a critical manpower shortage, or in a pay grade with a critical manpower shortage in such unit.”;

(2) in subsection (f), by adding at the end the following new paragraph:

“(4)(A) A member may be provided travel and transportation allowances under subsection (a)(6) only with respect to the filling of a vacancy in a Selected Reserve unit one time.

“(B) Regulations under this section shall provide that whenever travel and transportation allowances are paid under subsection (a)(6), the cost shall be borne by the unit filling the vacancy.”; and

(3) in subsection (j), by inserting “(except subsection (a)(6))” after “In this section”.

Time periods.

Regulations.



(b) TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS AND HOUSEHOLD EFFECTS.—Section 476 of such title is amended—

(1) by redesignating subsections (l), (m), and (n) as subsections (m), (n), and (o), respectively; and

(2) by inserting after subsection (k) the following new subsection (l):

“(l)(1) A member described in paragraph (2) is entitled to the travel and transportation allowances, including allowances with respect to dependents, authorized by this section upon filling a vacancy as described in that paragraph as if the member were undergoing a permanent change of station under orders in filling such vacancy.

“(2) A member described in this paragraph is a member who is filling a vacancy in a Selected Reserve unit at a duty station that is more than 150 miles from the member’s residence if—

“(A) during the three years preceding filling the vacancy, the member was involuntarily separated under other than adverse conditions (as characterized by the Secretary concerned) while assigned to a unit of the Selected Reserve certified by the Secretary concerned as having been adversely affected by force structure reductions during the period beginning on October 1, 2012, and ending on December 31, 2018;

“(B) the involuntary separation occurred during the period beginning on October 1, 2012, and ending on December 31, 2018; and

“(C) the member is—

“(i) qualified in a skill designated as critically short by the Secretary concerned; or

“(ii) filling a vacancy in a Selected Reserve unit with a critical manpower shortage, or in a pay grade with a critical manpower shortage in such unit.

“(3) Any allowances authorized by this section that are payable under this subsection may be payable in advance if payable in advance to a member undergoing a permanent change of station under orders under the applicable provision of this section.”

**SEC. 622. AUTHORITY FOR COMPREHENSIVE PROGRAM FOR SPACE-AVAILABLE TRAVEL ON DEPARTMENT OF DEFENSE AIRCRAFT.**

(a) PROGRAM AUTHORIZED.—Section 2641b of title 10, United States Code, is amended to read as follows:

**“§ 2641b. Space-available travel on Department of Defense aircraft: program authorized and eligible recipients**

“(a) AUTHORITY TO ESTABLISH PROGRAM.—(1) The Secretary of Defense may establish a program (in this section referred to as the ‘travel program’) to provide transportation on Department of Defense aircraft on a space-available basis to the categories of individuals eligible under subsection (c).

“(2) If the Secretary makes a determination to establish the travel program, the Secretary shall prescribe regulations for the operation of the travel program not later than one year after the date on which the determination was made. The regulations shall take effect on that date or such earlier date as the Secretary shall specify in the regulations.

Time periods.

Determination.  
Regulations.

Deadline.  
Reports.

“(3) Not later than 30 days after making the determination to establish the travel program, the Secretary shall submit to the congressional defense committees an initial implementation report describing—

“(A) the basis for the determination;

“(B) any additional categories of individuals to be eligible for the travel program under subsection (c)(5);

“(C) how the Secretary will ensure that the travel program is established and operated in compliance with the conditions specified in subsection (b); and

“(D) the metrics by which the Secretary will monitor the travel program to determine the efficient and effective execution of the travel program.

“(b) CONDITIONS ON ESTABLISHMENT AND OPERATION.—(1) The Secretary of Defense shall operate the travel program in a budget-neutral manner.

“(2) No additional funds may be used, or flight hours performed, for the purpose of providing transportation under the travel program.

“(c) ELIGIBLE INDIVIDUALS.—Subject to subsection (d), the Secretary of Defense shall provide transportation under the travel program (if established) to the following categories of individuals:

“(1) Members of the armed forces on active duty.

“(2) Members of the Selected Reserve who hold a valid Uniformed Services Identification and Privilege Card.

“(3) Retired members of a regular or reserve component of the armed forces, including retired members of reserve components who, but for being under the eligibility age applicable under section 12731 of this title, would be eligible for retired pay under chapter 1223 of this title.

“(4) Such categories of dependents of individuals described in paragraphs (1) through (3) as the Secretary shall specify in the regulations under subsection (a), under such conditions and circumstances as the Secretary shall specify in such regulations.

“(5) Such other categories of individuals as the Secretary, in the discretion of the Secretary, considers appropriate.

“(d) PRIORITIES AND RESTRICTIONS.—In operating the travel program, the Secretary of Defense shall—

“(1) in the sole discretion of the Secretary, establish an order of priority for transportation under the travel program for categories of eligible individuals that is based on considerations of military necessity, humanitarian concerns, and enhancement of morale;

“(2) give priority in consideration of transportation under the travel program to the demands of members of the armed forces in the regular components and in the reserve components on active duty and to the need to provide such members, and their dependents, a means of respite from such demands; and

“(3) implement policies aimed at ensuring cost control (as required by subsection (b)) and the safety, security, and efficient processing of travelers, including limiting the benefit under the travel program to one or more categories of otherwise eligible individuals if considered necessary by the Secretary.

“(e) SPECIAL PRIORITY FOR RETIRED MEMBERS RESIDING IN COMMONWEALTHS AND POSSESSIONS OF THE UNITED STATES WHO

NEED CERTAIN HEALTH CARE SERVICES.—(1) Notwithstanding subsection (d)(1), in establishing space-available transportation priorities under the travel program, the Secretary of Defense shall provide transportation for an individual described in paragraph (2), and a single dependent of the individual if needed to accompany the individual, at a priority level in the same category as the priority level for an unaccompanied dependent over the age of 18 traveling on environmental and morale leave.

“(2) Subject to paragraph (3), paragraph (1) applies with respect to an individual described in subsection (c)(3) who—

Applicability.

“(A) resides in or is located in a Commonwealth or possession of the United States; and

“(B) is referred by a military or civilian primary care provider located in that Commonwealth or possession to a specialty care provider for services to be provided outside of that Commonwealth or possession.

“(3) If an individual described in subsection (c)(3) is a retired member of a reserve component who is ineligible for retired pay under chapter 1223 of this title by reason of being under the eligibility age applicable under section 12731 of this title, paragraph (1) applies to the individual only if the individual is also enrolled in the TRICARE program for certain members of the Retired Reserve authorized under section 1076e of this title.

“(4) The priority for space-available transportation required by this subsection applies with respect to both—

Applicability.

“(A) the travel from the Commonwealth or possession of the United States to receive the specialty care services; and

“(B) the return travel.

“(5) The requirement to provide transportation on Department of Defense aircraft on a space-available basis on the priority basis described in paragraph (1) to individuals covered by this subsection applies whether or not the travel program is established under this section.

Applicability.

“(6) In this subsection, the terms ‘primary care provider’ and ‘specialty care provider’ refer to a medical or dental professional who provides health care services under chapter 55 of this title.

Definitions.

“(f) CONSTRUCTION.—The authority to provide transportation under the travel program is in addition to any other authority under law to provide transportation on Department of Defense aircraft on a space-available basis.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 157 of such title is amended by striking the item relating to section 2641b and inserting the following new item:

10 USC  
prec. 2631.

“2641b. Space-available travel on Department of Defense aircraft: program authorized and eligible recipients.”

## Subtitle D—Benefits and Services for Members Being Separated or Recently Separated

### SEC. 631. EXTENSION OF AUTHORITY TO PROVIDE TWO YEARS OF COMMISSARY AND EXCHANGE BENEFITS AFTER SEPARATION.

(a) EXTENSION OF AUTHORITY.—Section 1146 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “2012” and inserting “2018”; and

(2) in subsection (b), by striking “2012” and inserting “2018”.

(b) CORRECTION OF REFERENCE TO ADMINISTERING SECRETARY.—Such section is further amended—

(1) in subsection (a), by striking “The Secretary of Transportation” and inserting “The Secretary concerned”; and

(2) in subsection (b), by striking “The Secretary of Homeland Security” and inserting “The Secretary concerned”.

**SEC. 632. TRANSITIONAL USE OF MILITARY FAMILY HOUSING.**

(a) RESUMPTION OF AUTHORITY TO AUTHORIZE TRANSITIONAL USE.—Subsection (a) of section 1147 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “October 1, 1990, and ending on December 31, 2001” and inserting “October 1, 2012, and ending on December 31, 2018”; and

(2) in paragraph (2), by striking “October 1, 1994, and ending on December 31, 2001” and inserting “October 1, 2012, and ending on December 31, 2018”.

(b) PROHIBITION ON PROVISION OF TRANSITIONAL BASIC ALLOWANCE FOR HOUSING.—Such section is further amended by adding at the end the following new subsection:

“(c) NO TRANSITIONAL BASIC ALLOWANCE FOR HOUSING.—Nothing in this section shall be construed to authorize the Secretary concerned to continue to provide for any period of time to an individual who is involuntarily separated all or any portion of a basic allowance for housing to which the individual was entitled under section 403 of title 37 immediately before being involuntarily separated, even in cases in which the individual or members of the individual’s household continue to reside after the separation in a housing unit acquired or constructed under the alternative authority of subchapter IV of chapter 169 of this title that is not owned or leased by the United States.”.

(c) CORRECTION OF REFERENCE TO ADMINISTERING SECRETARY.—Subsection (a)(2) of such section is further amended by striking “The Secretary of Transportation” and inserting “The Secretary concerned”.

## **Subtitle E—Disability, Retired Pay, and Survivor Benefits**

**SEC. 641. REPEAL OF REQUIREMENT FOR PAYMENT OF SURVIVOR BENEFIT PLAN PREMIUMS WHEN PARTICIPANT WAIVES RETIRED PAY TO PROVIDE A SURVIVOR ANNUITY UNDER FEDERAL EMPLOYEES RETIREMENT SYSTEM AND TERMINATING PAYMENT OF THE SURVIVOR BENEFIT PLAN ANNUITY.**

(a) DEPOSITS NOT REQUIRED.—Section 1452(e) of title 10, United States Code, is amended—

(1) in the subsection heading, by inserting “AND FERS” after “CSRS”;

(2) by inserting “or chapter 84 of such title” after “chapter 83 of title 5”;

(3) by inserting “or 8416(a)” after “8339(j)”; and

(4) by inserting “or 8442(a)” after “8341(b)”.

(b) CONFORMING AMENDMENTS.—Section 1450(d) of such title is amended—

(1) by inserting “or chapter 84 of such title” after “chapter 83 of title 5”;

(2) by inserting “or 8416(a)” after “8339(j)”; and

(3) by inserting “or 8442(a)” after “8341(b)”.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to any participant electing an annuity for survivors under chapter 84 of title 5, United States Code, on or after the date of the enactment of this Act. 10 USC 1450 note.

**SEC. 642. REPEAL OF AUTOMATIC ENROLLMENT IN FAMILY SERVICEMEMBERS’ GROUP LIFE INSURANCE FOR MEMBERS OF THE ARMED FORCES MARRIED TO OTHER MEMBERS.**

Section 1967(a)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)(ii), by inserting after “insurable dependent of the member” the following: “(other than a dependent who is also a member of a uniformed service and, because of such membership, is automatically insured under this paragraph)”; and

(2) in subparagraph (C)(ii), by inserting after “insurable dependent of the member” the following: “(other than a dependent who is also a member of a uniformed service and, because of such membership, is automatically insured under this paragraph)”.

**SEC. 643. CLARIFICATION OF COMPUTATION OF COMBAT-RELATED SPECIAL COMPENSATION FOR CHAPTER 61 DISABILITY RETIREES.**

(a) IN GENERAL.—Section 1413a(b)(3) of title 10, United States Code, is amended by striking “shall be reduced by the amount (if any) by which the amount of the member’s retired pay under chapter 61 of this title exceeds” both places it appears and inserting “may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as of January 1, 2013, and shall apply to payments for months beginning on or after that date.

Applicability.  
10 USC 1413a  
note.

**Subtitle F—Commissary and Non-appropriated Fund Instrumentality Benefits and Operations**

**SEC. 651. REPEAL OF CERTAIN RECORDKEEPING AND REPORTING REQUIREMENTS APPLICABLE TO COMMISSARY AND EXCHANGE STORES OVERSEAS.**

(a) REPEAL.—Section 2489 of title 10, United States Code, is amended by striking subsections (b) and (c).

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking “GENERAL AUTHORITY.—(1)” and inserting “AUTHORITY TO ESTABLISH RESTRICTIONS.—”;

(2) by striking “(2)” and inserting “(b) LIMITATIONS ON USE OF AUTHORITY.—”; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

**SEC. 652. TREATMENT OF FISHER HOUSE FOR THE FAMILIES OF THE FALLEN AND MEDITATION PAVILION AT DOVER AIR FORCE BASE, DELAWARE, AS A FISHER HOUSE.**

(a) FISHER HOUSES AND AUTHORIZED FISHER HOUSE RESIDENTS.—Subsection (a) of section 2493 of title 10, United States Code, is amended—

(1) in paragraph (1)(B), by striking “by patients” and all that follows through “such patients;” and inserting “by authorized Fisher House residents;”;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph:

Definition.

“(2) The term ‘Fisher House’ includes the Fisher House for the Families of the Fallen and Meditation Pavilion at Dover Air Force Base, Delaware, so long as such facility is available for residential use on a temporary basis by authorized Fisher House residents.”; and

(4) by adding at the end the following new paragraph:

Definition.

“(4) The term ‘authorized Fisher House residents’ means the following:

“(A) With respect to a Fisher House described in paragraph (1) that is located in proximity to a health care facility of the Army, the Air Force, or the Navy, the following persons:

“(i) Patients of that health care facility.

“(ii) Members of the families of such patients.

“(iii) Other persons providing the equivalent of familial support for such patients.

“(B) With respect to the Fisher House described in paragraph (2), the following persons:

“(i) The primary next of kin of a member of the armed forces who dies while located or serving overseas.

“(ii) Other family members of the deceased member who are eligible for transportation under section 481f(e) of title 37.

“(iii) An escort of a family member described in clause (i) or (ii).”.

(b) CONFORMING AMENDMENTS.—Subsections (b), (e), and (f) of such section are amended by striking “health care” each place it appears.

(c) REPEAL OF FISCAL YEAR 2012 FREESTANDING DESIGNATION.—Section 643 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1466) is repealed.

## Subtitle G—Military Lending

### SEC. 661. ADDITIONAL ENHANCEMENTS OF PROTECTIONS ON CONSUMER CREDIT FOR MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) PROTECTIONS AGAINST DIFFERENTIAL TREATMENT ON CONSUMER CREDIT UNDER STATE LAW.—Subsection (d)(2) of section 987 of title 10, United States Code, is amended—

(1) in subparagraph (A), by inserting “any consumer credit or” before “loans”; and

(2) in subparagraph (B), by inserting “covering consumer credit” after “State consumer lending protections”.

(b) REGULAR CONSULTATIONS ON PROTECTION.—Subsection (h)(3) of such section is amended—

(1) in the matter preceding subparagraph (A), by inserting “and not less often than once every two years thereafter,” after “under this subsection,”; and

(2) by striking subparagraph (E) and inserting the following new subparagraph:

“(E) The Bureau of Consumer Financial Protection.”.

(c) EFFECTIVE DATE.—

(1) MODIFICATION OF REGULATIONS.—The Secretary of Defense shall modify the regulations prescribed under subsection (h) of section 987 of title 10, United States Code, to take into account the amendments made by subsection (a).

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on—

(A) the date that is one year after the date of the enactment of this Act; or

(B) such earlier date as the Secretary shall specify in the modification of regulations required by paragraph (1).

(3) PUBLICATION OF EARLIER DATE.—If the Secretary specifies an earlier effective date for the amendments made by subsection (a) pursuant to paragraph (2)(B), the Secretary shall publish notice of such earlier effective date in the Federal Register not later than 90 days before such earlier effective date.

10 USC 987 note.

Federal Register,  
publication.  
Deadline.

### SEC. 662. EFFECT OF VIOLATIONS OF PROTECTIONS ON CONSUMER CREDIT EXTENDED TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) CIVIL LIABILITY.—Section 987(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5) CIVIL LIABILITY.—

“(A) IN GENERAL.—A person who violates this section with respect to any person is civilly liable to such person for—

“(i) any actual damage sustained as a result, but not less than \$500 for each violation;

“(ii) appropriate punitive damages;

“(iii) appropriate equitable or declaratory relief; and

“(iv) any other relief provided by law.

“(B) COSTS OF THE ACTION.—In any successful action to enforce the civil liability described in subparagraph (A),

the person who violated this section is also liable for the costs of the action, together with reasonable attorney fees as determined by the court.

“(C) EFFECT OF FINDING OF BAD FAITH AND HARASSMENT.—In any successful action by a defendant under this section, if the court finds the action was brought in bad faith and for the purpose of harassment, the plaintiff is liable for the attorney fees of the defendant as determined by the court to be reasonable in relation to the work expended and costs incurred.

“(D) DEFENSES.—A person may not be held liable for civil liability under this paragraph if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person’s obligations under this section is not a bona fide error.

Deadline.

“(E) JURISDICTION, VENUE, AND STATUTE OF LIMITATIONS.—An action for civil liability under this paragraph may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

“(i) two years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

“(ii) five years after the date on which the violation that is the basis for such liability occurs.”.

(b) ENFORCEMENT AUTHORITY.—Such section is further amended by inserting after paragraph (5), as added by subsection (a), the following new paragraph:

“(6) ADMINISTRATIVE ENFORCEMENT.—The provisions of this section (other than paragraph (1) of this subsection) shall be enforced by the agencies specified in section 108 of the Truth in Lending Act (15 U.S.C. 1607) in the manner set forth in that section or under any other applicable authorities available to such agencies by law.”.

10 USC 987 note.

(c) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply with respect to consumer credit extended on or after the date of the enactment of this Act.

**SEC. 663. CONSISTENT DEFINITION OF DEPENDENT FOR PURPOSES OF APPLYING LIMITATIONS ON TERMS OF CONSUMER CREDIT EXTENDED TO CERTAIN MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.**

Paragraph (2) of section 987(i) of title 10, United States Code, is amended to read as follows:

“(2) DEPENDENT.—The term ‘dependent’, with respect to a covered member, means a person described in subparagraph (A), (D), (E), or (I) of section 1072(2) of this title.”.



## Subtitle H—Military Compensation and Retirement Modernization Commission

### SEC. 671. PURPOSE, SCOPE, AND DEFINITIONS.

(a) **PURPOSE.**—The purpose of this subtitle is to establish the Military Compensation and Retirement Modernization Commission to conduct a review of the military compensation and retirement systems and to make recommendations to modernize such systems in order to—

Establishment.

(1) ensure the long-term viability of the All-Volunteer Force by sustaining the required human resources of that force during all levels of conflict and economic conditions;

(2) enable the quality of life for members of the Armed Forces and the other uniformed services and their families in a manner that fosters successful recruitment, retention, and careers for members of the Armed Forces and the other uniformed services; and

(3) modernize and achieve fiscal sustainability for the compensation and retirement systems for the Armed Forces and the other uniformed services for the 21st century.

(b) **SCOPE OF REVIEW.**—

(1) **REQUIRED ELEMENTS OF REVIEW.**—In order to provide the fullest understanding of the matters required to balance the primary purpose of the review specified in subsection (a), the Commission shall make its recommendations for changes to the military compensation and retirement systems only after—

Recommendations.

(A) examining all laws, policies, and practices of the Federal Government that result in any direct payment of authorized or appropriated funds to—

(i) current and former members (veteran and retired) of the uniformed services, including the reserve components of those services; and

(ii) the spouses, family members, children, survivors, and other persons authorized to receive such payments as a result of their connection to the members of the uniformed services named in clause (i);

(B) examining all laws, policies, and practices of the Federal Government that result in any expenditure of authorized or appropriated funds to support the persons named in subparagraph (A) and their quality of life, including—

(i) health, disability, survivor, education, and dependent support programs of the Department of Defense and the Department of Veterans Affairs, including outlays from the various Federal trust funds supporting those programs;

(ii) Department of Education impact aid;

(iii) support or funding provided to States, territories, colleges and universities;

(iv) Department of Defense morale, recreation, and welfare programs, the resale programs (military exchanges and commissaries), and dependent school system;

(v) the tax treatment of military compensation and benefits; and

(vi) military family housing; and

(C) such other matters as the Commission considers appropriate.

(2) PRIORITIES.—In weighing its recommendations on those matters necessary to sustain the human resources of the All-Volunteer Force, the Commission shall—

(A) pay particular attention to the interrelationships and interplay of impact between and among the various programs of the Federal Government, especially as those programs influence decisions of persons about joining the uniformed services and of members of the uniformed services about remaining in the those services; and

(B) closely weigh its recommendations regarding the web of interrelated programs supporting spouses and families of members of the uniformed services, so that changes in such programs do not adversely impact decisions to remain in the uniformed services.

(3) EXCEPTION.—The Commission shall not examine any program that uses appropriated funding for initial entry training or unit training of members of the uniformed services.

(c) DEFINITIONS.—In this subtitle:

(1) The term “Armed Forces” has the meaning given the term “armed forces” in section 101(a)(4) of title 10, United States Code.

(2) The term “Commission” means the Military Compensation and Retirement Modernization Commission established by section 672.

(3) The term “Commission establishment date” means the first day of the first month beginning on or after the date of the enactment of this Act.

(4) The term “military compensation and retirement systems” means the military compensation system and the military retirement system.

(5) The term “military compensation system” means provisions of law providing eligibility for and the computation of military compensation, including regular military compensation, special and incentive pays and allowances, medical and dental care, educational assistance and related benefits, and commissary and exchange benefits and related benefits and activities.

(6) The term “military retirement system” means retirement benefits, including retired pay based upon service in the uniformed services and survivor annuities based upon such service.

(7) The term “Secretary” means the Secretary of Defense.

(8) The term “uniformed services” has the meaning given that term in section 101(a)(5) of title 10, United States Code.

(9) The terms “veterans service organization” and “military-related advocacy group or association” mean an organization whose primary purpose is to advocate for veterans, military personnel, military retirees, or military families.

**SEC. 672. MILITARY COMPENSATION AND RETIREMENT MODERNIZATION COMMISSION.**

(a) ESTABLISHMENT.—There is established in the executive branch an independent commission to be known as the Military Compensation and Retirement Modernization Commission. The

Commission shall be considered an independent establishment of the Federal Government as defined by section 104 of title 5, United States Code, and a temporary organization under section 3161 of such title.

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of nine members appointed as follows:

(A) The President shall appoint one member.

President.

(B) The Majority Leader of the Senate, in consultation with the Chairman of the Committee on Armed Services of the Senate, shall appoint two members.

(C) The Minority Leader of the Senate, in consultation with the Ranking Member of the Committee on Armed Services of the Senate, shall appoint two members.

(D) The Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Armed Services of the House of Representatives, shall appoint two members.

(E) The Minority Leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Armed Services of the House of Representatives, shall appoint two members.

(2) DEADLINE FOR APPOINTMENT.—Members shall be appointed to the Commission under paragraph (1) not later than four months after the Commission establishment date.

(3) QUALIFICATIONS OF INDIVIDUALS APPOINTED.—In appointing members of the Commission, the President and Members of Congress specified in paragraph (1) shall ensure that, collectively, there are members with significant expertise regarding the matters described in section 671. The types of specific expertise and experience to be considered include the following:

President.  
Congress.

(A) Federal civilian employee compensation and retirement.

(B) Military compensation and retirement.

(C) Private sector compensation, retirement, or human resource systems.

(D) Active duty service in a regular component of the uniformed services.

(E) Service in a reserve component.

(F) Experience as a spouse of a member of the uniformed services.

(G) Service as an enlisted member of the uniformed services.

(H) Military family policy development and implementation.

(I) Department of Veterans Affairs benefit programs.

(J) Actuarial science.

(4) LIMITATION.—An individual who, within the preceding year, has been employed by a veterans service organization or military-related advocacy group or association may not be appointed to the Commission.

(c) CHAIR.—The President shall designate one of the members of the Commission to be Chair of the Commission. The individual designated as Chair of the Commission shall be a person who has expertise in the military compensation and retirement systems. The Chair, or the designee of the Chair, shall preside over meetings

President.

of the Commission and be responsible for establishing the agenda of Commission meetings and hearings.

(d) **TERMS.**—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner as the original appointment was made.

(e) **STATUS AS FEDERAL EMPLOYEES.**—Notwithstanding the requirements of section 2105 of title 5, United States Code, including the required supervision under subsection (a)(3) of such section, the members of the Commission shall be deemed to be Federal employees.

(f) **PAY FOR MEMBERS OF THE COMMISSION.**—

(1) **IN GENERAL.**—Each member, other than the Chair, of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) **CHAIR.**—The Chair of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level III of the Executive Schedule under section 5314, of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

Deadlines.

Public  
information.  
Web posting.

Lists.

#### **SEC. 673. COMMISSION HEARINGS AND MEETINGS.**

(a) **IN GENERAL.**—The Commission shall conduct hearings on the recommendations it is taking under consideration. Any such hearing, except a hearing in which classified information is to be considered, shall be open to the public. Any hearing open to the public shall be announced on a Federal website at least 14 days in advance. For all hearings open to the public, the Commission shall release an agenda and a listing of materials relevant to the topics to be discussed.

(b) **MEETINGS.**—

(1) **INITIAL MEETING.**—The Commission shall hold its initial meeting not later than 30 days after the date as of which all members have been appointed.

(2) **SUBSEQUENT MEETINGS.**—After its initial meeting, the Commission shall meet upon the call of the Chair or a majority of its members.

(3) **PUBLIC MEETINGS.**—Each meeting of the Commission shall be held in public unless any member objects.

(c) **QUORUM.**—Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(d) **PUBLIC COMMENTS.**—

(1) **SOLICITATION.**—The Commission shall seek written comments from the general public and interested parties on measures to modernize the military compensation and retirement systems. Comments shall be requested through a solicitation in the Federal Register and announcement on the Internet website of the Commission.

Federal Register,  
publication.  
Web posting.

(2) **PERIOD FOR SUBMITTAL.**—The period for the submittal of comments pursuant to the solicitation under paragraph (1) shall end not earlier than 30 days after the date of the solicitation and shall end on or before the date on which the Secretary

transmits the recommendations of the Secretary to the Commission under section 674(b).

(3) **USE BY COMMISSION.**—The Commission shall consider the comments submitted under this subsection when developing its recommendations.

(e) **SPACE FOR USE OF COMMISSION.**—Not later than 90 days after the date of the enactment of this Act, the Administrator of General Services, in consultation with the Secretary, shall identify and make available suitable excess space within the Federal space inventory to house the operations of the Commission. If the Administrator is not able to make such suitable excess space available within such 90-day period, the Commission may lease space to the extent the funds are available.

(f) **CONTRACTING AUTHORITY.**—The Commission may acquire administrative supplies and equipment for Commission use to the extent funds are available.

**SEC. 674. PRINCIPLES AND PROCEDURE FOR COMMISSION RECOMMENDATIONS.**

(a) **CONTEXT OF COMMISSION REVIEW.**—The Commission shall conduct a review of the matters described in section 671, including current military compensation and retirement systems, force management objectives, and changes in life expectancy and the labor force.

(b) **DEVELOPMENT OF COMMISSION RECOMMENDATIONS.**—

(1) **CONSISTENCY WITH PRESIDENTIAL PRINCIPLES.**—Subject to paragraph (2), the Commission shall develop recommendations that are consistent with the principles established by the President under subsection (c) and section 671.

(2) **GRANDFATHERING OF RETIRED PAY.**—

(A) **CONDITIONS.**—In developing its recommendations, the Commission shall comply with the following conditions with regard to the treatment of retired pay for members and retired members of the uniformed services who joined a uniformed service before the date of the enactment of an Act to modernize the military compensation and retirement systems:

Compliance.

(i) For members of the uniformed services as of such date, who became members before the enactment of such an Act, the monthly amount of their retired pay may not be less than they would have received under the current military compensation and retirement system, nor may the date at which they are eligible to receive their military retired pay be adjusted to the financial detriment of the member.

(ii) For members of the uniformed services retired as of such date, the eligibility for and receipt of their retired pay may not be adjusted pursuant to any change made by the enactment of such an Act.

(B) **VOLUNTARY ELECTION EXCEPTION.**—Nothing in subparagraph (A) prevents a member described in such subparagraph from voluntarily electing to be covered under the provisions of an Act to modernize the military compensation and retirement systems.

(c) **PRESIDENTIAL PRINCIPLES.**—Not later than five months after the Commission establishment date, the President shall establish

Deadline.

and transmit to the Commission and Congress principles for modernizing the military compensation and retirement systems. The principles established by the President shall address the following:

(1) Maintaining recruitment and retention of the best military personnel.

(2) Modernizing the regular and reserve military compensation and retirement systems.

(3) Differentiating between regular and reserve military service.

(4) Differentiating between service in the Armed Forces and service in the other uniformed services.

(5) Assisting with force management.

(6) Ensuring the fiscal sustainability of the military compensation and retirement systems.

(7) Compliance with the purpose and scope of the review prescribed in section 671.

(d) SECRETARY OF DEFENSE RECOMMENDATIONS.—

(1) DEADLINE.—Not later than nine months after the Commission establishment date, the Secretary shall transmit to the Commission the recommendations of the Secretary for modernization of the military compensation and retirement systems. The Secretary shall concurrently transmit the recommendations to Congress.

(2) DEVELOPMENT OF RECOMMENDATIONS.—The Secretary shall develop the recommendations of the Secretary under paragraph (1)—

(A) on the basis of the principles established by the President pursuant to subsection (c);

(B) in consultation with the Secretary of Homeland Security, with respect to recommendations concerning members of the Coast Guard;

(C) in consultation with the Secretary of Health and Human Services, with respect to recommendations concerning members of the Public Health Service;

(D) in consultation with the Secretary of Commerce, with respect to recommendations concerning members of the National Oceanic and Atmospheric Administration; and

(E) in consultation with the Director of the Office of Management and Budget.

(3) JUSTIFICATION.—The Secretary shall include with the recommendations under paragraph (1) the justification of the Secretary for each recommendation.

(4) AVAILABILITY OF INFORMATION.—The Secretary shall make available to the Commission and to Congress the information used by the Secretary to prepare the recommendations of the Secretary under paragraph (1).

(e) COMMISSION HEARINGS ON RECOMMENDATIONS OF SECRETARY.—After receiving from the Secretary the recommendations of the Secretary for modernization of the military compensation and retirement systems under subsection (d), the Commission shall conduct public hearings on the recommendations.

(f) COMMISSION REPORT AND RECOMMENDATIONS.—

(1) REPORT.—Not later than 15 months after the Commission establishment date, the Commission shall transmit to the President a report containing the findings and conclusions of the Commission, together with the recommendations of the Commission for the modernization of the military compensation

Public  
information.

and retirement systems. The Commission shall include in the report legislative language to implement the recommendations of the Commission. The findings and conclusions in the report shall be based on the review and analysis by the Commission of the recommendations made by the Secretary under subsection (d).

(2) **REQUIREMENT FOR APPROVAL.**—The recommendations of the Commission must be approved by at least five members of the Commission before the recommendations may be transmitted to the President under paragraph (1).

(3) **PROCEDURES FOR CHANGING RECOMMENDATIONS OF SECRETARY.**—The Commission may make a change described in paragraph (4) in the recommendations made by the Secretary only if the Commission—

(A) determines that the change is consistent with the principles established by the President under subsection (c); Determination.

(B) publishes a notice of the proposed change not less than 45 days before transmitting its recommendations to the President pursuant to paragraph (1); and Notice.  
Deadline.

(C) conducts a public hearing on the proposed change. Public  
information.

(4) **COVERED CHANGES.**—Paragraph (3) applies to a change by the Commission in the recommendations of the Secretary that would— Applicability.

(A) add a new recommendation;

(B) delete a recommendation; or

(C) substantially change a recommendation.

(5) **EXPLANATION AND JUSTIFICATION FOR CHANGES.**—The Commission shall explain and justify in its report submitted to the President under paragraph (1) any recommendation made by the Commission that is different from the recommendations made by the Secretary under subsection (d).

(6) **TRANSMITTAL TO CONGRESS.**—The Commission shall transmit a copy of its report to Congress on the same date on which it transmits its report to the President under paragraph (1). Records.

#### **SEC. 675. CONSIDERATION OF COMMISSION RECOMMENDATIONS BY THE PRESIDENT.**

(a) **REPORT OF PRESIDENTIAL APPROVAL OR DISAPPROVAL.**—Not later than 60 days after the date on which the Commission transmits its report to the President under section 674, the President shall transmit to the Commission and to Congress a report containing the approval or disapproval by the President of the recommendations of the Commission in the report.

(b) **PRESIDENTIAL APPROVAL.**—If in the report under subsection (a) the President approves all the recommendations of the Commission, the President shall include with the report the following:

(1) A copy of the recommendations of the Commission. Records.

(2) The certification by the President of the approval of the President of each recommendation. Certification.

(3) The legislative language transmitted by the Commission to the President as part of the report of the Commission.

(c) **PRESIDENTIAL DISAPPROVAL.**—

(1) **REASONS FOR DISAPPROVAL.**—If in the report under subsection (a) the President disapproves the recommendations of

the Commission, in whole or in part, the President shall include in the report the reasons for that disapproval.

Deadline.

(2) REVISED RECOMMENDATIONS FROM COMMISSION.—Not later than one month after the date of the report of the President under subsection (a) disapproving the recommendations of the Commission, the Commission shall transmit to the President revised recommendations for the modernization of the military compensation and retirement systems, together with revised legislative language to implement the revised recommendations of the Commission.

Deadline.

(3) ACTION ON REVISED RECOMMENDATIONS.—If the President approves all of the revised recommendations of the Commission transmitted pursuant to paragraph (2), the President shall transmit to Congress, not later than one month after receiving the revised recommendations, the following:

Records.

(A) A copy of the revised recommendations.

Certification.

(B) The certification by the President of the approval of the President of each recommendation as so revised.

(C) The revised legislative language transmitted to the President.

(d) TERMINATION OF COMMISSION.—If the President does not transmit to Congress an approval and certification described in subsection (b) or (c)(3) in accordance with the applicable deadline under such subsection, the Commission shall be terminated not later than one month after the expiration of the period for transmittal of a report under subsection (c)(3).

#### **SEC. 676. EXECUTIVE DIRECTOR.**

(a) APPOINTMENT.—The Commission shall appoint and fix the rate of basic pay for an Executive Director in accordance with section 3161 of title 5, United States Code.

(b) LIMITATIONS.—The Executive Director may not have served on active duty in the Armed Forces or as a civilian employee of the Department of Defense during the one-year period preceding the date of such appointment and may not have been employed by a veterans service organization or a military-related advocacy group or association during that one-year period.

#### **SEC. 677. STAFF.**

(a) IN GENERAL.—Subject to subsections (b) and (c), the Executive Director, with the approval of the Commission, may appoint and fix the rate of basic pay for additional personnel as staff of the Commission in accordance with section 3161 of title 5, United States Code.

(b) LIMITATIONS ON STAFF.—

(1) NUMBER OF DETAILEES FROM EXECUTIVE DEPARTMENT.—Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense and other executive branch departments.

(2) PRIOR DUTIES WITHIN EXECUTIVE BRANCH.—A person may not be detailed from the Department of Defense or other executive branch department to the Commission if, in the year before the detail is to begin, that person participated personally and substantially in any matter concerning the preparation of recommendations for military compensation and retirement modernization.

(3) NUMBER OF DETAILEES ELIGIBLE FOR MILITARY RETIRED PAY.—Not more than one-fourth of the personnel employed



by or detailed to the Commission may be persons eligible for or receiving military retired pay.

(4) **PRIOR EMPLOYMENT WITH CERTAIN ORGANIZATIONS.**—A person may not be employed by or detailed to the Commission if, in the year before the employment or detail is to begin, that person was employed by a veterans service organization or a military-related advocacy group or association.

(c) **LIMITATIONS ON PERFORMANCE REVIEWS.**—No member of the uniformed services, and no officer or employee of the Department of Defense or other executive branch department, may—

(1) prepare any report concerning the effectiveness, fitness, or efficiency of the performance of the staff of the Commission or any person detailed to that staff;

(2) review the preparation of such a report; or

(3) approve or disapprove such a report.

**SEC. 678. JUDICIAL REVIEW PRECLUDED.**

The following shall not be subject to judicial review:

(1) Actions of the President, the Secretary, and the Commission under section 674.

(2) Actions of the President under section 675.

**SEC. 679. TERMINATION.**

Except as otherwise provided in this title, the Commission shall terminate not later than 26 months after the Commission establishment date.

**SEC. 680. FUNDING.**

Of the amounts authorized to be appropriated by this Act for the Department of Defense for fiscal year 2013, up to \$10,000,000 shall be made available to the Commission to carry out its duties under this subtitle. Funds made available to the Commission under the preceding sentence shall remain available until expended.

## Subtitle I—Other Matters

**SEC. 681. EQUAL TREATMENT FOR MEMBERS OF COAST GUARD RESERVE CALLED TO ACTIVE DUTY UNDER TITLE 14, UNITED STATES CODE.**

(a) **INCLUSION IN DEFINITION OF CONTINGENCY OPERATION.**—Section 101(a)(13)(B) of title 10, United States Code, is amended by inserting “section 712 of title 14,” after “chapter 15 of this title,”.

(b) **CREDIT OF SERVICE TOWARDS REDUCTION OF ELIGIBILITY AGE FOR RECEIPT OF RETIRED PAY FOR NON-REGULAR SERVICE.**—Section 12731(f)(2)(B) of title 10, United States Code, is amended by adding at the end the following new clause:

“(iv) Service on active duty described in this subparagraph is also service on active duty pursuant to a call or order to active duty authorized by the Secretary of Homeland Security under section 712 of title 14 for purposes of emergency augmentation of the Regular Coast Guard forces.”.

(c) **POST 9/11 EDUCATIONAL ASSISTANCE.**—Section 3301(1)(B) of title 38, United States Code, is amended by inserting “or section 712 of title 14” after “title 10”.

(d) **RETROACTIVE APPLICATION OF AMENDMENTS.**—

10 USC 101 note.

(1) **INCLUSION OF PRIOR ORDERS.**—The amendments made by this section shall apply to any call or order to active duty authorized under section 712 of title 14, United States Code, on or after December 31, 2011, by the Secretary of the executive department in which the Coast Guard is operating.

(2) **CREDIT FOR PRIOR SERVICE.**—The amendments made by this section shall be deemed to have been enacted on December 31, 2011, for purposes of applying the amendments to the following provisions of law:

(A) Section 5538 of title 5, United States Code, relating to nonreduction in pay.

(B) Section 701 of title 10, United States Code, relating to the accumulation and retention of leave.

(C) Section 12731 of title 10, United States Code, relating to age and service requirements for receipt of retired pay for non-regular service.

**SEC. 682. REPORT REGARDING DEPARTMENT OF VETERANS AFFAIRS CLAIMS PROCESS TRANSFORMATION PLAN.**

(a) **REPORT REQUIRED.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Armed Forces and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan of the Secretary of Veterans Affairs to reduce the backlog of claims for benefits under laws administered by the Secretary that are pending as of the date of the enactment of this Act and to more efficiently and fairly process claims for such benefits in the future.

(b) **CONTENTS OF REPORT.**— The report required in under subsection (a) shall include each of the following:

(1) A detailed explanation of the Veterans Benefits Administration Claims Transformation Plan, including—

(A) a timeline and steps to completion with anticipated completion dates;

(B) all benchmarks and indicia of success that the Secretary will use to measure the success or failure of each step in the Transformation Plan; and

(C) the estimated costs, by fiscal year for each of the five fiscal years following the fiscal year during which the report is submitted, associated with the Transformation Plan, including training and personnel costs, as well as the increase or decrease in the number of personnel expected as part of the Transformation Plan.

(2) A detailed explanation of the claims process that is expected to result after the completion of the Transformation Plan, from initial filing of claim to the award or denial of benefits, including any appellate steps in the process.

(3) A detailed explanation of the roles and purposes of the Program Management Office, the Veterans Benefits Administration Transformation Governance Board, Transformation Joint Executive Board, and Design Teams, including a list of personnel for each entity as well as current and projected costs over the subsequent five fiscal years to operate and staff each entity.

(4) A detailed explanation of all steps taken thus far to involve non-Federal entities in the claims process, including

the Texas Veterans Commission and other State or local agencies relating to veterans' affairs, veterans service organizations, and other not-for-profit entities.

(5) A plan for the Secretary to partner with non-Federal entities to support efforts to reduce the backlog of claims for benefits under laws administered by the Secretary and to more efficiently and fairly process such claims in the future, including State and local agencies relating to veterans affairs, veterans service organizations, and such other relevant Government and non-Government entities as the Secretary considers appropriate. Such plan shall include—

(A) a description of how the Secretary intends to leverage such partnerships with non-Federal entities to eliminate the backlog by—

(i) increasing the percentage of new claims that are fully developed prior to submittal to the Secretary and expediting the processing of such claims; and

(ii) helping claimants gather and submit necessary evidence for claims that were previously filed but require further development; and

(B) a description of how such partnerships with non-Federal entities will fit into the Transformation Plan.

## TITLE VII—HEALTH CARE PROVISIONS

### Subtitle A—TRICARE and Other Health Care Benefits

- Sec. 701. Extension of TRICARE Standard coverage and TRICARE dental program for members of the Selected Reserve who are involuntarily separated.
- Sec. 702. Inclusion of certain over-the-counter drugs in TRICARE uniform formulary.
- Sec. 703. Modification of requirements on mental health assessments for members of the Armed Forces deployed in connection with a contingency operation.
- Sec. 704. Use of Department of Defense funds for abortions in cases of rape and incest.
- Sec. 705. Pilot program on certain treatments of autism under the TRICARE program.
- Sec. 706. Pilot program on enhancements of Department of Defense efforts on mental health in the National Guard and Reserves through community partnerships.
- Sec. 707. Sense of Congress on health care for retired members of the uniformed services.

### Subtitle B—Health Care Administration

- Sec. 711. Authority for automatic enrollment in TRICARE Prime of dependents of members in pay grades above pay grade E–4.
- Sec. 712. Cost-sharing rates for the Pharmacy Benefits Program of the TRICARE program.
- Sec. 713. Clarification of applicability of certain authority and requirements to subcontractors employed to provide health care services to the Department of Defense.
- Sec. 714. Expansion of evaluation of the effectiveness of the TRICARE program.
- Sec. 715. Requirement to ensure the effectiveness and efficiency of health engagements.
- Sec. 716. Pilot program for refills of maintenance medications for TRICARE for Life beneficiaries through the TRICARE mail-order pharmacy program.

### Subtitle C—Mental Health Care and Veterans Matters

- Sec. 723. Sharing between Department of Defense and Department of Veterans Affairs of records and information retained under the medical tracking system for members of the Armed Forces deployed overseas.
- Sec. 724. Participation of members of the Armed Forces in peer support counseling programs of the Department of Veterans Affairs.

- Sec. 725. Research and medical practice on mental health conditions.
- Sec. 726. Transparency in mental health care services provided by the Department of Veterans Affairs.
- Sec. 727. Expansion of Vet Center Program to include furnishing counseling to certain members of the Armed Forces and their family members.
- Sec. 728. Organization of the Readjustment Counseling Service in the Department of Veterans Affairs.
- Sec. 729. Recruitment of mental health providers for furnishing mental health services on behalf of the Department of Veterans Affairs without compensation from the Department.
- Sec. 730. Peer support.

Subtitle D—Reports and Other Matters

- Sec. 731. Plan for reform of the administration of the military health system.
- Sec. 732. Future availability of TRICARE Prime throughout the United States.
- Sec. 733. Extension of Comptroller General report on contract health care staffing for military medical treatment facilities.
- Sec. 734. Extension of Comptroller General report on women-specific health services and treatment for female members of the Armed Forces.
- Sec. 735. Study on health care and related support for children of members of the Armed Forces.
- Sec. 736. Report on strategy to transition to use of human-based methods for certain medical training.
- Sec. 737. Study on incidence of breast cancer among members of the Armed Forces serving on active duty.
- Sec. 738. Performance metrics and reports on Warriors in Transition programs of the military departments.
- Sec. 739. Plan to eliminate gaps and redundancies in programs of the Department of Defense on psychological health and traumatic brain injury.

## Subtitle A—TRICARE and Other Health Care Benefits

Time period.  
Termination  
dates.

**SEC. 701. EXTENSION OF TRICARE STANDARD COVERAGE AND TRICARE DENTAL PROGRAM FOR MEMBERS OF THE SELECTED RESERVE WHO ARE INVOLUNTARILY SEPARATED.**

(a) TRICARE STANDARD COVERAGE.—Section 1076d(b) of title 10, United States Code, is amended—

(1) by striking “Eligibility” and inserting “(1) Except as provided in paragraph (2), eligibility”; and

(2) by adding at the end the following new paragraph:

“(2) During the period beginning on the date of the enactment of this paragraph and ending December 31, 2018, eligibility for a member under this section who is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, shall terminate 180 days after the date on which the member is separated.”.

(b) TRICARE DENTAL COVERAGE.—Section 1076a(a)(1) of such title is amended by adding at the end the following new sentence: “During the period beginning on the date of the enactment of this sentence and ending December 31, 2018, such plan shall provide that coverage for a member of the Selected Reserve who is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, shall not terminate earlier than 180 days after the date on which the member is separated.”.

**SEC. 702. INCLUSION OF CERTAIN OVER-THE-COUNTER DRUGS IN TRICARE UNIFORM FORMULARY.**

(a) INCLUSION.—Subsection (a)(2) of section 1074g of title 10, United States Code, is amended—

(1) in subparagraph (D), by striking “No pharmaceutical agent may be excluded” and inserting “Except as provided in subparagraph (F), no pharmaceutical agent may be excluded”; and

(2) by adding at the end the following new subparagraph:

“(F)(i) The Secretary may implement procedures to place selected over-the-counter drugs on the uniform formulary and to make such drugs available to eligible covered beneficiaries. An over-the-counter drug may be included on the uniform formulary only if the Pharmacy and Therapeutics Committee established under subsection (b) finds that the over-the-counter drug is cost effective and clinically effective. If the Pharmacy and Therapeutics Committee recommends an over-the-counter drug for inclusion on the uniform formulary, the drug shall be considered to be in the same therapeutic class of pharmaceutical agents, as determined by the Committee, as similar prescription drugs.

“(ii) Regulations prescribed by the Secretary to carry out clause (i) shall include the following with respect to over-the-counter drugs included on the uniform formulary:

Regulations.

“(I) A determination of the means and conditions under paragraphs (5) and (6) through which over-the-counter drugs will be available to eligible covered beneficiaries and the amount of cost sharing that such beneficiaries will be required to pay for over-the-counter drugs, if any, except that no such cost sharing may be required for a member of a uniformed service on active duty.

Determination.

“(II) Any terms and conditions for the dispensing of over-the-counter drugs to eligible covered beneficiaries.”.

(b) DEFINITIONS.—Subsection (g) of such section is amended by adding at the end the following new paragraphs:

“(3) The term ‘over-the-counter drug’ means a drug that is not subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)).

“(4) The term ‘prescription drug’ means a drug that is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)).”.

(c) TECHNICAL AMENDMENTS.—

(1) CROSS-REFERENCE AMENDMENT.—Subsection (b)(1) of such section is amended by striking “subsection (g)” and inserting “subsection (h)”.

(2) REPEAL OF OBSOLETE PROVISIONS.—

(A) Subsection (a)(2)(D) of such section is amended by striking the last sentence.

(B) Subsection (b)(2) of such section is amended by striking “Not later than” and all the follows through “such 90-day period, the committee” and inserting “The committee”.

(C) Subsection (d)(2) of such section is amended—

(i) by striking “Effective not later than April 5, 2000, the Secretary” and inserting “The Secretary”; and

(ii) by striking “the current managed care support contracts” and inserting “the managed care support contracts current as of October 5, 1999,”.

**SEC. 703. MODIFICATION OF REQUIREMENTS ON MENTAL HEALTH ASSESSMENTS FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONNECTION WITH A CONTINGENCY OPERATION.**

Section 1074m(a)(1)(C)(i) of title 10, United States Code, is amended by striking “one year” and inserting “18 months”.

**SEC. 704. USE OF DEPARTMENT OF DEFENSE FUNDS FOR ABORTIONS IN CASES OF RAPE AND INCEST.**

Section 1093(a) of title 10, United States Code, is amended by inserting before the period at the end the following: “or in a case in which the pregnancy is the result of an act of rape or incest”.

10 USC 1092  
note.

**SEC. 705. PILOT PROGRAM ON CERTAIN TREATMENTS OF AUTISM UNDER THE TRICARE PROGRAM.**

**(a) PILOT PROGRAM.—**

(1) **IN GENERAL.**—The Secretary of Defense shall conduct a pilot program to provide for the treatment of autism spectrum disorders, including applied behavior analysis.

(2) **COMMENCEMENT.**—The Secretary shall commence the pilot program under paragraph (1) by not later than 90 days after the date of the enactment of this Act.

(b) **DURATION.**—The Secretary may not carry out the pilot program under subsection (a)(1) for longer than a one-year period.

(c) **REPORT.**—Not later than 270 days after the date on which the pilot program under subsection (a)(1) commences, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. The report shall include the following:

(1) An assessment of the feasibility and advisability of establishing a beneficiary cost share for the treatment of autism spectrum disorders.

(2) A comparison of providing such treatment under—

(A) the ECHO Program; and

(B) the TRICARE program other than under the ECHO Program.

(3) Any recommendations for changes in legislation.

(4) Any additional information the Secretary considers appropriate.

(d) **DEFINITIONS.**—In this section:

(1) The term “ECHO Program” means the Extended Care Health Option under subsections (d) through (f) of section 1079 of title 10, United States Code.

(2) The term “TRICARE program” has the meaning given that term in section 1072(7) of title 10, United States Code.

10 USC 10101  
note.

**SEC. 706. PILOT PROGRAM ON ENHANCEMENTS OF DEPARTMENT OF DEFENSE EFFORTS ON MENTAL HEALTH IN THE NATIONAL GUARD AND RESERVES THROUGH COMMUNITY PARTNERSHIPS.**

(a) **PROGRAM AUTHORITY.**—The Secretary of Defense may carry out a pilot program to enhance the efforts of the Department of Defense in research, treatment, education, and outreach on mental health and substance use disorders and traumatic brain injury in members of the National Guard and Reserves, their family members, and their caregivers through community partners.

(b) **AGREEMENTS WITH COMMUNITY PARTNERS.**—In carrying out the pilot program authorized by subsection (a), the Secretary may enter into partnership agreements with community partners described in subsection (c) using a competitive and merit-based award process.

(c) **COMMUNITY PARTNER DESCRIBED.**—A community partner described in this subsection is a private non-profit organization or institution that meets such qualifications as the Secretary shall establish for purposes of the pilot program and engages in one or more of the following:

(1) Research on the causes, development, and innovative treatment of mental health and substance use disorders and traumatic brain injury in members of the National Guard and Reserves, their family members, and their caregivers.

(2) Identifying and disseminating evidence-based treatments of mental health and substance use disorders and traumatic brain injury described in paragraph (1).

(3) Outreach and education to such members, their families and caregivers, and the public about mental health and substance use disorders and traumatic brain injury described in paragraph (1).

(d) **DURATION.**—The duration of the pilot program may not exceed three years.

(e) **REPORT.**—Not later than 180 days before the completion of the pilot program, the Secretary of Defense shall submit to the Secretary of Veterans Affairs and the congressional defense committees a report on the results of the pilot program, including the number of members of the National Guard and Reserves provided treatment or services by community partners, and a description and assessment of the effectiveness and achievements of the pilot program with respect to research, treatment, education, and outreach on mental health and substance use disorders and traumatic brain injury.

**SEC. 707. SENSE OF CONGRESS ON HEALTH CARE FOR RETIRED MEMBERS OF THE UNIFORMED SERVICES.**

It is the sense of Congress that—

(1) members of the uniformed services and their families endure unique and extraordinary demands and make extraordinary sacrifices over the course of 20 to 30 years of service in protecting freedom for all Americans, as do those who have been medically retired due to the hardships of military service; and

(2) access to quality health care services is an earned benefit during retirement in acknowledgment of their contributions of service and sacrifice.

## **Subtitle B—Health Care Administration**

**SEC. 711. AUTHORITY FOR AUTOMATIC ENROLLMENT IN TRICARE PRIME OF DEPENDENTS OF MEMBERS IN PAY GRADES ABOVE PAY GRADE E-4.**

Subsection (a) of section 1097a of title 10, United States Code, is amended to read as follows:

“(a) **AUTOMATIC ENROLLMENT OF CERTAIN DEPENDENTS.**—(1) In the case of a dependent of a member of the uniformed services

who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in a catchment area in which TRICARE Prime is offered, the Secretary—

“(A) shall automatically enroll the dependent in TRICARE Prime if the member is in pay grade E-4 or below; and

“(B) may automatically enroll the dependent in TRICARE Prime if the member is in pay grade E-5 or higher.

Notification.

“(2) Whenever a dependent of a member is enrolled in TRICARE Prime under paragraph (1), the Secretary concerned shall provide written notice of the enrollment to the member.

“(3) The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.”.

**SEC. 712. COST-SHARING RATES FOR THE PHARMACY BENEFITS PROGRAM OF THE TRICARE PROGRAM.**

(a) IN GENERAL.—Section 1074g(a)(6) of title 10, United States Code, is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph (A):

Requirements.

“(A) The Secretary, in the regulations prescribed under subsection (h), shall establish cost-sharing requirements under the pharmacy benefits program. In accordance with subparagraph (C), such cost-sharing requirements shall consist of the following:

“(i) With respect to each supply of a prescription covering not more than 30 days that is obtained by a covered beneficiary under the TRICARE retail pharmacy program—

“(I) in the case of generic agents, \$5;

“(II) in the case of formulary agents, \$17; and

“(III) in the case of nonformulary agents, \$44.

“(ii) With respect to each supply of a prescription covering not more than 90 days that is obtained by a covered beneficiary under the national mail-order pharmacy program—

“(I) in the case of generic agents, \$0;

“(II) in the case of formulary agents, \$13; and

“(III) in the case of nonformulary agents, \$43.”; and

(2) by adding at the end the following new subparagraph:

Effective date.

“(C)(i) Beginning October 1, 2013, the amount of any increase in a cost-sharing amount specified in subparagraph (A) in a year may not exceed the amount equal to the percentage of such cost-sharing amount at the time of such increase equal to the percentage by which retired pay is increased under section 1401a of this title in that year.

“(ii) If the amount of the increase otherwise provided for a year by clause (i) is less than \$1, the increase shall not be made for such year, but shall be carried over to, and accumulated with, the amount of the increase for the subsequent year or years and made when the aggregate amount of increases carried over under this clause for a year is \$1 or more.

“(iii) The provisions of this subparagraph shall not apply to any increase in cost-sharing amounts described in clause (i) that is made by the Secretary of Defense on or after October 1, 2022. The Secretary may increase copayments, as considered appropriate by the Secretary, beginning on October 1, 2022.”.

Effective date.

10 USC 1074g  
note.  
Applicability.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The cost-sharing requirements under subparagraph (A) of section 1074g(a)(6) of title 10, United States Code, as amended by subsection (a)(1), shall apply with



respect to prescriptions obtained under the TRICARE pharmacy benefits program on or after such date as the Secretary of Defense shall specify, but not later than the date that is 45 days after the date of the enactment of this Act.

(2) FEDERAL REGISTER.—The Secretary shall publish notice of the effective date of the cost-sharing requirements specified under paragraph (1) in the Federal Register. Notice.

**SEC. 713. CLARIFICATION OF APPLICABILITY OF CERTAIN AUTHORITY AND REQUIREMENTS TO SUBCONTRACTORS EMPLOYED TO PROVIDE HEALTH CARE SERVICES TO THE DEPARTMENT OF DEFENSE.**

(a) APPLICABILITY OF FEDERAL TORT CLAIMS ACT TO SUBCONTRACTORS.—Section 1089(a) of title 10, United States Code, is amended in the last sentence—

(1) by striking “if the physician, dentist, nurse, pharmacist, or paramedical” and inserting “to such a physician, dentist, nurse, pharmacist, or paramedical”;

(2) by striking “involved is”; and

(3) by inserting before the period at the end the following: “or a subcontract at any tier under such a contract that is authorized in accordance with the requirements of such section 1091”.

(b) APPLICABILITY OF PERSONAL SERVICES CONTRACTING AUTHORITY TO SUBCONTRACTORS.—Section 1091(c) of such title is amended by adding at the end the following new paragraph:

“(3) The procedures established under paragraph (1) may provide for a contracting officer to authorize a contractor to enter into a subcontract for personal services on behalf of the agency upon a determination that the subcontract is—

“(A) consistent with the requirements of this section and the procedures established under paragraph (1); and

“(B) in the best interests of the agency.”.

**SEC. 714. EXPANSION OF EVALUATION OF THE EFFECTIVENESS OF THE TRICARE PROGRAM.**

Section 717(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 376; 10 U.S.C. 1073 note) is amended by striking “military retirees” and inserting “members of the Armed Forces (whether in the regular or reserve components) and their dependents, military retirees and their dependents, and dependents of members on active duty with severe disabilities and chronic health care needs”.

**SEC. 715. REQUIREMENT TO ENSURE THE EFFECTIVENESS AND EFFICIENCY OF HEALTH ENGAGEMENTS.** 10 USC 401 note.

(a) IN GENERAL.—The Secretary of Defense, in coordination with the Under Secretary of Defense for Policy and the Assistant Secretary of Defense for Health Affairs, shall develop a process to ensure that health engagements conducted by the Department of Defense are effective and efficient in meeting the national security goals of the United States. Process.

(b) PROCESS GOALS.—The Assistant Secretary of Defense for Health Affairs shall ensure that each process developed under subsection (a)—

(1) assesses the operational mission capabilities of the health engagement;

(2) uses the collective expertise of the Federal Government and non-governmental organizations to ensure collaboration and partnering activities; and

(3) assesses the stability and resiliency of the host nation of such engagement.

(c) **ASSESSMENT TOOL.**—The Assistant Secretary of Defense for Health Affairs may establish a measure of effectiveness learning tool to assess the process developed under subsection (a) to ensure the applicability of the process to health engagements conducted by the Department of Defense.

(d) **HEALTH ENGAGEMENT DEFINED.**—In this section, the term “health engagement” means a health stability operation conducted by the Department of Defense outside the United States in coordination with a foreign government or international organization to establish, reconstitute, or maintain the health sector of a foreign country.

10 USC 1074g  
note.

**SEC. 716. PILOT PROGRAM FOR REFILLS OF MAINTENANCE MEDICATIONS FOR TRICARE FOR LIFE BENEFICIARIES THROUGH THE TRICARE MAIL-ORDER PHARMACY PROGRAM.**

(a) **IN GENERAL.**—The Secretary of Defense shall conduct a pilot program to refill prescription maintenance medications for each TRICARE for Life beneficiary through the national mail-order pharmacy program under section 1074g(a)(2)(E)(iii) of title 10, United States Code.

(b) **MEDICATIONS COVERED.**—

(1) **DETERMINATION.**—The Secretary shall determine the prescription maintenance medications included in the pilot program under subsection (a).

(2) **SUPPLY.**—In carrying out the pilot program under subsection (a), the Secretary shall ensure that the medications included in the program are generally available to a TRICARE for Life beneficiary—

(A) for an initial filling of a 30-day or less supply through—

(i) retail pharmacies under clause (ii) of section 1074g(a)(2)(E) of title 10, United States Code; and

(ii) facilities of the uniformed services under clause (i) of such section; and

(B) for a refill of such medications through—

(i) the national mail-order pharmacy program; and

(ii) such facilities of the uniformed services.

(3) **EXEMPTION.**—The Secretary may exempt the following prescription maintenance medications from the requirements in paragraph (2):

(A) Such medications that are for acute care needs.

(B) Such other medications as the Secretary determines appropriate.

(c) **NONPARTICIPATION.**—

(1) **OPT OUT.**—The Secretary shall give TRICARE for Life beneficiaries who have been covered by the pilot program under subsection (a) for a period of one year an opportunity to opt out of continuing to participate in the program.

(2) **WAIVER.**—The Secretary may waive the requirement of a TRICARE for Life beneficiary to participate in the pilot program under subsection (a) if the Secretary determines, on an individual basis, that such waiver is appropriate.

Time period.

(d) **REGULATIONS.**—The Secretary shall prescribe regulations to carry out the pilot program under subsection (a), including regulations with respect to—

(1) the prescription maintenance medications included in the pilot program pursuant to subsection (b)(1); and

(2) addressing instances where a TRICARE for Life beneficiary covered by the pilot program attempts to refill such medications at a retail pharmacy rather than through the national mail-order pharmacy program or a facility of the uniformed services.

(e) **REPORTS.**—Not later than March 31 of each year beginning in 2014 and ending in 2018, the Secretary shall submit to the congressional defense committees a report on the pilot program under subsection (a), including the effects of offering incentives for the use of mail order pharmacies by TRICARE beneficiaries and the effect on retail pharmacies.

(f) **SUNSET.**—The Secretary may not carry out the pilot program under subsection (a) after December 31, 2017.

(g) **TRICARE FOR LIFE BENEFICIARY DEFINED.**—In this section, the term “TRICARE for Life beneficiary” means a TRICARE beneficiary enrolled in the Medicare wraparound coverage option of the TRICARE program made available to the beneficiary by reason of section 1086(d) of title 10, United States Code.

## Subtitle C—Mental Health Care and Veterans Matters

### **SEC. 723. SHARING BETWEEN DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS OF RECORDS AND INFORMATION RETAINED UNDER THE MEDICAL TRACKING SYSTEM FOR MEMBERS OF THE ARMED FORCES DEPLOYED OVERSEAS.**

10 USC 1074f note.

(a) **IN GENERAL.**—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly enter into a memorandum of understanding providing for the sharing by the Department of Defense with the Department of Veterans Affairs of the results of examinations and other records on members of the Armed Forces that are retained and maintained with respect to the medical tracking system for members deployed overseas under section 1074f(c) of title 10, United States Code.

Memorandum.

(b) **CESSATION UPON IMPLEMENTATION OF ELECTRONIC HEALTH RECORD.**—The sharing required pursuant to subsection (a) shall cease on the date on which the Secretary of Defense and the Secretary of Veterans Affairs jointly certify to Congress that the Secretaries have fully implemented an integrated electronic health record for members of the Armed Forces that is fully interoperable between the Department of Defense and the Department of Veterans Affairs.

### **SEC. 724. PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN PEER SUPPORT COUNSELING PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.**

38 USC 1712A note.

(a) **PARTICIPATION.**—

(1) **IN GENERAL.**—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly enter into a memorandum of understanding providing for members of the Armed

Memorandum.

Forces described in subsection (b) to volunteer or be considered for employment as peer counselors under the following:

(A) The peer support counseling program carried out by the Secretary of Veterans Affairs under subsection (j) of section 1720F of title 38, United States Code, as part of the comprehensive program for suicide prevention among veterans under subsection (a) of such section.

(B) The peer support counseling program carried out by the Secretary of Veterans Affairs under section 304(a)(1) of the Caregivers and Veterans Omnibus Health Services Act of 2010 (Public Law 111-163; 124 Stat. 1150; 38 U.S.C. 1712A note).

(2) **TRAINING.**—Any member participating in a peer support counseling program under paragraph (1) shall receive the training for peer counselors under section 1720F(j)(2) of title 38, United States Code, or section 304(c) of the Caregivers and Veterans Omnibus Health Services Act of 2010, as applicable, before performing peer support counseling duties under such program.

(b) **COVERED MEMBERS.**—Members of the Armed Forces described in this subsection are the following:

(1) Members of the reserve components of the Armed Forces who are demobilizing after deployment in a theater of combat operations, including, in particular, members who participated in combat against the enemy while so deployed.

(2) Members of the regular components of the Armed Forces separating from active duty who have been deployed in a theater of combat operations in which such members participated in combat against the enemy.

10 USC 1071  
note.

**SEC. 725. RESEARCH AND MEDICAL PRACTICE ON MENTAL HEALTH CONDITIONS.**

(a) **RESEARCH AND PRACTICE.**—The Secretary of Defense shall provide for the translation of research on the diagnosis and treatment of mental health conditions into policy on medical practices.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the translation of research into policy as described in subsection (a). The report shall include the following:

(1) A summary of the efforts of the Department of Defense to carry out such translation.

(2) A description of any policy established pursuant to subsection (a).

(3) Additional legislative or administrative actions the Secretary considers appropriate with respect to such translation.

38 USC 1712A  
note.

**SEC. 726. TRANSPARENCY IN MENTAL HEALTH CARE SERVICES PROVIDED BY THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) **MEASUREMENT OF MENTAL HEALTH CARE SERVICES.**—

(1) **IN GENERAL.**—Not later than December 31, 2013, the Secretary of Veterans Affairs shall develop and implement a comprehensive set of measures to assess mental health care services furnished by the Department of Veterans Affairs.

(2) **ELEMENTS.**—The measures developed and implemented under paragraph (1) shall provide an accurate and comprehensive assessment of the following:

Deadline.

(A) The timeliness of the furnishing of mental health care by the Department.

(B) The satisfaction of patients who receive mental health care services furnished by the Department.

(C) The capacity of the Department to furnish mental health care.

(D) The availability and furnishing of evidence-based therapies by the Department.

(b) GUIDELINES FOR STAFFING MENTAL HEALTH CARE SERVICES.—Not later than December 31, 2013, the Secretary shall develop and implement guidelines for the staffing of general and specialty mental health care services, including at community-based outpatient clinics. Such guidelines shall include productivity standards for providers of mental health care.

Deadline.

(c) STUDY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall seek to enter into a contract with the National Academy of Sciences to create a study committee—

Contracts.

(A) to consult with the Secretary on the Secretary's development and implementation of the measures and guidelines required by subsections (a) and (b); and

(B) to conduct an assessment and provide an analysis and recommendations on the state of Department mental health services.

(2) FUNCTIONS.—In entering into the contract described in paragraph (1), the Secretary shall, with respect to paragraph (1)(B), include in such contract a provision for the study committee—

(A) to conduct a comprehensive assessment of barriers to access to mental health care by veterans who served in the Armed Forces in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn;

(B) to assess the quality of the mental health care being provided to such veterans (including the extent to which veterans are afforded choices with respect to modes of treatment) through site visits to facilities of the Veterans Health Administration (including at least one site visit in each Veterans Integrated Service Network), evaluating studies of patient outcomes, and other appropriate means;

(C) to assess whether, and the extent to which, veterans who served in the Armed Forces in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn are being offered a full range of necessary mental health services at Department health care facilities, including early intervention services for hazardous drinking, relationship problems, and other behaviors that create a risk for the development of a chronic mental health condition;

(D) to conduct surveys or have access to Department-administered surveys of—

(i) providers of Department mental health services;

(ii) veterans who served in the Armed Forces in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn who are receiving mental health care furnished by the Department; and

(iii) eligible veterans who served in the Armed Forces in Operation Enduring Freedom, Operation

Iraqi Freedom, or Operation New Dawn who are not using Department health care services to assess those barriers described in subparagraph (A); and

(E) to provide to the Secretary, on the basis of its assessments as delineated in subparagraphs (A) through (C), specific, detailed recommendations—

(i) for overcoming barriers, and improving access, to timely, effective mental health care at Department health care facilities (or, where Department facilities cannot provide such care, through contract arrangements under existing law); and

(ii) to improve the effectiveness and efficiency of mental health services furnished by the Secretary.

(3) PARTICIPATION BY FORMER OFFICIALS AND EMPLOYEES OF VETERANS HEALTH ADMINISTRATION.—The Secretary shall ensure that any contract entered into under paragraph (1) provides for inclusion on any subcommittee which participates in conducting the assessments and formulating the recommendations provided for in paragraph (2) at least one former official of the Veterans Health Administration and at least two former employees of the Veterans Health Administration who were providers of mental health care.

(4) PERIODIC REPORTS TO SECRETARY.—In entering into the contract described in paragraph (1), the Secretary shall, with respect to paragraph (1)(A), include in such contract a provision for the submittal to the Secretary of periodic reports and provision of other consultation to the Secretary by the study committee to assist the Secretary in carrying out subsections (a) and (b).

(5) REPORTS TO CONGRESS.—Not later than 30 days after receiving a report under paragraph (4), the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the plans of the Secretary to implement such recommendations submitted to the Secretary by the study committee as the Secretary considers appropriate. Such report shall include a description of each recommendation submitted to the Secretary that the Secretary does not plan to carry out and an explanation of why the Secretary does not plan to carry out such recommendation.

(d) PUBLICATION.—

(1) IN GENERAL.—The Secretary shall make available to the public on an Internet website of the Department the following:

(A) The measures and guidelines developed and implemented under this section.

(B) An assessment of the performance of the Department using such measures and guidelines.

(2) QUARTERLY UPDATES.—The Secretary shall update the measures, guidelines, and assessment made available to the public under paragraph (1) not less frequently than quarterly.

(e) SEMIANNUAL REPORTS.—

(1) IN GENERAL.—Not later than June 30, 2013, and not less frequently than twice each year thereafter, the Secretary shall submit to the committees of Congress specified in subsection (c)(5) a report on the Secretary's progress in developing

Public  
information.  
Web posting.

and implementing the measures and guidelines required by this section.

(2) ELEMENTS.—Each report submitted under paragraph (1) shall include the following:

(A) A description of the development and implementation of the measures required by subsection (a) and the guidelines required by subsection (b).

(B) A description of the progress made by the Secretary in developing and implementing such measures and guidelines.

(C) An assessment of the mental health care services furnished by the Department, using the measures developed and implemented under subsection (a).

(D) An assessment of the effectiveness of the guidelines developed and implemented under subsection (b).

(E) Such recommendations for legislative or administrative action as the Secretary may have to improve the effectiveness and efficiency of the mental health care services furnished under laws administered by the Secretary.

(f) IMPLEMENTATION REPORT.—

(1) IN GENERAL.—Not later than 30 days before the date on which the Secretary begins implementing the measures and guidelines required by this section, the Secretary shall submit to the committees of Congress specified in subsection (c)(5) a report on the Secretary's planned implementation of such measures and guidelines.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A detailed description of the measures and guidelines that the Secretary plans to implement under this section.

(B) A description of the rationale for each measure and guideline the Secretary plans to implement under this section.

(C) A discussion of each measure and guideline that the Secretary considered under this section but chose not to implement.

(D) The number of current vacancies in mental health care provider positions in the Department.

(E) An assessment of how many additional positions are needed to meet current or expected demand for mental health services furnished by the Department.

**SEC. 727. EXPANSION OF VET CENTER PROGRAM TO INCLUDE FURNISHING COUNSELING TO CERTAIN MEMBERS OF THE ARMED FORCES AND THEIR FAMILY MEMBERS.**

Section 1712A of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “Upon the request” and all that follows through the period at the end and inserting “Upon the request of any individual referred to in subparagraph (C), the Secretary shall furnish counseling, including by furnishing counseling through a Vet Center, to the individual—

“(i) in the case of an individual referred to in clauses (i) through (iv) of subparagraph (C), to assist the individual in readjusting to civilian life; and

“(ii) in the case of an individual referred to in clause (v) of such subparagraph who is a family member of a veteran or member described in such clause—

“(I) in the case of a member who is deployed in a theater of combat operations or an area at a time during which hostilities are occurring in that area, during such deployment to assist such individual in coping with such deployment; and

“(II) in the case of a veteran or member who is readjusting to civilian life, to the degree that counseling furnished to such individual is found to aid in the readjustment of such veteran or member to civilian life.”; and

(ii) by striking subparagraph (B) and inserting the following new subparagraphs:

“(B) Counseling furnished to an individual under subparagraph (A) may include a comprehensive individual assessment of the individual’s psychological, social, and other characteristics to ascertain whether—

“(i) in the case of an individual referred to in clauses (i) through (iv) of subparagraph (C), such individual has difficulties associated with readjusting to civilian life; and

“(ii) in the case of an individual referred to in clause (v) of such subparagraph, such individual has difficulties associated with—

“(I) coping with the deployment of a member described in subclause (I) of such clause; or

“(II) readjustment to civilian life of a veteran or member described in subclause (II) of such clause.

Applicability.

“(C) Subparagraph (A) applies to the following individuals:

“(i) Any individual who is a veteran or member of the Armed Forces, including a member of a reserve component of the Armed Forces, who served on active duty in a theater of combat operations or an area at a time during which hostilities occurred in that area.

“(ii) Any individual who is a veteran or member of the Armed Forces, including a member of a reserve component of the Armed Forces, who provided direct emergency medical or mental health care, or mortuary services to the casualties of combat operations or hostilities, but who at the time was located outside the theater of combat operations or area of hostilities.

“(iii) Any individual who is a veteran or member of the Armed Forces, including a member of a reserve component of the Armed Forces, who engaged in combat with an enemy of the United States or against an opposing military force in a theater of combat operations or an area at a time during which hostilities occurred in that area by remotely controlling an unmanned aerial vehicle, notwithstanding whether the physical location of such veteran or member during such combat was within such theater of combat operations or area.

“(iv) Any individual who received counseling under this section before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013.

“(v) Any individual who is a family member of any—



“(I) member of the Armed Forces, including a member of a reserve component of the Armed Forces, who is serving on active duty in a theater of combat operations or in an area at a time during which hostilities are occurring in that area; or

“(II) veteran or member of the Armed Forces described in this subparagraph.”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as redesignated by subparagraph (C)—

(i) by striking “a veteran described in paragraph (1)(B)(iii)” and inserting “an individual described in paragraph (1)(C)”; and

(ii) by striking “the veteran a preliminary general mental health assessment” and inserting “the individual a comprehensive individual assessment as described in paragraph (1)(B)”;

(2) in subsection (b)(1), by striking “physician or psychologist” each place it appears and inserting “licensed or certified mental health care provider”;

(3) in subsection (g)—

(A) by amending paragraph (1) to read as follows:

“(1) The term ‘Vet Center’ means a facility which is operated by the Department for the provision of services under this section and which is situated apart from Department general health care facilities.”; and

(B) by adding at the end the following new paragraph:

“(3) The term ‘family member’, with respect to a veteran or member of the Armed Forces, means an individual who—

“(A) is a member of the family of the veteran or member, including—

“(i) a parent;

“(ii) a spouse;

“(iii) a child;

“(iv) a step-family member; and

“(v) an extended family member; or

“(B) lives with the veteran or member but is not a member of the family of the veteran or member.”; and

(4) by redesignating subsection (g), as amended by paragraph (3), as subsection (h) and inserting after subsection (f) the following new subsection (g):

“(g) In carrying out this section and in furtherance of the Secretary’s responsibility to carry out outreach activities under chapter 63 of this title, the Secretary may provide for and facilitate the participation of personnel employed by the Secretary to provide services under this section in recreational programs that are—

“(1) designed to encourage the readjustment of veterans described in subsection (a)(1)(C); and

“(2) operated by any organization named in or approved under section 5902 of this title.”.

**SEC. 728. ORGANIZATION OF THE READJUSTMENT COUNSELING SERVICE IN THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) IN GENERAL.—Subchapter I of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

38 USC 7309.

**“§ 7309. Readjustment Counseling Service**

“(a) IN GENERAL.—There is in the Veterans Health Administration a Readjustment Counseling Service. The Readjustment Counseling Service shall provide readjustment counseling and associated services to individuals in accordance with section 1712A of this title.

“(b) CHIEF OFFICER.—(1) The head of the Readjustment Counseling Service shall be the Chief Officer of the Readjustment Counseling Service (in this section referred to as the ‘Chief Officer’), who shall report directly to the Under Secretary for Health.

“(2) The Chief Officer shall be appointed by the Under Secretary for Health from among individuals who—

“(A)(i) are psychologists who hold a diploma as a doctorate in clinical or counseling psychology from an authority approved by the American Psychological Association and who have successfully undergone an internship approved by that association;

“(ii) are holders of a master in social work degree; or

“(iii) hold such other advanced degrees related to mental health as the Secretary considers appropriate;

“(B) have at least three years of experience providing direct counseling services or outreach services in the Readjustment Counseling Service;

“(C) have at least three years of experience administering direct counseling services or outreach services in the Readjustment Counseling Service;

“(D) meet the quality standards and requirements of the Department; and

“(E) are veterans who served in combat as members of the Armed Forces.

“(c) STRUCTURE.—(1) The Readjustment Counseling Service is a distinct organizational element within Veterans Health Administration.

“(2) The Readjustment Counseling Service shall provide counseling and services as described in subsection (a).

“(3) The Chief Officer shall have direct authority over all Readjustment Counseling Service staff and assets, including Vet Centers.

“(d) SOURCE OF FUNDS.—(1) Amounts for the activities of the Readjustment Counseling Service, including the operations of its Vet Centers, shall be derived from amounts appropriated for the Veterans Health Administration for medical care.

“(2) Amounts for activities of the Readjustment Counseling Service, including the operations of its Vet Centers, shall not be allocated through the Veterans Equitable Resource Allocation system.

“(3) In each budget request submitted for the Department of Veterans Affairs by the President to Congress under section 1105 of title 31, the budget request for the Readjustment Counseling Service shall be listed separately.

“(e) ANNUAL REPORT.—(1) Not later than March 15 of each year, the Secretary shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the activities of the Readjustment Counseling Service during the preceding calendar year.

“(2) Each report submitted under paragraph (1) shall include, with respect to the period covered by the report, the following:

“(A) A summary of the activities of the Readjustment Counseling Service, including Vet Centers.

“(B) A description of the workload and additional treatment capacity of the Vet Centers, including, for each Vet Center, the ratio of the number of full-time equivalent employees at such Vet Center and the number of individuals who received services or assistance at such Vet Center.

“(C) A detailed analysis of demand for and unmet need for readjustment counseling services and the Secretary’s plan for meeting such unmet need.

“(f) VET CENTER DEFINED.—In this section, the term ‘Vet Center’ has the meaning given the term in section 1712A(h)(1) of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of such title is amended by inserting after the item relating to section 7308 the following new item:

38 USC  
prec. 7301.

“7309. Readjustment Counseling Service.”.

(c) CONFORMING AMENDMENTS.—Section 7305 of such title is amended—

(1) by redesignating paragraph (7) as paragraph (8); and  
(2) by inserting after paragraph (6) the following new paragraph (7):

“(7) A Readjustment Counseling Service.”.

**SEC. 729. RECRUITMENT OF MENTAL HEALTH PROVIDERS FOR FURNISHING MENTAL HEALTH SERVICES ON BEHALF OF THE DEPARTMENT OF VETERANS AFFAIRS WITHOUT COMPENSATION FROM THE DEPARTMENT.**

38 USC 7405  
note.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a national program of outreach to societies, community organizations, nonprofit organizations, and government entities in order to recruit mental health providers who meet the quality standards and requirements of the Department of Veterans Affairs to provide mental health services for the Department on a part-time, without-compensation basis, under section 7405 of title 38, United States Code.

(b) PARTNERING WITH AND DEVELOPING COMMUNITY ENTITIES AND NONPROFIT ORGANIZATIONS.—In carrying out the program required by subsection (a), the Secretary may partner with a community entity or nonprofit organization or assist in the development of a community entity or nonprofit organization, including by entering into an agreement under section 8153 of title 38, United States Code, that provides strategic coordination of the societies, organizations, and government entities described in subsection (a) in order to maximize the availability and efficient delivery of mental health services to veterans by such societies, organizations, and government entities.

(c) **MILITARY CULTURE TRAINING.**—In carrying out the program required by subsection (a), the Secretary shall provide training to mental health providers to ensure that clinicians who provide mental health services as described in such subsection have sufficient understanding of military-specific and service-specific culture, combat experience, and other factors that are unique to the experience of veterans who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn.

**SEC. 730. PEER SUPPORT.**

(a) **PEER SUPPORT COUNSELING PROGRAM.**—

(1) **PROGRAM REQUIRED.**—Paragraph (1) of section 1720F(j) of title 38, United States Code, is amended in the matter preceding subparagraph (A) by striking “may” and inserting “shall”.

(2) **TRAINING.**—Paragraph (2) of such section is amended by inserting after “peer counselors” the following: “, including training carried out under the national program of training required by section 304(c) of the Caregivers and Veterans Omnibus Health Services Act of 2010 (38 U.S.C. 1712A note)”.

(3) **AVAILABILITY OF PROGRAM AT DEPARTMENT MEDICAL CENTERS.**—Such section is amended by adding at the end the following new paragraph:

“(3) In addition to other locations the Secretary considers appropriate, the Secretary shall carry out the peer support program under this subsection at each Department medical center.”

38 USC 1720F  
note.

(4) **DEADLINE FOR COMMENCEMENT OF PROGRAM.**—The Secretary of Veterans Affairs shall ensure that the peer support counseling program required by section 1720F(j) of title 38, United States Code, as amended by this subsection, commences at each Department of Veterans Affairs medical center not later than 270 days after the date of the enactment of this Act.

(b) **PEER OUTREACH AND PEER SUPPORT SERVICES AT DEPARTMENT MEDICAL CENTERS UNDER PROGRAM ON READJUSTMENT AND MENTAL HEALTH CARE SERVICES FOR VETERANS WHO SERVED IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.**—

(1) **IN GENERAL.**—Section 304 of the Caregivers and Veterans Omnibus Health Services Act of 2010 (Public Law 111-163; 38 U.S.C. 1712A note) is amended—

(A) by redesignating subsection (e) as subsection (f);

and

(B) by inserting after subsection (d) the following new subsection (e):

“(e) **PROVISION OF PEER OUTREACH AND PEER SUPPORT SERVICES AT DEPARTMENT MEDICAL CENTERS.**—The Secretary shall carry out the services required by subparagraphs (A) and (B) of subsection (a)(1) at each Department medical center.”

38 USC 1712A  
note.

(2) **DEADLINE.**—The Secretary of Veterans Affairs shall commence carrying out the services required by subparagraphs (A) and (B) of subsection (a)(1) of such section at each Department of Veterans Affairs medical center, as required by subsection (e) of such section (as added by paragraph (1)), not later than 270 days after the date of the enactment of this Act.

## Subtitle D—Reports and Other Matters

### SEC. 731. PLAN FOR REFORM OF THE ADMINISTRATION OF THE MILITARY HEALTH SYSTEM.

10 USC 1071  
note.

(a) DETAILED PLAN.—In implementing reforms to the governance of the military health system described in the memorandum of the Deputy Secretary of Defense dated March 2012, the Secretary of Defense shall develop a detailed plan to carry out such reform.

(b) ELEMENTS.—The plan developed under subsection (a) shall include the following:

(1) Goals to achieve while carrying out the reform described in subsection (a), including goals with respect to improving clinical and business practices, cost reductions, infrastructure reductions, and personnel reductions, achieved by establishing the Defense Health Agency, carrying out shared services, and modifying the governance of the National Capital Region.

(2) Metrics to evaluate the achievement of each goal under paragraph (1) with respect to the purpose, objective, and improvements made by each such goal.

(3) The personnel levels required for the Defense Health Agency and the National Capital Region Medical Directorate.

(4) A detailed schedule to carry out the reform described in subsection (a), including a schedule for meeting the goals under paragraph (1).

(5) Detailed information describing the initial operating capability of the Defense Health Agency.

(6) With respect to each shared service that the Secretary will implement during fiscal year 2013 or 2014—

(A) a timeline for such implementation; and

(B) a business case analysis detailing—

(i) the services that will be consolidated into the shared service;

(ii) the purpose of the shared service;

(iii) the scope of the responsibilities and goals for the shared service;

(iv) the cost of implementing the shared service, including the costs regarding personnel severance, relocation, military construction, information technology, and contractor support; and

(v) the anticipated cost savings to be realized by implementing the shared service.

(c) SUBMISSION.—The Secretary of Defense shall submit to the congressional defense committees the plan developed under subsection (a) as follows:

(1) The contents of the plan described in paragraphs (1) and (4) of subsection (b) shall be submitted not later than March 31, 2013.

(2) The contents of the plan described in paragraphs (2) and (3) of subsection (b) and paragraph (6) of such subsection with respect to shared services implemented during fiscal year 2013 shall be submitted not later than June 30, 2013.

(3) The contents of the plan described in paragraph (6) of such subsection with respect to shared services implemented during fiscal year 2014 shall be submitted not later than September 30, 2013.

(d) LIMITATIONS.—

(1) **FIRST SUBMISSION.**—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the accounts and activities described in paragraph (4), not more than 50 percent may be obligated or expended until the date on which the Secretary of Defense submits to the congressional defense committees the contents of the plan under subsection (c)(1).

(2) **SECOND SUBMISSION.**—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the accounts and activities described in paragraph (4), not more than 75 percent may be obligated or expended until the date on which the Secretary of Defense submits to the congressional defense committees the contents of the plan under subsection (c)(2).

(3) **COMPTROLLER GENERAL REVIEW.**—The Comptroller General of the United States shall submit to the congressional defense committees a review of the contents of the plan submitted under each of paragraphs (1) and (2) to assess whether the Secretary of Defense meets the requirements of such contents.

(4) **ACCOUNTS AND ACTIVITIES DESCRIBED.**—The accounts and activities described in this paragraph are as follows:

(A) Operation and maintenance, Defense-wide, for the Office of the Secretary of Defense for travel.

(B) Operation and maintenance, Defense-wide, for the Office of the Secretary of Defense for management professional support services.

(C) Operation and maintenance, Defense Health Program, for travel.

(D) Operation and maintenance, Defense Health Program, for management professional support services.

(e) **SHARED SERVICES DEFINED.**—In this section, the term “shared services” means the common services required for each military department to provide medical support to the Armed Forces and authorized beneficiaries.

**SEC. 732. FUTURE AVAILABILITY OF TRICARE PRIME THROUGHOUT THE UNITED STATES.**

(a) **REPORT REQUIRED.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy of the Department of Defense on the future availability of TRICARE Prime under the TRICARE program for eligible beneficiaries in all TRICARE regions throughout the United States.

(2) **ELEMENTS.**—The report required by paragraph (1) shall include the following:

(A) A description, by region, of the difference in availability of TRICARE Prime for eligible beneficiaries (other than eligible beneficiaries on active duty in the Armed Forces) under newly awarded TRICARE managed care contracts, including, in particular, an identification of the regions or areas in which TRICARE Prime will no longer be available for such beneficiaries under such contracts.

(B) An estimate of the increased costs to be incurred by an affected eligible beneficiary for health care under the TRICARE program.

(C) An estimate of the savings to be achieved by the Department as a result of the contracts described in subparagraph (A).

(D) A description of the plans of the Department to continue to assess the impact on access to health care for affected eligible beneficiaries.

(E) A description of the plan of the Department to provide assistance to affected eligible beneficiaries who are transitioning from TRICARE Prime to TRICARE Standard, including assistance with respect to identifying health care providers.

(F) Any other matter the Secretary considers appropriate.

(b) DEFINITIONS.—In this section:

(1) The term “affected eligible beneficiary” means an eligible beneficiary under the TRICARE Program (other than eligible beneficiaries on active duty in the Armed Forces) who, as of the date of the enactment of this Act—

(A) is enrolled in TRICARE Prime; and

(B) resides in a region of the United States in which TRICARE Prime enrollment will no longer be available for such beneficiary under a contract described in subsection (a)(2)(A) that does not allow for such enrollment because of the location in which such beneficiary resides.

(2) The term “TRICARE Prime” means the managed care option of the TRICARE program.

(3) The term “TRICARE program” has the meaning given that term in section 1072(7) of title 10, United States Code.

(4) The term “TRICARE Standard” means the fee-for-service option of the TRICARE Program.

**SEC. 733. EXTENSION OF COMPTROLLER GENERAL REPORT ON CONTRACT HEALTH CARE STAFFING FOR MILITARY MEDICAL TREATMENT FACILITIES.**

Section 726(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1480) is amended by striking “March 31, 2012” and inserting “March 31, 2013”.

**SEC. 734. EXTENSION OF COMPTROLLER GENERAL REPORT ON WOMEN-SPECIFIC HEALTH SERVICES AND TREATMENT FOR FEMALE MEMBERS OF THE ARMED FORCES.**

Section 725(c) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1480) is amended by striking “December 31, 2012” and inserting “March 31, 2013”.

**SEC. 735. STUDY ON HEALTH CARE AND RELATED SUPPORT FOR CHILDREN OF MEMBERS OF THE ARMED FORCES.**

(a) STUDY.—The Secretary of Defense shall conduct a study on the health care and related support provided by the Secretary to dependent children.

(b) ELEMENTS.—The study under subsection (a) shall include the following:

(1) A comprehensive review of the policies of the Secretary and the TRICARE program with respect to providing pediatric care.

(2) An assessment of access to pediatric health care by dependent children in appropriate settings.

(3) An assessment of access to specialty care by dependent children, including care for children with special health care needs.

(4) A comprehensive review and analysis of reimbursement under the TRICARE program for pediatric care.

(5) An assessment of the adequacy of the ECHO Program in meeting the needs of dependent children with extraordinary health care needs.

(6) An assessment of the adequacy of care management for dependent children with special health care needs.

(7) An assessment of the support provided through other Department of Defense or military department programs and policies that support the physical and behavioral health of dependent children, including children with special health care needs.

(8) Mechanisms for linking dependent children with special health care needs with State and local community resources, including children's hospitals and providers of pediatric specialty care.

(9) Strategies to mitigate the impact of frequent relocations related to military service on the continuity of health care services for dependent children, including children with special health and behavioral health care needs.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the study under subsection (a), including—

(1) the findings of the study;

(2) a plan to improve and continuously monitor the access of dependent children to quality health care; and

(3) any recommendations for legislation that the Secretary considers necessary to maintain the highest quality of health care for dependent children.

(d) DEFINITIONS.—In this section:

(1) The term “dependent children” means the children of members of the Armed Forces who are covered beneficiaries under chapter 55 of title 10, United States Code.

(2) The term “ECHO Program” means the Extended Care Health Option under subsections (d) through (f) of section 1079 of title 10, United States Code.

**SEC. 736. REPORT ON STRATEGY TO TRANSITION TO USE OF HUMAN-BASED METHODS FOR CERTAIN MEDICAL TRAINING.**

(a) REPORT.—

(1) IN GENERAL.—Not later than March 1, 2013, the Secretary of Defense shall submit to the congressional defense committees a report that outlines a strategy, including a detailed timeline, to refine and, when appropriate, transition to using human-based training methods for the purpose of training members of the Armed Forces in the treatment of combat trauma injuries.

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) Required research, development, testing, and evaluation investments to validate human-based training



methods to refine, reduce, and, when appropriate, transition from the use of live animals in medical education and training.

(B) Phased sustainment and readiness costs to refine, reduce, and, when appropriate, replace the use of live animals in medical education and training.

(C) Any risks associated with transitioning to human-based training methods, including resource availability, anticipated technological development timelines, and potential impact on the present combat trauma training curricula.

(D) An assessment of the potential effect of transitioning to human-based training methods on the quality of medical care delivered on the battlefield, including any reduction in the competency of combat medical personnel.

(E) An assessment of risks to maintaining the level of combat life-saver techniques performed by all members of the Armed Forces.

(b) DEFINITIONS.—In this section:

(1) The term “combat trauma injuries” means severe injuries likely to occur during combat, including—

- (A) extremity hemorrhage;
- (B) tension pneumothorax;
- (C) amputation resulting from blast injury;
- (D) compromises to the airway; and
- (E) other injuries.

(2) The term “human-based training methods” means, with respect to training individuals in medical treatment, the use of systems and devices that do not use animals, including—

- (A) simulators;
- (B) partial task trainers;
- (C) moulage;
- (D) simulated combat environments; and
- (E) human cadavers.

(3) The term “partial task trainers” means training aids that allow individuals to learn or practice specific medical procedures.

**SEC. 737. STUDY ON INCIDENCE OF BREAST CANCER AMONG MEMBERS OF THE ARMED FORCES SERVING ON ACTIVE DUTY.**

(a) STUDY.—The Secretary of Defense shall conduct a study on the incidence of breast cancer among members of the Armed Forces serving on active duty.

(b) ELEMENTS.—The study under subsection (a) shall include the following:

(1) A determination of the number of members of the Armed Forces who served on active duty at any time during the period from 2000 to 2010 who were diagnosed with breast cancer during such period.

(2) A determination of demographic information regarding such members, including race, ethnicity, sex, age, and rank.

(3) An analysis of breast cancer treatments received by such members and the source of such treatment.

(4) The availability and training of breast cancer specialists within the military health system.

(5) A comparison of the rates of members of the Armed Forces serving on active duty who have breast cancer to civilian populations with comparable demographic characteristics.

(6) Identification of potential factors associated with military service that could increase the risk of breast cancer for members of the Armed Forces serving on active duty.

(7) A description of a research agenda to further the understanding of the Department of Defense of the incidence of breast cancer among such members.

(8) An assessment of the effectiveness of outreach to members of the Armed Forces to identify risks of, prevent, detect, and treat breast cancer.

(9) Recommendations for changes to policy or law that could improve the prevention, early detection, awareness, and treatment of breast cancer among members of the Armed Forces serving on active duty.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the findings and recommendations of the study under subsection (a), including a description of any further unique military research needed with respect to breast cancer.

10 USC 1071  
note.

**SEC. 738. PERFORMANCE METRICS AND REPORTS ON WARRIORS IN TRANSITION PROGRAMS OF THE MILITARY DEPARTMENTS.**

Policy.

(a) METRICS REQUIRED.—The Secretary of Defense shall establish a policy containing uniform performance outcome measurements to be used by each Secretary of a military department in tracking and monitoring members of the Armed Forces in Warriors in Transition programs.

(b) ELEMENTS.—The policy established under subsection (a) shall identify outcome measurements with respect to the following:

(1) Physical health and behavioral health.

(2) Rehabilitation.

(3) Educational and vocational preparation.

(4) Such other matters as the Secretary considers appropriate.

(c) MILESTONES.—In establishing the policy under subsection (a), the Secretary of Defense shall establish metrics and milestones for members in Warriors in Transition programs. Such metrics and milestones shall cover members throughout the course of care and rehabilitation in Warriors in Transitions programs by applying to the following occasions:

(1) When the member commences participation in the program.

(2) At least once each year the member participates in the program.

(3) When the member ceases participation in the program or is transferred to the jurisdiction of the Secretary of Veterans Affairs.

(d) COHORT GROUPS AND PARAMETERS.—The policy established under subsection (a)—

(1) may differentiate among cohort groups within the population of members in Warriors in Transition programs, as appropriate; and

(2) shall include parameters for specific outcome measurements in each element under subsection (b) and each metric and milestone under subsection (c).

(e) REPORTS REQUIRED.—

(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the policy established under subsection (a), including the outcome measurements for each element under subsection (b) and each metric and milestone under subsection (c).

(2) ANNUAL REPORTS.—Not later than February of each year beginning in 2014 and ending in 2018, the Secretary of Defense shall submit to the congressional defense committees a report on the performance of the military departments with respect to the policy established under subsection (a). Each report shall include—

(A) an analysis of—

(i) data on improvements in the progress of members in Warriors in Transition programs in each specific area identified in the policy;

(ii) access to health and rehabilitation services by such members, including average appointment waiting times by specialty;

(iii) effectiveness of the programs in assisting in the transition of such members to military duty or civilian life through education and vocational assistance;

(iv) any differences in outcomes in Warriors in Transition programs, and the reason for any such differences; and

(v) the quantities and effectiveness of medical and nonmedical case managers, legal support and physical evaluation board liaison officers, mental health care providers, and medical evaluation physicians in comparison to the actual number of members requiring such services; and

(B) such other results and analyses as the Secretary considers appropriate, including any recommendations for legislation if needed.

(f) WARRIORS IN TRANSITION PROGRAM DEFINED.—In this section, the term “Warriors in Transition program” means any major support program of the Armed Forces for members of the Armed Forces with severe wounds, illnesses, or injuries that is intended to provide such members with nonmedical case management service and care coordination services, and includes the programs as follows:

(1) Warrior Transition Units and the Wounded Warrior Program of the Army.

(2) The Wounded Warrior Safe Harbor program of the Navy.

(3) The Wounded Warrior Regiment of the Marine Corps.

(4) The Recovery Care Program and the Wounded Warrior programs of the Air Force.

(5) The Care Coalition of the United States Special Operations Command.

**SEC. 739. PLAN TO ELIMINATE GAPS AND REDUNDANCIES IN PROGRAMS OF THE DEPARTMENT OF DEFENSE ON PSYCHOLOGICAL HEALTH AND TRAUMATIC BRAIN INJURY.**

(a) SENSE OF CONGRESS.—Congress supports the efforts of the Secretary of Veterans Affairs and the Secretary of Defense to educate members of the Armed Forces, veterans, the families of such members and veterans, the medical community, and the public with respect to the causes, symptoms, and treatment of post-traumatic stress disorder.

(b) PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to improve the coordination and integration of the programs of the Department of Defense that address traumatic brain injury and the psychological health of members of the Armed Forces.

(2) ELEMENTS.—The plan under paragraph (1) shall include the following:

(A) Identification of—

(i) any gaps in services and treatments provided by the programs of the Department of Defense that address traumatic brain injury and the psychological health of members of the Armed Forces; and

(ii) any unnecessary redundancies in such programs.

(B) A plan for mitigating the gaps and redundancies identified under subparagraph (A).

(C) Identification of the official within the Department who will be responsible for leading the implementation of the plan described in paragraph (1).

## **TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS**

### **Subtitle A—Acquisition Policy and Management**

Sec. 801. Treatment of procurements on behalf of the Department of Defense through the Work for Others program of the Department of Energy.

Sec. 802. Review and justification of pass-through contracts.

Sec. 803. Availability of amounts in Defense Acquisition Workforce Development Fund.

Sec. 804. Department of Defense policy on contractor profits.

Sec. 805. Modification of authorities on internal controls for procurements on behalf of the Department of Defense by certain nondefense agencies.

Sec. 806. Extension of authority relating to management of supply-chain risk.

Sec. 807. Sense of Congress on the continuing progress of the Department of Defense in implementing its Item Unique Identification Initiative.

### **Subtitle B—Provisions Relating to Major Defense Acquisition Programs**

Sec. 811. Limitation on use of cost-type contracts.

Sec. 812. Estimates of potential termination liability of contracts for the development or production of major defense acquisition programs.

Sec. 813. Technical change regarding programs experiencing critical cost growth due to change in quantity purchased.

Sec. 814. Repeal of requirement to review ongoing programs initiated before enactment of Milestone B certification and approval process.

## Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

- Sec. 821. Modification of time period for congressional notification of the lease of certain vessels by the Department of Defense.
- Sec. 822. Extension of authority for use of simplified acquisition procedures for certain commercial items.
- Sec. 823. Codification and amendment relating to life-cycle management and product support requirements.
- Sec. 824. Codification of requirement relating to Government performance of critical acquisition functions.
- Sec. 825. Competition in acquisition of major subsystems and subassemblies on major defense acquisition programs.
- Sec. 826. Compliance with Berry Amendment required for uniform components supplied to Afghan military or Afghan National Police.
- Sec. 827. Enhancement of whistleblower protections for contractor employees.
- Sec. 828. Pilot program for enhancement of contractor employee whistleblower protections.
- Sec. 829. Extension of contractor conflict of interest limitations.
- Sec. 830. Repeal of sunset for certain protests of task and delivery order contracts.
- Sec. 831. Guidance and training related to evaluating reasonableness of price.
- Sec. 832. Department of Defense access to, use of, and safeguards and protections for contractor internal audit reports.
- Sec. 833. Contractor responsibilities in regulations relating to detection and avoidance of counterfeit electronic parts.

## Subtitle D—Provisions Relating to Contracts in Support of Contingency Operations

- Sec. 841. Extension and expansion of authority to acquire products and services produced in countries along a major route of supply to Afghanistan.
- Sec. 842. Limitation on authority to acquire products and services produced in Afghanistan.
- Sec. 843. Responsibility within Department of Defense for operational contract support.
- Sec. 844. Data collection on contract support for future overseas contingency operations involving combat operations.
- Sec. 845. Inclusion of operational contract support in certain requirements for Department of Defense planning, joint professional military education, and management structure.
- Sec. 846. Requirements for risk assessments related to contractor performance.
- Sec. 847. Extension and modification of reports on contracting in Iraq and Afghanistan.
- Sec. 848. Responsibilities of inspectors general for overseas contingency operations.
- Sec. 849. Oversight of contracts and contracting activities for overseas contingency operations in responsibilities of Chief Acquisition Officers of Federal agencies.
- Sec. 850. Reports on responsibility within Department of State and the United States Agency for International Development for contract support for overseas contingency operations.
- Sec. 851. Database on price trends of items and services under Federal contracts.
- Sec. 852. Information on corporate contractor performance and integrity through the Federal Awardee Performance and Integrity Information System.
- Sec. 853. Inclusion of data on contractor performance in past performance databases for executive agency source selection decisions.

## Subtitle E—Other Matters

- Sec. 861. Requirements and limitations for suspension and debarment officials of the Department of Defense, the Department of State, and the United States Agency for International Development.
- Sec. 862. Uniform contract writing system requirements.
- Sec. 863. Extension of other transaction authority.
- Sec. 864. Report on allowable costs of compensation of contractor employees.
- Sec. 865. Reports on use of indemnification agreements.
- Sec. 866. Plan to increase number of contractors eligible for contracts under Air Force NETCENTS-2 contract.
- Sec. 867. Inclusion of information on prevalent grounds for sustaining bid protests in annual protest report by Comptroller General to Congress.

## Subtitle A—Acquisition Policy and Management

### SEC. 801. TREATMENT OF PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE THROUGH THE WORK FOR OTHERS PROGRAM OF THE DEPARTMENT OF ENERGY.

(a) IN GENERAL.—Subsection (d) of section 801 of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 2304 note) is amended—

(1) in the subsection heading, by striking “DEFENSE” and inserting “APPLICABLE”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by striking “For the purposes” and inserting “(1) Except as provided in paragraph (2), for the purposes”;

(4) in paragraph (1), as designated by paragraph (3) of this subsection, by striking “defense procurement” and inserting “applicable procurement”; and

(5) by adding at the end the following new paragraph (2):

“(2) In the case of the procurement of property or services on behalf of the Department of Defense through the Work for Others program of the Department of Energy, the laws and regulations applicable under paragraph (1)(B) are the Department of Energy Acquisition Regulations, pertinent interagency agreements, and Department of Defense and Department of Energy policies related to the Work for Others program.”.

(b) CONFORMING AMENDMENTS.—Such section is further amended by striking “defense procurement” and inserting “applicable procurement” each place it appears as follows:

(1) Subsection (a)(1)(B).

(2) Subsection (a)(4) (as redesignated by section 805(a)(3)).

(3) Subsection (a)(4)(A) (as redesignated by section 805(a)(3)).

(4) Subsection (b)(1)(A).

(5) Subsection (b)(1)(B)(ii).

(6) Subsection (c)(2)(F).

10 USC 2304  
note.

Deadline.

### SEC. 802. REVIEW AND JUSTIFICATION OF PASS-THROUGH CONTRACTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall issue such guidance and regulations as may be necessary to ensure that in any case in which an offeror for a contract or a task or delivery order informs the agency pursuant to section 52.215-22 of the Federal Acquisition Regulation that the offeror intends to award subcontracts for more than 70 percent of the total cost of work to be performed under the contract, task order, or delivery order, the contracting officer for the contract is required to—

(1) consider the availability of alternative contract vehicles and the feasibility of contracting directly with a subcontractor or subcontractors that will perform the bulk of the work;

(2) make a written determination that the contracting approach selected is in the best interest of the Government; and

Determination.

(3) document the basis for such determination.

**SEC. 803. AVAILABILITY OF AMOUNTS IN DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND.**

(a) IN GENERAL.—Section 1705 of title 10, United States Code, is amended—

(1) in subsection (d)(2)(C), by striking clauses (i) through (vi) and inserting the following:

- “(i) For fiscal year 2013, \$500,000,000.
- “(ii) For fiscal year 2014, \$800,000,000.
- “(iii) For fiscal year 2015, \$700,000,000.
- “(iv) For fiscal year 2016, \$600,000,000.
- “(v) For fiscal year 2017, \$500,000,000.
- “(vi) For fiscal year 2018, \$400,000,000.”;

(2) in subsection (e)—

(A) in paragraph (1), by adding at the end the following new sentence: “In the case of temporary members of the acquisition workforce designated pursuant to subsection (h)(2), such funds shall be available only for the limited purpose of providing training in the performance of acquisition-related functions and duties.”; and

(B) in paragraph (5), by inserting before the period at the end the following: “, and who has continued in the employment of the Department since such time without a break in such employment of more than a year”;

(3) by striking subsection (g);

(4) by redesignating subsection (h) as subsection (g); and

(5) by adding at the end the following new subsection

(h):

“(h) ACQUISITION WORKFORCE DEFINED.—In this section, the term ‘acquisition workforce’ means the following:

“(1) Personnel in positions designated under section 1721 of this title as acquisition positions for purposes of this chapter.

“(2) Other military personnel or civilian employees of the Department of Defense who—

“(A) contribute significantly to the acquisition process by virtue of their assigned duties; and

“(B) are designated as temporary members of the acquisition workforce by the Under Secretary of Defense for Acquisition, Technology, and Logistics, or by the senior acquisition executive of a military department, for the limited purpose of receiving training for the performance of acquisition-related functions and duties.”.

(b) EXTENSION OF EXPEDITED HIRING AUTHORITY.—Subsection (g) of such section, as redesignated by subsection (a)(4) of this section, is further amended in paragraph (2) by striking “September 30, 2015” and inserting “September 30, 2017”.

(c) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall develop a plan for the implementation of the authority provided by the amendments made by subsection (a) with regard to temporary members of the defense acquisition workforce. The plan shall include policy, criteria, and

Deadline.  
10 USC 1705  
note.

processes for designating temporary members and appropriate safeguards to prevent the abuse of such authority.

10 USC 2302  
note.

**SEC. 804. DEPARTMENT OF DEFENSE POLICY ON CONTRACTOR PROFITS.**

(a) **REVIEW OF GUIDELINES ON PROFITS.**—The Secretary of Defense shall review the profit guidelines in the Department of Defense Supplement to the Federal Acquisition Regulation in order to identify any modifications to such guidelines that are necessary to ensure an appropriate link between contractor profit and contractor performance. In conducting the review, the Secretary shall obtain the views of experts and interested parties in Government and the private sector.

(b) **MATTERS TO BE CONSIDERED.**—In conducting the review required by subsection (a), the Secretary shall consider, at a minimum, the following:

(1) Appropriate levels of profit needed to sustain competition in the defense industry, taking into account contractor investment and cash flow.

(2) Appropriate adjustments to address contract and performance risk assumed by the contractor, taking into account the extent to which such risk is passed on to subcontractors.

(3) Appropriate incentives for superior performance in delivering quality products and services in a timely and cost-effective manner, taking into account such factors as prime contractor cost reduction, control of overhead costs, subcontractor cost reduction, subcontractor management, and effective competition (including the use of small business) at the sub-contract level.

Deadline.

(c) **MODIFICATION OF GUIDELINES.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall modify the profit guidelines described in subsection (a) to make such changes as the Secretary determines to be appropriate based on the review conducted pursuant to that subsection.

**SEC. 805. MODIFICATION OF AUTHORITIES ON INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE BY CERTAIN NONDEFENSE AGENCIES.**

(a) **DISCRETIONARY AUTHORITY.**—Subsection (a) of section 801 of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 2304 note) is amended—

(1) in paragraph (1), by striking “shall, not later than the date specified in paragraph (2),” and inserting “may”;

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively;

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection—

(A) by striking “required under this subsection” and inserting “to be performed under this subsection”; and

(B) by striking “shall” and inserting “may”; and

(5) in paragraph (4), as so redesignated, by striking “shall” and inserting “may”.

(b) **CONFORMING AMENDMENTS.**—Subsection (b)(1)(B) of such section is amended—

(1) in clause (i), by striking “required by subsection (a)(4)” and inserting “to be entered into under subsection (a)(3)”; and



(2) in clause (ii)—

(A) by striking “required by subsection (a)” and inserting “provided for under subsection (a)”; and

(B) by striking “subsection (a)(5)” and inserting “subsection (a)(4)”.

**SEC. 806. EXTENSION OF AUTHORITY RELATING TO MANAGEMENT OF SUPPLY-CHAIN RISK.**

(a) **EXTENSION.**—Section 806(g) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4262; 10 U.S.C. 2304 note) is amended by striking “the date that is three years after the date of the enactment of this Act” and inserting “September 30, 2018”.

(b) **VERIFICATION OF EFFECTIVE IMPLEMENTATION.**—Section 806 of such Act is further amended by adding at the end the following new subsection:

“(h) **VERIFICATION OF EFFECTIVE IMPLEMENTATION.**—

“(1) **CRITERIA AND DATA COLLECTION TO MEASURE EFFECTIVENESS.**—The Secretary of Defense shall—

“(A) establish criteria for measuring the effectiveness of the authority provided by this section; and

“(B) collect data to evaluate the implementation of this section using such criteria.

“(2) **REPORTS.**—The Secretary shall submit to the appropriate congressional committees—

“(A) not later than March 1, 2013, a report on the criteria established under paragraph (1)(A); and

“(B) not later than January 1, 2017, a report on the effectiveness of the implementation of this section, based on data collected under paragraph (1)(B).”.

(c) **TECHNICAL AMENDMENT.**—Section 806(f)(2) of such Act is amended by striking “that awarded” and inserting “that are awarded”.

**SEC. 807. SENSE OF CONGRESS ON THE CONTINUING PROGRESS OF THE DEPARTMENT OF DEFENSE IN IMPLEMENTING ITS ITEM UNIQUE IDENTIFICATION INITIATIVE.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) In 2003, the Department of Defense initiated the Item Unique Identification (IUID) Initiative, which requires the marking and tracking of assets deployed throughout the Armed Forces or in the possession of Department contractors.

(2) The Initiative has the potential for realizing significant cost savings and improving the management of defense equipment and supplies throughout their lifecycle.

(3) The Initiative can help the Department combat the growing problem of counterfeit parts in the military supply chain.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress—

(1) to support efforts by the Department of Defense to implement the Item Unique Identification Initiative;

(2) to support measures to verify contractor compliance with section 252.211-7003 (entitled “Item Identification and Valuation”) of the Defense Supplement to the Federal Acquisition Regulation, on Unique Identification, which states that a unique identification equivalent recognized by the Department is required for certain acquisitions;

(3) to encourage the Armed Forces to adopt and implement Item Unique Identification actions and milestones; and

(4) to support investment of sufficient resources and continued training and leadership to enable the Department to capture meaningful data and optimize the benefits of the Item Unique Identification Initiative.

## Subtitle B—Provisions Relating to Major Defense Acquisition Programs

10 USC 2430  
note.

Deadline.  
Regulations.

Certification.

### SEC. 811. LIMITATION ON USE OF COST-TYPE CONTRACTS.

(a) PROHIBITION WITH RESPECT TO PRODUCTION OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall modify the acquisition regulations of the Department of Defense to prohibit the Department from entering into cost-type contracts for the production of major defense acquisition programs.

(b) EXCEPTION.—

(1) IN GENERAL.—The prohibition under subsection (a) shall not apply in the case of a particular cost-type contract if the Under Secretary of Defense for Acquisition, Technology, and Logistics provides written certification to the congressional defense committees that a cost-type contract is needed to provide a required capability in a timely and cost-effective manner.

(2) SCOPE OF EXCEPTION.—In any case for which the Under Secretary grants an exception under paragraph (1), the Under Secretary shall take affirmative steps to make sure that the use of cost-type pricing is limited to only those line items or portions of the contract where such pricing is needed to achieve the purposes of the exception. A written certification under paragraph (1) shall be accompanied by an explanation of the steps taken under this paragraph.

(c) DEFINITIONS.—In this section:

(1) MAJOR DEFENSE ACQUISITION PROGRAM.—The term “major defense acquisition program” has the meaning given the term in section 2430(a) of title 10, United States Code.

(2) PRODUCTION OF A MAJOR DEFENSE ACQUISITION PROGRAM.—The term “production of a major defense acquisition program” means the production and deployment of a major system that is intended to achieve an operational capability that satisfies mission needs, or any activity otherwise defined as Milestone C under Department of Defense Instruction 5000.02 or related authorities.

(3) CONTRACT FOR THE PRODUCTION OF A MAJOR DEFENSE ACQUISITION PROGRAM.—The term “contract for the production of a major defense acquisition program”—

(A) means a prime contract for the production of a major defense acquisition program; and

(B) does not include individual line items for segregable efforts or contracts for the incremental improvement of systems that are already in production (other than contracts for major upgrades that are themselves major defense acquisition programs).

Effective date.

(d) APPLICABILITY.—The requirements of this section shall apply to contracts for the production of major defense acquisition programs entered into on or after October 1, 2014.

**SEC. 812. ESTIMATES OF POTENTIAL TERMINATION LIABILITY OF CONTRACTS FOR THE DEVELOPMENT OR PRODUCTION OF MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) **DEPARTMENT OF DEFENSE REVIEW.**—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review relevant acquisition guidance and take appropriate actions to ensure that program managers for major defense acquisition programs are preparing estimates of potential termination liability for covered contracts, including how such termination liability is likely to increase or decrease over the period of performance, and are giving appropriate consideration to such estimates before making recommendations on decisions to enter into or terminate such contracts. Deadline.

(b) **COMPTROLLER GENERAL OF THE UNITED STATES REPORT.**—

(1) **IN GENERAL.**—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the extent to which the Department of Defense is considering potential termination liability as a factor in entering into and in terminating covered contracts. Deadline.

(2) **MATTERS TO BE ADDRESSED.**—The report required by paragraph (1) shall include, at a minimum, an assessment of the following:

(A) The extent to which the Department of Defense developed estimates of potential termination liability for covered contracts entered into before the date of the enactment of this Act and how such termination liability was likely to increase or decrease over the period of performance before making decisions to enter into or terminate such contracts.

(B) The extent to which the Department considered estimates of potential termination liability for such contracts and how such termination liability was likely to increase or decrease over the period of performance as a risk factor in deciding whether to enter into or terminate such contracts.

(c) **COVERED CONTRACTS.**—For purposes of this section, a covered contract is a contract for the development or production of a major defense acquisition program for which potential termination liability could reasonably be expected to exceed \$100,000,000. Definition.

(d) **MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.**—In this section, the term “major defense acquisition program” has the meaning given that term in section 2430(a) of title 10, United States Code.

**SEC. 813. TECHNICAL CHANGE REGARDING PROGRAMS EXPERIENCING CRITICAL COST GROWTH DUE TO CHANGE IN QUANTITY PURCHASED.**

Section 2433a(c)(3)(A) of title 10, United States Code, is amended by striking “subparagraphs (B) and (C)” and inserting “subparagraphs (B), (C), and (E)”.

**SEC. 814. REPEAL OF REQUIREMENT TO REVIEW ONGOING PROGRAMS INITIATED BEFORE ENACTMENT OF MILESTONE B CERTIFICATION AND APPROVAL PROCESS.**

Subsection (b) of section 205 of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111–23; 123 Stat. 1725; 10 U.S.C. 2366b note) is repealed.

**Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations**

**SEC. 821. MODIFICATION OF TIME PERIOD FOR CONGRESSIONAL NOTIFICATION OF THE LEASE OF CERTAIN VESSELS BY THE DEPARTMENT OF DEFENSE.**

Section 2401(h)(2) of title 10, United States Code, is amended by striking “30 days of continuous session of Congress” and inserting “60 days”.

**SEC. 822. EXTENSION OF AUTHORITY FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES FOR CERTAIN COMMERCIAL ITEMS.**

Effective date.

(a) **EXTENSION.**—Effective as of January 1, 2012, section 4202 of the Clinger–Cohen Act of 1996 (division D of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) is amended in subsection (e) by striking “2012” and inserting “2015”.

(b) **TECHNICAL AMENDMENT TO CROSS REFERENCES.**—Subsection (e) of such Act is further amended by striking “section 303(g)(1) of the Federal Property and Administrative Services Act of 1949, and section 31(a) of the Office of Federal Procurement Policy Act, as amended by this section,” and inserting “section 3305(a) of title 41, United States Code, and section 1901(a) of title 41, United States Code,”.

**SEC. 823. CODIFICATION AND AMENDMENT RELATING TO LIFE-CYCLE MANAGEMENT AND PRODUCT SUPPORT REQUIREMENTS.**

(a) **CODIFICATION AND AMENDMENT.**—

(1) **IN GENERAL.**—Chapter 137 of title 10, United States Code, as amended by section 331, is further amended by adding at the end the following new section:

10 USC 2337.

**“§ 2337. Life-cycle management and product support**

“(a) **GUIDANCE ON LIFE-CYCLE MANAGEMENT.**—The Secretary of Defense shall issue and maintain comprehensive guidance on life-cycle management and the development and implementation of product support strategies for major weapon systems. The guidance issued pursuant to this subsection shall—

“(1) maximize competition and make the best possible use of available Department of Defense and industry resources at the system, subsystem, and component levels; and

“(2) maximize value to the Department of Defense by providing the best possible product support outcomes at the lowest operations and support cost.

“(b) **PRODUCT SUPPORT MANAGERS.**—

“(1) REQUIREMENT.—The Secretary of Defense shall require that each major weapon system be supported by a product support manager in accordance with this subsection.

“(2) RESPONSIBILITIES.—A product support manager for a major weapon system shall—

“(A) develop and implement a comprehensive product support strategy for the weapon system;

“(B) use appropriate predictive analysis and modeling tools that can improve material availability and reliability, increase operational availability rates, and reduce operation and sustainment costs;

“(C) conduct appropriate cost analyses to validate the product support strategy, including cost-benefit analyses as outlined in Office of Management and Budget Circular A-94;

“(D) ensure achievement of desired product support outcomes through development and implementation of appropriate product support arrangements;

“(E) adjust performance requirements and resource allocations across product support integrators and product support providers as necessary to optimize implementation of the product support strategy;

“(F) periodically review product support arrangements between the product support integrators and product support providers to ensure the arrangements are consistent with the overall product support strategy;

“(G) prior to each change in the product support strategy or every five years, whichever occurs first, revalidate any business-case analysis performed in support of the product support strategy; and

“(H) ensure that the product support strategy maximizes small business participation at the appropriate tiers.

“(c) DEFINITIONS.—In this section:

“(1) PRODUCT SUPPORT.—The term ‘product support’ means the package of support functions required to field and maintain the readiness and operational capability of major weapon systems, subsystems, and components, including all functions related to weapon system readiness.

“(2) PRODUCT SUPPORT ARRANGEMENT.—The term ‘product support arrangement’ means a contract, task order, or any type of other contractual arrangement, or any type of agreement or non-contractual arrangement within the Federal Government, for the performance of sustainment or logistics support required for major weapon systems, subsystems, or components. The term includes arrangements for any of the following:

“(A) Performance-based logistics.

“(B) Sustainment support.

“(C) Contractor logistics support.

“(D) Life-cycle product support.

“(E) Weapon systems product support.

“(3) PRODUCT SUPPORT INTEGRATOR.—The term ‘product support integrator’ means an entity within the Federal Government or outside the Federal Government charged with integrating all sources of product support, both private and public, defined within the scope of a product support arrangement.

“(4) PRODUCT SUPPORT PROVIDER.—The term ‘product support provider’ means an entity that provides product support

functions. The term includes an entity within the Department of Defense, an entity within the private sector, or a partnership between such entities.

“(5) MAJOR WEAPON SYSTEM.—The term ‘major weapon system’ means a major system within the meaning of section 2302d(a) of this title.”.

10 USC  
prec. 2301.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title, as so amended, is further amended by adding at the end the following new item:

“2337. Life-cycle management and product support.”.

(b) REPEAL OF SUPERSEDED SECTION.—Section 805 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 10 U.S.C. 2302 note) is repealed.

**SEC. 824. CODIFICATION OF REQUIREMENT RELATING TO GOVERNMENT PERFORMANCE OF CRITICAL ACQUISITION FUNCTIONS.**

(a) CODIFICATION.—

(1) IN GENERAL.—Subchapter I of chapter 87 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 1706.

**“§ 1706. Government performance of certain acquisition functions**

“(a) GOAL.—It shall be the goal of the Department of Defense and each of the military departments to ensure that, for each major defense acquisition program and each major automated information system program, each of the following positions is performed by a properly qualified member of the armed forces or full-time employee of the Department of Defense:

- “(1) Program executive officer.
- “(2) Deputy program executive officer.
- “(3) Program manager.
- “(4) Deputy program manager.
- “(5) Senior contracting official.
- “(6) Chief developmental tester.
- “(7) Program lead product support manager.
- “(8) Program lead systems engineer.
- “(9) Program lead cost estimator.
- “(10) Program lead contracting officer.
- “(11) Program lead business financial manager.
- “(12) Program lead production, quality, and manufacturing.
- “(13) Program lead information technology.

“(b) PLAN OF ACTION.—The Secretary of Defense shall develop and implement a plan of action for recruiting, training, and ensuring appropriate career development of military and civilian personnel to achieve the objective established in subsection (a).

“(c) DEFINITIONS.—In this section:

“(1) The term ‘major defense acquisition program’ has the meaning given such term in section 2430(a) of this title.

“(2) The term ‘major automated information system program’ has the meaning given such term in section 2445a(a) of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

10 USC  
prec. 1701.

“1706. Government performance of certain acquisition functions.”.

(b) REPEAL OF SUPERSEDED SECTION.—Section 820 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 1701 note) is repealed.

**SEC. 825. COMPETITION IN ACQUISITION OF MAJOR SUBSYSTEMS AND SUBASSEMBLIES ON MAJOR DEFENSE ACQUISITION PROGRAMS.**

Section 202(c) of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111–23; 123 Stat. 1720; 10 U.S.C. 2430 note) is amended—

(1) in the matter preceding paragraph (1), by striking “fair and objective ‘make-buy’ decisions by prime contractors” and inserting “competition or the option of competition at the sub-contract level”;

(2) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting before paragraph (2), as redesignated by paragraph (2) of this section, the following new paragraph (1):

“(1) where appropriate, breaking out a major subsystem, conducting a separate competition for the subsystem, and providing the subsystem to the prime contractor as Government-furnished equipment;”.

**SEC. 826. COMPLIANCE WITH BERRY AMENDMENT REQUIRED FOR UNIFORM COMPONENTS SUPPLIED TO AFGHAN MILITARY OR AFGHAN NATIONAL POLICE.**

Applicability.

(a) REQUIREMENT.—In the case of any textile components supplied by the Department of Defense to the Afghan National Army or the Afghan National Police for purposes of production of uniforms, section 2533a of title 10, United States Code, shall apply, and no exceptions or exemptions under that section shall apply.

(b) EFFECTIVE DATE.—This section shall apply to solicitations issued and contracts awarded for the procurement of such components after the date of the enactment of this Act.

**SEC. 827. ENHANCEMENT OF WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.**

(a) IN GENERAL.—Subsection (a) of section 2409 of title 10, United States Code, is amended—

(1) by inserting “(1)” before “An employee”;

(2) in paragraph (1), as so designated—

(A) by inserting “or subcontractor” after “employee of a contractor”;

(B) by striking “a Member of Congress” and all that follows through “the Department of Justice” and inserting “a person or body described in paragraph (2)”;

(C) by striking “evidence of” and all that follows and inserting the following: “evidence of the following:

“(A) Gross mismanagement of a Department of Defense contract or grant, a gross waste of Department funds, an abuse of authority relating to a Department contract or grant, or a violation of law, rule, or regulation related to a Department

contract (including the competition for or negotiation of a contract) or grant.

“(B) Gross mismanagement of a National Aeronautics and Space Administration contract or grant, a gross waste of Administration funds, an abuse of authority relating to an Administration contract or grant, or a violation of law, rule, or regulation related to an Administration contract (including the competition for or negotiation of a contract) or grant.

“(C) A substantial and specific danger to public health or safety.”; and

(3) by adding at the end the following new paragraphs:

“(2) The persons and bodies described in this paragraph are the persons and bodies as follows:

“(A) A Member of Congress or a representative of a committee of Congress.

“(B) An Inspector General.

“(C) The Government Accountability Office.

“(D) An employee of the Department of Defense or the National Aeronautics and Space Administration, as applicable, responsible for contract oversight or management.

“(E) An authorized official of the Department of Justice or other law enforcement agency.

“(F) A court or grand jury.

“(G) A management official or other employee of the contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

“(3) For the purposes of paragraph (1)—

“(A) an employee who initiates or provides evidence of contractor or subcontractor misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Department of Defense or National Aeronautics and Space Administration contract or grant shall be deemed to have made a disclosure covered by such paragraph; and

“(B) a reprisal described in paragraph (1) is prohibited even if it is undertaken at the request of a Department or Administration official, unless the request takes the form of a nondiscretionary directive and is within the authority of the Department or Administration official making the request.”.

(b) INVESTIGATION OF COMPLAINTS.—Subsection (b) of such section is amended—

(1) in paragraph (1), by inserting “fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant,” after “is frivolous,”;

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting “, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant” after “is frivolous”; and

(B) in subparagraph (B), by inserting “, up to 180 days,” after “such additional period of time”; and

(3) by adding at the end the following new paragraphs:

“(3) The Inspector General may not respond to any inquiry or disclose any information from or about any person alleging the reprisal, except to the extent that such response or disclosure is—



“(A) made with the consent of the person alleging the reprisal;

“(B) made in accordance with the provisions of section 552a of title 5 or as required by any other applicable Federal law; or

“(C) necessary to conduct an investigation of the alleged reprisal.

“(4) A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.”.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—Subsection (c) of such section is amended—

(1) in paragraph (1)(B), by striking “the compensation (including back pay)” and inserting “compensatory damages (including back pay)”;

(2) in paragraph (2), by adding at the end following new sentence: “An action under this paragraph may not be brought more than two years after the date on which remedies are deemed to have been exhausted.”;

(3) in paragraph (4), by striking “and compensatory and exemplary damages.” and inserting “, compensatory and exemplary damages, and reasonable attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the agency.”;

(4) in paragraph (5), by adding at the end the following new sentence: “Filing such an appeal shall not act to stay the enforcement of the order of the head of an agency, unless a stay is specifically entered by the court.”; and

(5) by adding at the end the following new paragraphs:

“(6) The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any investigation conducted by an Inspector General, decision by the head of an agency, or judicial or administrative proceeding to determine whether discrimination prohibited under this section has occurred.

“(7) The rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment.”.

(d) NOTIFICATION OF EMPLOYEES.—Such section is further amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) NOTIFICATION OF EMPLOYEES.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall ensure that contractors and subcontractors of the Department of Defense and the National Aeronautics and Space Administration, as applicable, inform their employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.”.

(e) EXCEPTIONS FOR INTELLIGENCE COMMUNITY.—Such section is further amended by inserting after subsection (d), as added by subsection (d)(2) of this section, the following new subsection (e):

“(e) EXCEPTIONS.—(1) This section shall not apply to any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

“(2) This section shall not apply to any disclosure made by an employee of a contractor, subcontractor, or grantee of an element of the intelligence community if such disclosure—

“(A) relates to an activity of an element of the intelligence community; or

“(B) was discovered during contract, subcontract, or grantee services provided to an element of the intelligence community.”.

(f) ABUSE OF AUTHORITY DEFINED.—Subsection (g) of such section, as redesignated by subsection (d)(1) of this section, is further amended by adding at the end the following new paragraph:

“(6) The term ‘abuse of authority’ means the following:

“(A) An arbitrary and capricious exercise of authority that is inconsistent with the mission of the Department of Defense or the successful performance of a Department contract or grant.

“(B) An arbitrary and capricious exercise of authority that is inconsistent with the mission of the National Aeronautics and Space Administration or the successful performance of an Administration contract or grant.”.

(g) ALLOWABILITY OF LEGAL FEES.—Section 2324(k) of such title is amended—

(1) in paragraph (1), by striking “commenced by the United States or a State” and inserting “commenced by the United States, by a State, or by a contractor employee submitting a complaint under section 2409 of this title”; and

(2) in paragraph (2)(C), by striking “the imposition of a monetary penalty” and inserting “the imposition of a monetary penalty or an order to take corrective action under section 2409 of this title”.

10 USC 2324  
note.

(h) CONSTRUCTION.—Nothing in this section, or the amendments made by this section, shall be construed to provide any rights to disclose classified information not otherwise provided by law.

10 USC 2324  
note.  
Applicability.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply to—

(A) all contracts awarded on or after such date;

(B) all task orders entered on or after such date pursuant to contracts awarded before, on, or after such date; and

(C) all contracts awarded before such date that are modified to include a contract clause providing for the applicability of such amendments.

Deadline.

(2) REVISION OF SUPPLEMENTS TO THE FAR.—Not later than 180 days after the date of the enactment of this Act, the Department of Defense Supplement to the Federal Acquisition Regulation and the National Aeronautics and Space Administration Supplement to the Federal Acquisition Regulation shall each be revised to implement the requirements arising under the amendments made by this section.

(3) INCLUSION OF CONTRACT CLAUSE IN CONTRACTS AWARDED BEFORE EFFECTIVE DATE.—At the time of any major modification to a contract that was awarded before the date that is 180

days after the date of the enactment of this Act, the head of the contracting agency shall make best efforts to include in the contract a contract clause providing for the applicability of the amendments made by this section to the contract.

**SEC. 828. PILOT PROGRAM FOR ENHANCEMENT OF CONTRACTOR EMPLOYEE WHISTLEBLOWER PROTECTIONS.**

(a) WHISTLEBLOWER PROTECTIONS.—

(1) IN GENERAL.—Chapter 47 of title 41, United States Code, is amended by adding at the end the following new section:

**“§ 4712. Pilot program for enhancement of contractor protection from reprisal for disclosure of certain information**

41 USC 4712.

“(a) PROHIBITION OF REPRISALS.—

“(1) IN GENERAL.—An employee of a contractor, subcontractor, or grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

“(2) PERSONS AND BODIES COVERED.—The persons and bodies described in this paragraph are the persons and bodies as follows:

“(A) A Member of Congress or a representative of a committee of Congress.

“(B) An Inspector General.

“(C) The Government Accountability Office.

“(D) A Federal employee responsible for contract or grant oversight or management at the relevant agency.

“(E) An authorized official of the Department of Justice or other law enforcement agency.

“(F) A court or grand jury.

“(G) A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

“(3) RULES OF CONSTRUCTION.—For the purposes of paragraph (1)—

“(A) an employee who initiates or provides evidence of contractor, subcontractor, or grantee misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Federal contract or grant shall be deemed to have made a disclosure covered by such paragraph; and

“(B) a reprisal described in paragraph (1) is prohibited even if it is undertaken at the request of an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

“(b) INVESTIGATION OF COMPLAINTS.—

Determination.  
Reports.

“(1) SUBMISSION OF COMPLAINT.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency involved. Unless the Inspector General determines that the complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor or grantee concerned, and the head of the agency.

“(2) INSPECTOR GENERAL ACTION.—

“(A) DETERMINATION OR SUBMISSION OF REPORT ON FINDINGS.—Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant or submit a report under paragraph (1) within 180 days after receiving the complaint.

“(B) EXTENSION OF TIME.—If the Inspector General is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the Inspector General shall submit a report under paragraph (1) within such additional period of time, up to 180 days, as shall be agreed upon between the Inspector General and the person submitting the complaint.

“(3) PROHIBITION ON DISCLOSURE.—The Inspector General may not respond to any inquiry or disclose any information from or about any person alleging the reprisal, except to the extent that such response or disclosure is—

“(A) made with the consent of the person alleging the reprisal;

“(B) made in accordance with the provisions of section 552a of title 5 or as required by any other applicable Federal law; or

“(C) necessary to conduct an investigation of the alleged reprisal.

“(4) TIME LIMITATION.—A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.

“(c) REMEDY AND ENFORCEMENT AUTHORITY.—

Deadline.  
Determination.  
Order.

“(1) IN GENERAL.—Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the executive agency concerned shall determine whether there is sufficient basis to conclude that the contractor or grantee concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

“(A) Order the contractor or grantee to take affirmative action to abate the reprisal.

“(B) Order the contractor or grantee to reinstate the person to the position that the person held before the

reprisal, together with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

“(C) Order the contractor or grantee to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys’ fees and expert witnesses’ fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the executive agency.

“(2) EXHAUSTION OF REMEDIES.—If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the contractor or grantee to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this paragraph may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

Deadlines.

“(3) ADMISSIBILITY OF EVIDENCE.—An Inspector General determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this subsection.

“(4) ENFORCEMENT OF ORDERS.—Whenever a person fails to comply with an order issued under paragraph (1), the head of the executive agency concerned shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the executive agency.

“(5) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order’s conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the executive agency. Review shall conform to chapter 7 of title 5. Filing such an appeal shall not act to stay the enforcement of the order of the head of an executive agency, unless a stay is specifically entered by the court.

Time period.

“(6) BURDENS OF PROOF.—The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any investigation conducted by an Inspector General, decision by the head of an executive agency, or judicial or administrative proceeding to determine whether discrimination prohibited under this section has occurred.

“(7) RIGHTS AND REMEDIES NOT WAIVABLE.—The rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment.

“(d) NOTIFICATION OF EMPLOYEES.—The head of each executive agency shall ensure that contractors, subcontractors, and grantees of the agency inform their employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

“(e) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

“(f) EXCEPTIONS.—(1) This section shall not apply to any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

“(2) This section shall not apply to any disclosure made by an employee of a contractor, subcontractor, or grantee of an element of the intelligence community if such disclosure—

“(A) relates to an activity of an element of the intelligence community; or

“(B) was discovered during contract, subcontract, or grantee services provided to an element of the intelligence community.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘abuse of authority’ means an arbitrary and capricious exercise of authority that is inconsistent with the mission of the executive agency concerned or the successful performance of a contract or grant of such agency.

“(2) The term ‘Inspector General’ means an Inspector General appointed under the Inspector General Act of 1978 and any Inspector General that receives funding from, or has oversight over contracts or grants awarded for or on behalf of, the executive agency concerned.

“(h) CONSTRUCTION.—Nothing in this section, or the amendments made by this section, shall be construed to provide any rights to disclose classified information not otherwise provided by law.

“(i) DURATION OF SECTION.—This section shall be in effect for the four-year period beginning on the date of the enactment of this section.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“4712. Pilot program for enhancement of contractor protection from reprisal for disclosure of certain information.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall, during the period

41 USC  
prec. 4701.

41 USC 4712  
note.  
Applicability.

section 4712 of title 41, United States Code, as added by such subsection, is in effect, apply to—

(A) all contracts and grants awarded on or after such date;

(B) all task orders entered on or after such date pursuant to contracts awarded before, on, or after such date; and

(C) all contracts awarded before such date that are modified to include a contract clause providing for the applicability of such amendments.

(2) REVISION OF FEDERAL ACQUISITION REGULATION.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the requirements arising under the amendments made by this section. Deadline.

(3) INCLUSION OF CONTRACT CLAUSE IN CONTRACTS AWARDED BEFORE EFFECTIVE DATE.—At the time of any major modification to a contract that was awarded before the date that is 180 days after the date of the enactment of this Act, the head of the contracting agency shall make best efforts to include in the contract a contract clause providing for the applicability of the amendments made by this section to the contract. Time period.

(c) SUSPENSION OF EFFECTIVENESS OF SECTION 4705 OF TITLE 41, UNITED STATES CODE, WHILE PILOT PROGRAM IS IN EFFECT.—Section 4705 of title 41, United States Code, is amended by adding at the end the following new subsection:

“(f) FOUR-YEAR SUSPENSION OF EFFECTIVENESS WHILE PILOT PROGRAM IS IN EFFECT.—While section 4712 of this title is in effect, this section shall not be in effect.”.

(d) ALLOWABILITY OF LEGAL FEES.—Section 4310 of title 41, United States Code, is amended—

(1) in subsection (b), by striking “commenced by the Federal Government or a State” and inserting “commenced by the Federal Government, by a State, or by a contractor or grantee employee submitting a complaint under section 4712 of this title”; and

(2) in subsection (c)(3), by striking “the imposition of a monetary penalty” and inserting “the imposition of a monetary penalty or an order to take corrective action under section 4712 of this title”.

(e) GOVERNMENT ACCOUNTABILITY OFFICE STUDY AND REPORT.—

(1) STUDY.—Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall begin conducting a study to evaluate the implementation of section 4712 of title 41, United States Code, as added by subsection (a).

(2) REPORT.—Not later than four years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study required by paragraph (1), with such findings and recommendations as the Comptroller General considers appropriate.

**SEC. 829. EXTENSION OF CONTRACTOR CONFLICT OF INTEREST LIMITATIONS.** 10 USC 2302 note.

(a) ASSESSMENT OF EXTENSION OF LIMITATIONS TO CERTAIN ADDITIONAL FUNCTIONS AND CONTRACTS.—Not later than 180 days Deadline.  
Review.

after the date of the enactment of this Act, the Secretary of Defense shall review the guidance on personal conflicts of interest for contractor employees issued pursuant to section 841(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4537) in order to determine whether it would be in the best interest of the Department of Defense and the taxpayers to extend such guidance to personal conflicts of interest by contractor personnel performing any of the following:

(1) Functions other than acquisition functions that are closely associated with inherently governmental functions (as that term is defined in section 2383(b)(3) of title 10, United States Code).

(2) Personal services contracts (as that term is defined in section 2330a(g)(5) of title 10, United States Code).

(3) Contracts for staff augmentation services (as that term is defined in section 808(d)(3) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1490)).

Determination.

(b) **EXTENSION OF LIMITATIONS.**—If the Secretary determines pursuant to the review under subsection (a) that the guidance on personal conflicts of interest should be extended, the Secretary shall revise the Defense Supplement to the Federal Acquisition Regulation to the extent necessary to achieve such extension.

Deadline.  
Documentation.

(c) **RESULTS OF REVIEW.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall document in writing the results of the review conducted under subsection (a), including, at a minimum—

- (1) the findings and recommendations of the review; and
- (2) the basis for such findings and recommendations.

**SEC. 830. REPEAL OF SUNSET FOR CERTAIN PROTESTS OF TASK AND DELIVERY ORDER CONTRACTS.**

Section 2304c(e) of title 10, United States Code, is amended by striking paragraph (3).

10 USC 2306a  
note.  
Deadlines.

**SEC. 831. GUIDANCE AND TRAINING RELATED TO EVALUATING REASONABLENESS OF PRICE.**

(a) **GUIDANCE.**—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall issue guidance on the use of the authority provided by sections 2306a(d) and 2379 of title 10, United States Code. The guidance shall—

(1) include standards for determining whether information on the prices at which the same or similar items have previously been sold is adequate for evaluating the reasonableness of price;

(2) include standards for determining the extent of uncertified cost information that should be required in cases in which price information is not adequate for evaluating the reasonableness of price;

(3) ensure that in cases in which such uncertified cost information is required, the information shall be provided in the form in which it is regularly maintained by the offeror in its business operations; and

(4) provide that no additional cost information may be required by the Department of Defense in any case in which there are sufficient non-Government sales to establish reasonableness of price.



(b) **TRAINING AND EXPERTISE.**—Not later than 270 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall develop and begin implementation of a plan of action to— Plans.

(1) train the acquisition workforce on the use of the authority provided by sections 2306a(d) and 2379 of title 10, United States Code, in evaluating reasonableness of price in procurements of commercial items; and

(2) develop a cadre of experts within the Department of Defense to provide expert advice to the acquisition workforce in the use of the authority provided by such sections in accordance with the guidance issued pursuant to subsection (a).

(c) **DOCUMENTATION REQUIREMENTS.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall ensure that requests for uncertified cost information for the purposes of evaluating reasonableness of price are sufficiently documented. The Under Secretary shall require that the contract file include, at a minimum, the following:

(1) A justification of the need for additional cost information.

(2) A copy of any request from the Department of Defense to a contractor for additional cost information.

(3) Any response received from the contractor to the request, including any rationale or justification provided by the contractor for a failure to provide the requested information.

(d) **COMPTROLLER GENERAL REVIEW AND REPORT.**—

(1) **REVIEW REQUIREMENT.**—The Comptroller General of the United States shall conduct a review of data collected pursuant to sections 2306a(d) and 2379 of title 10, United States Code, during the two-year period beginning on the date of the enactment of this Act. Time periods.

(2) **REPORT REQUIREMENT.**—Not later than 180 days after the end of the two-year period referred to in paragraph (1), the Comptroller General shall submit to the congressional defense committees a report on—

(A) the extent to which the Department of Defense needed access to additional cost information pursuant to sections 2306a(d) and 2379 of title 10, United States Code, during such two-year period in order to determine price reasonableness;

(B) the extent to which acquisition officials of the Department of Defense complied with the guidance issued pursuant to subsection (a) during such two-year period;

(C) the extent to which the Department of Defense needed access to additional cost information during such two-year period to determine reasonableness of price, but was not provided such information by the contractor on request; and

(D) recommendations for improving evaluations of reasonableness of price by Department of Defense acquisition professionals, including recommendations for any amendments to law, regulations, or guidance.

10 USC 2313  
note.

**SEC. 832. DEPARTMENT OF DEFENSE ACCESS TO, USE OF, AND SAFEGUARDS AND PROTECTIONS FOR CONTRACTOR INTERNAL AUDIT REPORTS.**

(a) **REVISED GUIDANCE REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Director of the Defense Contract Audit Agency shall revise guidance on access to defense contractor internal audit reports (including the Contract Audit Manual) to incorporate the requirements of this section.

(b) **DOCUMENTATION REQUIREMENTS.**—The revised guidance shall ensure that requests for access to defense contractor internal audit reports are appropriately documented. The required documentation shall include, at a minimum, the following:

(1) Written determination that access to such reports is necessary to complete required evaluations of contractor business systems.

(2) A copy of any request from the Defense Contract Audit Agency to a contractor for access to such reports.

(3) A record of response received from the contractor, including the contractor's rationale or justification if access to requested reports was not granted.

(b) **SAFEGUARDS AND PROTECTIONS.**—The revised guidance shall include appropriate safeguards and protections to ensure that contractor internal audit reports cannot be used by the Defense Contract Audit Agency for any purpose other than evaluating and testing the efficacy of contractor internal controls and the reliability of associated contractor business systems.

Determination.

(c) **RISK-BASED AUDITING.**—A determination by the Defense Contract Audit Agency that a contractor has a sound system of internal controls shall provide the basis for increased reliance on contractor business systems or a reduced level of testing with regard to specific audits, as appropriate. Internal audit reports provided by a contractor pursuant to this section may be considered in determining whether or not a contractor has a sound system of internal controls, but shall not be the sole basis for such a determination.

(d) **COMPTROLLER GENERAL REVIEW.**—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a review of the documentation required by subsection (a). Not later than 90 days after completion of the review, the Comptroller General shall submit to the congressional defense committees a report on the results of the review, with findings and recommendations for improving the audit processes of the Defense Contract Audit Agency.

10 USC 2302  
note.

**SEC. 833. CONTRACTOR RESPONSIBILITIES IN REGULATIONS RELATING TO DETECTION AND AVOIDANCE OF COUNTERFEIT ELECTRONIC PARTS.**

Section 818(c)(2)(B) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1493; 10 U.S.C. 2302 note) is amended to read as follows:

“(B) the cost of counterfeit electronic parts and suspect counterfeit electronic parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts are not allowable costs under Department contracts, unless—

“(i) the covered contractor has an operational system to detect and avoid counterfeit parts and suspect counterfeit electronic parts that has been reviewed and approved by the Department of Defense pursuant to subsection (e)(2)(B);

“(ii) the counterfeit electronic parts or suspect counterfeit electronic parts were provided to the contractor as Government property in accordance with part 45 of the Federal Acquisition Regulation; and

“(iii) the covered contractor provides timely notice to the Government pursuant to paragraph (4).”.

## **Subtitle D—Provisions Relating to Contracts in Support of Contingency Operations**

### **SEC. 841. EXTENSION AND EXPANSION OF AUTHORITY TO ACQUIRE PRODUCTS AND SERVICES PRODUCED IN COUNTRIES ALONG A MAJOR ROUTE OF SUPPLY TO AFGHANISTAN.**

(a) **EXTENSION OF TERMINATION DATE.**—Subsection (f) of section 801 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2399) is amended by striking “on or after the date occurring three years after the date of the enactment of this Act” and inserting “after December 31, 2014”.

(b) **EXPANSION OF AUTHORITY TO COVER FORCES OF THE UNITED STATES AND COALITION FORCES.**—Subsection (b)(1) of such section is amended—

(1) in subparagraph (B), by striking “or” at the end;

(2) in subparagraph (C), by adding “or” at the end; and

(3) by adding at the end the following:

“(D) by the United States or coalition forces in Afghanistan if the product or service is from a country that has agreed to allow the transport of coalition personnel, equipment, and supplies;”.

(c) **REPEAL OF EXPIRED REPORT REQUIREMENT.**—Subsection (g) of such section is repealed.

(d) **CLERICAL AMENDMENT.**—The heading of such section is amended by striking “; **REPORT**”.

### **SEC. 842. LIMITATION ON AUTHORITY TO ACQUIRE PRODUCTS AND SERVICES PRODUCED IN AFGHANISTAN.**

Section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 266; 10 U.S.C. 2302 note) is amended—

(1) in the section heading, by striking “**IRAQ OR**”;

(2) by striking “Iraq or” each place it appears; and

(3) in the subsection heading of subsection (c), by striking “**IRAQ OR**”.

### **SEC. 843. RESPONSIBILITY WITHIN DEPARTMENT OF DEFENSE FOR OPERATIONAL CONTRACT SUPPORT.**

10 USC 2302  
note.

(a) **GUIDANCE REQUIRED.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop and issue guidance establishing the chain of authority

Deadline.

and responsibility within the Department of Defense for policy, planning, and execution of operational contract support.

(b) ELEMENTS.—The guidance under subsection (a) shall, at a minimum—

(1) specify the officials, offices, and components of the Department within the chain of authority and responsibility described in subsection (a);

(2) identify for each official, office, and component specified under paragraph (1)—

(A) requirements for policy, planning, and execution of contract support for operational contract support, including, at a minimum, requirements in connection with—

(i) coordination of functions, authorities, and responsibilities related to operational contract support, including coordination with relevant Federal agencies;

(ii) assessments of total force data in support of Department force planning scenarios, including the appropriateness of and necessity for the use of contractors for identified functions;

(iii) determinations of capability requirements for nonacquisition community operational contract support, and identification of resources required for planning, training, and execution to meet such requirements; and

(iv) determinations of policy regarding the use of contractors by function, and identification of the training exercises that will be required for operational contract support (including an assessment whether or not such exercises will include contractors); and

(B) roles, authorities, responsibilities, and lines of supervision for the achievement of the requirements identified under subparagraph (A); and

(3) ensure that the chain of authority and responsibility described in subsection (a) is appropriately aligned with, and appropriately integrated into, the structure of the Department for the conduct of overseas contingency operations, including the military departments, the Joint Staff, and the commanders of the unified combatant commands.

10 USC 2302  
note.

**SEC. 844. DATA COLLECTION ON CONTRACT SUPPORT FOR FUTURE OVERSEAS CONTINGENCY OPERATIONS INVOLVING COMBAT OPERATIONS.**

Deadline.  
Guidance.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall each issue guidance regarding data collection on contract support for future contingency operations outside the United States that involve combat operations.

(b) ELEMENTS.—The guidance required by subsection (a) shall ensure that the Department of Defense, the Department of State, and the United States Agency for International Development take the steps necessary to ensure that each agency has the capability to collect and report, at a minimum, the following data regarding such contract support:

(1) The total number of contracts entered into as of the date of any report.

(2) The total number of such contracts that are active as of such date.

(3) The total value of contracts entered into as of such date.

(4) The total value of such contracts that are active as of such date.

(5) An identification of the extent to which the contracts entered into as of such date were entered into using competitive procedures.

(6) The total number of contractor personnel working under contracts entered into as of the end of each calendar quarter during the one-year period ending on such date.

(7) The total number of contractor personnel performing security functions under contracts entered into as of the end of each calendar quarter during the one-year period ending on such date.

(8) The total number of contractor personnel killed or wounded under any contracts entered into.

(c) COMPTROLLER GENERAL REVIEW AND REPORT.—

(1) REVIEW.—The Comptroller General of the United States shall review the data system or systems established to track contractor data pursuant to subsections (a) and (b). The review shall, with respect to each such data system, at a minimum—

(A) identify each such data system and assess the resources needed to sustain such system;

(B) determine if all such data systems are interoperable, use compatible data standards, and meet the requirements of section 2222 of title 10, United States Code; and

(C) make recommendations on the steps that the Department of Defense, the Department of State, and the United States Agency for International Development should take to ensure that all such data systems—

(i) meet the requirements of the guidance issued pursuant to subsections (a) and (b);

(ii) are interoperable, use compatible data standards, and meet the requirements of section 2222 of such title; and

(iii) are supported by appropriate business processes and rules to ensure the timeliness and reliability of data.

(2) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General shall submit a report on the review required by paragraph (1) to the following committees:

(A) The congressional defense committees.

(B) The Committee on Foreign Relations and the Committee on Homeland Security and Governmental Affairs of the Senate.

(C) The Committee on Foreign Affairs and the Committee on Oversight and Government Reform of the House of Representatives.

**SEC. 845. INCLUSION OF OPERATIONAL CONTRACT SUPPORT IN CERTAIN REQUIREMENTS FOR DEPARTMENT OF DEFENSE PLANNING, JOINT PROFESSIONAL MILITARY EDUCATION, AND MANAGEMENT STRUCTURE.**

(a) **READINESS REPORTING SYSTEM.**—Section 117(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(8) Measure, on an annual basis, the capability of operational contract support to support current and anticipated wartime missions of the armed forces.”

(b) **OPERATIONAL CONTRACT SUPPORT PLANNING AND PREPAREDNESS FUNCTIONS OF CJCS.**—Section 153(a)(3) of such title is amended by adding at the end the following new subparagraph:

“(F) In coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Secretaries of the military departments, the heads of the Defense Agencies, and the commanders of the combatant commands, determining the operational contract support requirements of the armed forces and recommending the resources required to improve and enhance operational contract support for the armed forces and planning for such operational contract support.”

(c) **OPERATIONAL CONTRACT SUPPORT AS MATTER WITHIN COURSE OF JOINT PROFESSIONAL MILITARY EDUCATION.**—Section 2151(a) of such title is amended by adding at the end the following new paragraph:

“(6) Operational contract support.”

(d) **MANAGEMENT STRUCTURE.**—Section 2330(c)(2) of such title is amended by striking “other than services” and all that follows and inserting “including services in support of contingency operations. The term does not include services relating to research and development or military construction.”

10 USC 2302  
note.

**SEC. 846. REQUIREMENTS FOR RISK ASSESSMENTS RELATED TO CONTRACTOR PERFORMANCE.**

(a) **RISK ASSESSMENTS FOR CONTRACTOR PERFORMANCE IN OPERATIONAL OR CONTINGENCY PLANS.**—The Secretary of Defense shall require that a risk assessment on reliance on contractors be included in operational or contingency plans developed by a commander of a combatant command in executing the responsibilities prescribed in section 164 of title 10, United States Code. Such risk assessments shall address, at a minimum, the potential risks listed in subsection (c).

(b) **COMPREHENSIVE RISK ASSESSMENTS AND MITIGATION PLANS FOR CONTRACTOR PERFORMANCE IN SUPPORT OF OVERSEAS CONTINGENCY OPERATIONS.**—

Deadline.

(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), not later than six months after the commencement or designation of a contingency operation outside the United States that includes or is expected to include combat operations, the head of each covered agency shall perform a comprehensive risk assessment and develop a risk mitigation plan for operational and political risks associated with contractor performance of critical functions in support of the operation for such covered agency.

(2) **EXCEPTIONS.**—Except as provided in paragraph (3), a risk assessment and risk mitigation plan shall not be required under paragraph (1) for an overseas contingency operation if—

(A) the operation is not expected to continue for more than one year; and

(B) the total amount of obligations for contracts for support of the operation for the covered agency is not expected to exceed \$250,000,000.

(3) TERMINATION OF EXCEPTIONS.—Notwithstanding paragraph (2), the head of a covered agency shall perform a risk assessment and develop a risk mitigation plan under paragraph (1) for an overseas contingency operation with regard to which a risk assessment and risk mitigation plan has not previously been performed under paragraph (1) not later than 60 days after the date on which—

Deadline.

(A) the operation has continued for more than one year; or

(B) the total amount of obligations for contracts for support of the operation for the covered agency exceeds \$250,000,000.

(c) COMPREHENSIVE RISK ASSESSMENTS.—A comprehensive risk assessment under subsection (b) shall consider, at a minimum, risks relating to the following:

(1) The goals and objectives of the operation (such as risks from contractor behavior or performance that may injure innocent members of the local population or offend their sensibilities).

(2) The continuity of the operation (such as risks from contractors refusing to perform or being unable to perform when there may be no timely replacements available).

(3) The safety of military and civilian personnel of the United States if the presence or performance of contractor personnel creates unsafe conditions or invites attack.

(4) The safety of contractor personnel employed by the covered agency.

(5) The managerial control of the Government over the operation (such as risks from over-reliance on contractors to monitor other contractors or inadequate means for Government personnel to monitor contractor performance).

(6) The critical organic or core capabilities of the Government, including critical knowledge or institutional memory of key operations areas and subject-matter expertise.

(7) The ability of the Government to control costs, avoid organizational or personal conflicts of interest, and minimize waste, fraud, and abuse.

(d) RISK MITIGATION PLANS.—A risk mitigation plan under subsection (b) shall include, at a minimum, the following:

(1) For each high-risk area identified in the comprehensive risk assessment for the operation performed under subsection (b)—

(A) specific actions to mitigate or reduce such risk, including the development of alternative capabilities to reduce reliance on contractor performance of critical functions;

(B) measurable milestones for the implementation of planned risk mitigation or risk reduction measures; and

(C) a process for monitoring, measuring, and documenting progress in mitigating or reducing risk.

(2) A continuing process for identifying and addressing new and changed risks arising in the course of the operation,

including the periodic reassessment of risks and the development of appropriate risk mitigation or reduction plans for any new or changed high-risk area identified.

(e) **CRITICAL FUNCTIONS.**—For purposes of this section, critical functions include, at a minimum, the following:

(1) Private security functions, as that term is defined in section 864(a)(6) of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 2302 note).

(2) Training and advising Government personnel, including military and security personnel, of a host nation.

(3) Conducting intelligence or information operations.

(4) Any other functions that are closely associated with inherently governmental functions, including the functions set forth in section 7.503(d) of the Federal Acquisition Regulation.

(5) Any other functions that are deemed critical to the success of the operation.

Definition.

(f) **COVERED AGENCY.**—In this section, the term “covered agency” means the Department of Defense, the Department of State, and the United States Agency for International Development.

**SEC. 847. EXTENSION AND MODIFICATION OF REPORTS ON CONTRACTING IN IRAQ AND AFGHANISTAN.**

(a) **TWO-YEAR EXTENSION OF REQUIREMENT FOR JOINT REPORT.**—Subsection (a)(5) of section 863 of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 2302 note) is amended by striking “February 1, 2013” and inserting “February 1, 2015”.

(b) **REPEAL OF COMPTROLLER GENERAL REVIEW.**—Such section is further amended by striking subsection (b).

(c) **CONFORMING AMENDMENTS.**—

(1) **IN GENERAL.**—Such section is further amended—

(A) by striking “JOINT REPORT REQUIRED.—” and all that follows through “paragraph (6)” and inserting “IN GENERAL.—Except as provided in subsection (f)”;

(B) by striking “this subsection” each place it appears and inserting “this section”;

(C) by redesignating paragraphs (2) through (7) as subsections (b) through (g), respectively, and by moving the left margins of such subsections (including the subparagraphs in such subsections), as so redesignated, two ems to the left;

(D) in subsection (b), as redesignated by subparagraph (C) of this paragraph—

(i) by capitalizing the second and third words of the heading; and

(ii) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9), respectively;

(E) in subsection (c), as redesignated by subparagraph (C) of this paragraph—

(i) by capitalizing the second and third words of the heading;

(ii) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively; and

(iii) by striking “paragraph (2)” each place it appears and inserting “subsection (b)”;



(F) in subsection (d), as redesignated by subparagraph (C) of this paragraph, by capitalizing the second word of the heading;

(G) in subsection (e), as redesignated by subparagraph (C) of this paragraph, by capitalizing the third word of the heading;

(H) in subsection (f), as redesignated by subparagraph (C) of this paragraph, by striking “this paragraph” and inserting “this subsection”; and

(I) in subsection (g), as redesignated by subparagraph (C) of this paragraph, by striking “paragraph (2)(F)” and inserting “subsection (b)(6)”.

(2) **HEADING AMENDMENT.**—The heading of such section is amended by striking “**AND COMPTROLLER GENERAL REVIEW**”.

**SEC. 848. RESPONSIBILITIES OF INSPECTORS GENERAL FOR OVERSEAS CONTINGENCY OPERATIONS.**

The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8L as section 8M; and

(2) by inserting after section 8J the following new section 8L:

**“SEC. 8L. SPECIAL PROVISIONS CONCERNING OVERSEAS CONTINGENCY OPERATIONS.**

5 USC app. 8L.

“(a) **ADDITIONAL RESPONSIBILITIES OF CHAIR OF COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.**—Upon the commencement or designation of a military operation as an overseas contingency operation that exceeds 60 days, the Chair of the Council of Inspectors General on Integrity and Efficiency (CIGIE) shall, in consultation with the members of the Council, have the additional responsibilities specified in subsection (b) with respect to the Inspectors General specified in subsection (c).

Time period.

“(b) **SPECIFIC RESPONSIBILITIES.**—The responsibilities specified in this subsection are the following:

“(1) In consultation with the Inspectors General specified in subsection (c), to designate a lead Inspector General in accordance with subsection (d) to discharge the authorities of the lead Inspector General for the overseas contingency operation concerned as set forth in subsection (d).

“(2) To resolve conflicts of jurisdiction among the Inspectors General specified in subsection (c) on investigations, inspections, and audits with respect to such contingency operation in accordance with subsection (d)(2)(B).

“(3) To assist in identifying for the lead inspector general for such contingency operation, Inspectors General and inspector general office personnel available to assist the lead Inspector General and the other Inspectors General specified in subsection (c) on matters relating to such contingency operation.

“(c) **INSPECTORS GENERAL.**—The Inspectors General specified in this subsection are the Inspectors General as follows:

“(1) The Inspector General of the Department of Defense.

“(2) The Inspector General of the Department of State.

“(3) The Inspector General of the United States Agency for International Development.

“(d) **LEAD INSPECTOR GENERAL FOR OVERSEAS CONTINGENCY OPERATION.**—(1) A lead Inspector General for an overseas contingency operation shall be designated by the Chair of the Council

Designation.  
Deadline.  
Time period.

of Inspectors General on Integrity and Efficiency under subsection (b)(1) not later than 30 days after the commencement or designation of the military operation concerned as an overseas contingency operation that exceeds 60 days. The lead Inspector General for a contingency operation shall be designated from among the Inspectors General specified in subsection (c).

“(2) The lead Inspector General for an overseas contingency operation shall have the following responsibilities:

“(A) To appoint, from among the offices of the other Inspectors General specified in subsection (c), an Inspector General to act as associate Inspector General for the contingency operation who shall act in a coordinating role to assist the lead Inspector General in the discharge of responsibilities under this subsection.

“(B) To develop and carry out, in coordination with the offices of the other Inspectors General specified in subsection (c), a joint strategic plan to conduct comprehensive oversight over all aspects of the contingency operation and to ensure through either joint or individual audits, inspections, and investigations, independent and effective oversight of all programs and operations of the Federal Government in support of the contingency operation.

“(C) To review and ascertain the accuracy of information provided by Federal agencies relating to obligations and expenditures, costs of programs and projects, accountability of funds, and the award and execution of major contracts, grants, and agreements in support of the contingency operation.

“(D)(i) If none of the Inspectors General specified in subsection (c) has principal jurisdiction over a matter with respect to the contingency operation, to exercise responsibility for discharging oversight responsibilities in accordance with this Act with respect to such matter.

“(ii) If more than one of the Inspectors General specified in subsection (c) has jurisdiction over a matter with respect to the contingency operation, to determine principal jurisdiction for discharging oversight responsibilities in accordance with this Act with respect to such matter.

“(E) To employ, or authorize the employment by the other Inspectors General specified in subsection (c), on a temporary basis using the authorities in section 3161 of title 5, United States Code, such auditors, investigators, and other personnel as the lead Inspector General considers appropriate to assist the lead Inspector General and such other Inspectors General on matters relating to the contingency operation.

“(F) To submit to Congress on a bi-annual basis, and to make available on an Internet website available to the public, a report on the activities of the lead Inspector General and the other Inspectors General specified in subsection (c) with respect to the contingency operation, including—

“(i) the status and results of investigations, inspections, and audits and of referrals to the Department of Justice; and

“(ii) overall plans for the review of the contingency operation by inspectors general, including plans for investigations, inspections, and audits.

Deadline.  
Web posting.  
Public  
information.  
Reports.

“(G) To submit to Congress on a quarterly basis, and to make available on an Internet website available to the public, a report on the contingency operation.

“(H) To carry out such other responsibilities relating to the coordination and efficient and effective discharge by the Inspectors General specified in subsection (c) of duties relating to the contingency operation as the lead Inspector General shall specify.

Deadline.  
Web posting.  
Public  
information.  
Reports.

“(3)(A) The lead Inspector General for an overseas contingency operation may employ, or authorize the employment by the other Inspectors General specified in subsection (c) of, annuitants covered by section 9902(g) of title 5, United States Code, for purposes of assisting the lead Inspector General in discharging responsibilities under this subsection with respect to the contingency operation.

“(B) The employment of annuitants under this paragraph shall be subject to the provisions of section 9902(g) of title 5, United States Code, as if the lead Inspector General concerned was the Department of Defense.

“(C) The period of employment of an annuitant under this paragraph may not exceed three years, except that the period may be extended for up to an additional two years in accordance with the regulations prescribed pursuant to section 3161(b)(2) of title 5, United States Code.

“(4) The lead Inspector General for an overseas contingency operation shall discharge the responsibilities for the contingency operation under this subsection in a manner consistent with the authorities and requirements of this Act generally and the authorities and requirements applicable to the Inspectors General specified in subsection (c) under this Act.

“(e) SUNSET FOR PARTICULAR CONTINGENCY OPERATIONS.—The requirements and authorities of this section with respect to an overseas contingency operation shall cease at the end of the first fiscal year after the commencement or designation of the contingency operation in which the total amount appropriated for the contingency operation is less than \$100,000,000.

“(f) CONSTRUCTION OF AUTHORITY.—Nothing in this section shall be construed to limit the ability of the Inspectors General specified in subsection (c) to enter into agreements to conduct joint audits, inspections, or investigations in the exercise of their oversight responsibilities in accordance with this Act with respect to overseas contingency operations.”.

**SEC. 849. OVERSIGHT OF CONTRACTS AND CONTRACTING ACTIVITIES FOR OVERSEAS CONTINGENCY OPERATIONS IN RESPONSIBILITIES OF CHIEF ACQUISITION OFFICERS OF FEDERAL AGENCIES.**

(a) IN GENERAL.—Subsection (b)(3) of section 1702 of title 41, United States Code, is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph (F):

“(F) advising the executive agency on the applicability of relevant policy on the contracts of the agency for overseas contingency operations and ensuring the compliance of the contracts and contracting activities of the agency with such policy;”.

(b) DEFINITION.—Such section is further amended by adding at the end the following new subsection:

“(d) OVERSEAS CONTINGENCY OPERATIONS DEFINED.—In this section, the term ‘overseas contingency operations’ means military operations outside the United States and its territories and possessions that are a contingency operation (as that term is defined in section 101(a)(13) of title 10).”.

22 USC 2151  
note.

**SEC. 850. REPORTS ON RESPONSIBILITY WITHIN DEPARTMENT OF STATE AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT FOR CONTRACT SUPPORT FOR OVERSEAS CONTINGENCY OPERATIONS.**

Consultation.  
Assessment.

(a) DOS AND USAID REPORTS REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of State and the Administrator of the United States Agency for International Development shall, in consultation with the Chief Acquisition Officer of the Department of State and the Chief Acquisition Officer of the United States Agency for International Development, respectively, each submit to the appropriate committees of Congress an assessment of Department of State and United States Agency for International Development policies governing contract support in overseas contingency operations.

(b) ELEMENTS.—Each report under subsection (a) shall include the following:

(1) A description and assessment of the roles and responsibilities of the officials, offices, and components of the Department of State or the United States Agency for International Development, as applicable, within the chain of authority and responsibility for policy, planning, and execution of contract support for overseas contingency operations.

(2) Procedures and processes of the Department or Agency, as applicable, on the following in connection with contract support for overseas contingency operations:

(A) Collection, inventory, and reporting of data.

(B) Acquisition planning.

(C) Solicitation and award of contracts.

(D) Requirements development and management.

(E) Contract tracking and oversight.

(F) Performance evaluations.

(G) Risk management.

(H) Interagency coordination and transition planning.

(3) Strategies and improvements necessary for the Department or the Agency, as applicable, to address reliance on contractors, workforce planning, and the recruitment and training of acquisition workforce personnel, including the anticipated number of personnel needed to perform acquisition management and oversight functions and plans for achieving personnel staffing goals, in connection with overseas contingency operations.

(c) COMPTROLLER GENERAL REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the progress of the efforts of the Department of State and the United States Agency for International Development in implementing improvements and changes identified under paragraphs (1) through (3) of subsection (b) in the reports required by subsection (a), together with such additional information as

the Comptroller General considers appropriate to further inform such committees on issues relating to the reports required by subsection (a).

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

**SEC. 851. DATABASE ON PRICE TRENDS OF ITEMS AND SERVICES UNDER FEDERAL CONTRACTS.**

(a) DATABASE REQUIRED.—

(1) IN GENERAL.—Chapter 33 of title 41, United States Code, is amended by adding at the end the following new section:

**“§ 3312. Database on price trends of items and services under Federal contracts**

41 USC 3312  
note.

“(a) DATABASE REQUIRED.—The Administrator shall establish and maintain a database of information on price trends for items and services under contracts with the Federal Government. The information in the database shall be designed to assist Federal acquisition officials in the following:

“(1) Monitoring developments in price trends for items and services under contracts with the Federal Government.

“(2) Conducting price or cost analyses for items and services under offers for contracts with the Federal Government, or otherwise conducting determinations of the reasonableness of prices for items and services under such offers, and addressing unjustified escalation in prices being paid by the Federal Government for items and services under contracts with the Federal Government.

“(b) USE.—(1) The database under subsection (a) shall be available to executive agencies in the evaluation of offers for contracts with the Federal Government for items and services.

“(2) The Secretary of Defense may satisfy the requirements of this section by complying with the requirements of section 892 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2306a note).”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of such title is amended by adding at the end the following new item:

41 USC  
prec. 3301.

“3312. Database on price trends of items and services under Federal contracts.”.

(b) USE OF ELEMENTS OF DEPARTMENT OF DEFENSE PILOT PROJECT.—In establishing the database required by section 3312 of title 41, United States Code (as added by subsection (a)), the Administrator for Federal Procurement Policy shall use and incorporate appropriate elements of the pilot project on pricing being carried out by the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to section 892 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C.

41 USC 3312  
note.

2306a note) and the Better Buying Power initiative of the Secretary of Defense.

**SEC. 852. INFORMATION ON CORPORATE CONTRACTOR PERFORMANCE AND INTEGRITY THROUGH THE FEDERAL AWARDEE PERFORMANCE AND INTEGRITY INFORMATION SYSTEM.**

Subsection (d) of section 2313 of title 41, United States Code, is amended by adding at the end the following new paragraph:

“(3) INFORMATION ON CORPORATIONS.—The information in the database on a person that is a corporation shall, to the extent practicable, include information on any parent, subsidiary, or successor entities to the corporation in a manner designed to give the acquisition officials using the database a comprehensive understanding of the performance and integrity of the corporation in carrying out Federal contracts and grants.”.

41 USC 1126  
note.

**SEC. 853. INCLUSION OF DATA ON CONTRACTOR PERFORMANCE IN PAST PERFORMANCE DATABASES FOR EXECUTIVE AGENCY SOURCE SELECTION DECISIONS.**

Deadline.

(a) STRATEGY REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall develop a strategy for ensuring that timely, accurate, and complete information on contractor performance is included in past performance databases used by executive agencies for making source selection decisions.

(2) CONSULTATION WITH USDATL.—In developing the strategy required by this subsection, the Federal Acquisition Regulatory Council shall consult with the Under Secretary of Defense for Acquisition, Technology, and Logistics to ensure that the strategy is, to the extent practicable, consistent with the strategy developed by the Under Secretary pursuant to section 806 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1487; 10 U.S.C. 2302 note).

(b) ELEMENTS.—The strategy required by subsection (a) shall, at a minimum—

(1) establish standards for the timeliness and completeness of past performance submissions for purposes of databases described in subsection (a);

(2) assign responsibility and management accountability for the completeness of past performance submissions for such purposes; and

(3) ensure that past performance submissions for such purposes are consistent with award fee evaluations in cases where such evaluations have been conducted.

Deadlines.

(c) CONTRACTOR COMMENTS.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require the following:

(1) That affected contractors are provided, in a timely manner, information on contractor performance to be included in past performance databases in accordance with subsection (a).

(2) That such contractors are afforded up to 14 calendar days, from the date of delivery of the information provided in accordance with paragraph (1), to submit comments,

rebuttals, or additional information pertaining to past performance for inclusion in such databases.

(3) That agency evaluations of contractor past performance, including any comments, rebuttals, or additional information submitted under paragraph (2), are included in the relevant past performance database not later than the date that is 14 days after the date of delivery of the information provided in accordance with paragraph (1).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a contractor from submitting comments, rebuttals, or additional information pertaining to past performance after the period described in subsection (c)(2) has elapsed or to prohibit a contractor from challenging a past performance evaluation in accordance with applicable laws, regulations, or procedures.

(e) COMPTROLLER GENERAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the actions taken by the Federal Acquisition Regulatory Council pursuant to this section, including an assessment of the following:

(1) The extent to which the strategy required by subsection (a) is consistent with the strategy developed by the Under Secretary of Defense for Acquisition, Technology, and Logistics as described in subsection (a)(2).

(2) The extent to which the actions of the Federal Acquisition Regulatory Council pursuant to this section have otherwise achieved the objectives of this section.

(f) DEFINITIONS.—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term “executive agency” has the meaning given that term in section 133 of title 41, United States Code, except that the term excludes the Department of Defense and the military departments.

(3) The term “Federal Acquisition Regulatory Council” means the Federal Acquisition Regulatory Council under section 1302(a) of title 41, United States Code.

## Subtitle E—Other Matters

### SEC. 861. REQUIREMENTS AND LIMITATIONS FOR SUSPENSION AND DEBARMENT OFFICIALS OF THE DEPARTMENT OF DEFENSE, THE DEPARTMENT OF STATE, AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

31 USC 6101  
note.

(a) REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act, the head of the covered agency concerned shall ensure the following:

Deadline.

(1) There shall be not less than one suspension and debarment official—

(A) in the case of the Department of Defense, for each of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Defense Logistics Agency;

(B) for the Department of State; and

(C) for the United States Agency for International Development.

(2) A suspension and debarment official under paragraph (1) may not report to or be subject to the supervision of the acquisition office or the Inspector General—

(A) in the case of the Department of Defense, of either the Department of Defense or the military department or Defense Agency concerned; and

(B) in the case of the Department of State and the United States Agency for International Development, of the covered agency concerned.

(3) Each suspension and debarment official under paragraph (1) shall have a staff and resources adequate for the discharge of the suspension and debarment responsibilities of such official.

(4) Each suspension and debarment official under paragraph (1) shall document the basis for any final decision taken pursuant to a formal referral in accordance with the policies established under paragraph (5).

(5) Each suspension and debarment official under paragraph (1) shall, in consultation with the General Counsel of the covered agency, establish in writing policies for the consideration of the following:

(A) Formal referrals of suspension and debarment matters.

(B) Suspension and debarment matters that are not formally referred.

(b) DUTIES OF INTERAGENCY COMMITTEE ON DEBARMENT AND SUSPENSION.—Section 873 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (31 U.S.C. 6101 note) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “, including with respect to contracts in connection with contingency operations” before the semicolon; and

(B) in paragraph (7)—

(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following new subparagraph:

“(D) a summary of suspensions, debarments, and administrative agreements during the previous year.”; and

(2) by striking subsection (b) and inserting the following new subsections:

“(b) DATE OF SUBMITTAL OF ANNUAL REPORTS.—The annual report required by subsection (a)(7) shall be submitted not later than January 31 of each year, beginning with January 31, 2014.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘contingency operation’ has the meaning given that term in section 101(a)(13) of title 10, United States Code.



“(2) The term ‘Interagency Committee on Debarment and Suspension’ means the committee constituted under sections 4 and 5 of Executive Order No. 12549.”

(c) COVERED AGENCY.—In this section, the term “covered agency” means the Department of Defense, the Department of State, and the United States Agency for International Development.

Definition.

**SEC. 862. UNIFORM CONTRACT WRITING SYSTEM REQUIREMENTS.**

(a) UNIFORM STANDARDS AND CONTROLS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the officials specified in subsection (b) shall—

41 USC  
prec. 3101 note.  
Deadline.

(1) establish uniform data standards, internal control requirements, independent verification and validation requirements, and business process rules for processing procurement requests, contracts, receipts, and invoices by the Department of Defense or other executive agencies, as applicable;

(2) establish and maintain one or more approved electronic contract writing systems that conform with the standards, requirements, and rules established pursuant to paragraph (1); and

(3) require the use of electronic contract writing systems approved in accordance with paragraph (2) for all contracts entered into by the Department of Defense or other executive agencies, as applicable.

(b) COVERED OFFICIALS.—The officials specified in this subsection are the following:

(1) The Secretary of Defense, with respect to the Department of Defense and the military departments.

(2) The Administrator for Federal Procurement Policy, with respect to the executive agencies other than the Department of Defense and the military departments.

(c) ELECTRONIC WRITING SYSTEMS FOR DEPARTMENT OF STATE AND USAID.—Notwithstanding subsection (b)(2), the Secretary of State and the Administrator of the United States Agency for International Development may meet the requirements of subsection (a)(2) with respect to approved electronic contract writing systems for the Department of State and the United States Agency for International Development, respectively, if the Secretary and the Administrator, as the case may be, demonstrate to the Administrator for Federal Procurement Policy that prior investment of resources in existing contract writing systems will result in the most cost effective and efficient means to satisfy such requirements.

(d) PHASE-IN OF IMPLEMENTATION OF REQUIREMENT FOR APPROVED SYSTEMS.—The officials specified in subsection (b) may phase in the implementation of the requirement to use approved electronic contract writing systems in accordance with subsection (a)(3) over a period of up to five years beginning with the date of the enactment of this Act.

Time period.  
Effective date.

(e) REPORTS.—Not later than 180 days after the date of the enactment of this Act, the officials specified in subsection (b) shall each submit to the appropriate committees of Congress a report on the implementation of the requirements of this section. Each report shall, at a minimum—

(1) describe the standards, requirements, and rules established pursuant to subsection (a)(1);

(2) identify the electronic contract writing systems approved pursuant to subsection (a)(2) and, if multiple systems

are approved, explain why the use of such multiple systems is the most efficient and effective approach to meet the contract writing needs of the Federal Government; and

(3) provide the schedule for phasing in the use of approved electronic contract writing systems in accordance with subsections (a)(3) and (d).

(f) **DEFINITIONS.**—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term “executive agency” has the meaning given that term in section 133 of title 41, United States Code.

**SEC. 863. EXTENSION OF OTHER TRANSACTION AUTHORITY.**

Section 845(i) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended by striking “September 30, 2013” and inserting “September 30, 2018”.

**SEC. 864. REPORT ON ALLOWABLE COSTS OF COMPENSATION OF CONTRACTOR EMPLOYEES.**

(a) **REPORT REQUIRED.**—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the effect of reducing the allowable costs of contractor compensation of employees to the amount payable to the President under section 102 of title 3, United States Code, or to the amount payable to the Vice President under section 104 of such title.

(b) **MATTERS COVERED.**—The report shall include, at a minimum, the following:

(1) An estimate of the total number of contractor employees whose allowable costs of compensation in each of fiscal years 2010, 2011, and 2012 would have exceeded the amount of allowable costs under section 2324(e)(1)(P) of title 10, United States Code.

(2) An estimate of the total number of contractor employees whose allowable costs of compensation in each of fiscal years 2010, 2011, and 2012 exceeded the amount payable to the President under section 102 of title 3, United States Code.

(3) An estimate of the total number of contractor employees whose allowable costs of compensation in fiscal year 2012 exceeded the amount payable to the Vice President under section 104 of title 3, United States Code.

(4) An estimate of the total number of contractor employees in fiscal year 2012 that could have been characterized as falling within a narrowly targeted exception established by the Secretary of Defense under section 2324(e)(1)(P) of title 10, United States Code, as a result of the amendment made by section 803(a)(2) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1485).

(5) A description of the duties and services performed in fiscal year 2012 by employees who were characterized by their

employers as falling within a narrowly targeted exception described in paragraph (4).

(6) An assessment of whether the compensation amounts provided in fiscal year 2012 to employees who were characterized by their employers as falling within a narrowly targeted exception described in paragraph (4) were provided in a manner consistent with private sector practice.

(7) An assessment of the extent to which contractor employees received compensation in the form of vested or unvested stock options.

(8) An assessment of the potential impact on the Department of Defense, contractors of the Department of Defense, and employees of such contractors of adjusting the amount of allowable costs of contractor compensation to the amount specified in paragraph (2) or the amount specified in paragraph (3).

(9) Such recommendations as the Comptroller General considers appropriate.

**SEC. 865. REPORTS ON USE OF INDEMNIFICATION AGREEMENTS.**

(a) **IN GENERAL.**—Not later than 90 days after the end of each of fiscal years 2013 through 2016, the Secretary of Defense shall submit to the appropriate committees of Congress a report on any actions described in subsection (b) which occurred during the preceding fiscal years.

(b) **ACTIONS DESCRIBED.**—

(1) **IN GENERAL.**—An action described in this subsection is the Secretary of Defense—

(A) entering into a contract that includes an indemnification provision relating to bodily injury caused by negligence or relating to wrongful death; or

(B) modifying an existing contract to include a provision described in subparagraph (A) in a contract.

(2) **EXCLUDED CONTRACTS.**—Paragraph (1) shall not apply to any contract awarded in accordance with—

(A) section 2354 of title 10, United States Code; or

(B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(c) **MATTERS INCLUDED.**—For each action covered in a report under subsection (a), the report shall include—

(1) the name of the contractor;

(2) a description of the indemnification provision included in the contract; and

(3) a justification for the contract including the indemnification provision.

(d) **FORM.**—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

**SEC. 866. PLAN TO INCREASE NUMBER OF CONTRACTORS ELIGIBLE FOR CONTRACTS UNDER AIR FORCE NETCENTS-2 CONTRACT.**

Deadline.

(a) **PLAN REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan to increase the number of contractors eligible to be awarded contracts under the Air Force's Network-Centric Solutions-2 (NETCENTS-2) indefinite-delivery, indefinite-quantity (IDIQ) contract.

(b) **CONTENT.**—The plan required under subsection (a) shall include the following elements:

(1) A recommendation and rationale for a maximum number of contractors to be eligible for contract awards under NETCENTS-2 to foster competition and reduce overall costs associated with hardware and operation and maintenance of Air Networks.

(2) The methodology used to periodically review existing eligible NETCENTS-2 contractors and contracts.

(3) A timeline to increase the current number of eligible contractors under NETCENTS-2 and dates of future “on-ramps” under NETCENTS-2 to assess current eligible contractors and add additional eligible contractors.

**SEC. 867. INCLUSION OF INFORMATION ON PREVALENT GROUNDS FOR SUSTAINING BID PROTESTS IN ANNUAL PROTEST REPORT BY COMPTROLLER GENERAL TO CONGRESS.**

Section 3554(e)(2) of title 31, United States Code, is amended by adding at the end the following: “The report shall also include a summary of the most prevalent grounds for sustaining protests during such preceding year.”.

## **TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT**

### **Subtitle A—Department of Defense Management**

- Sec. 901. Additional duties of Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy and amendments to Strategic Materials Protection Board.
- Sec. 902. Requirement for focus on urgent operational needs and rapid acquisition.
- Sec. 903. Designation of Department of Defense senior official for enterprise resource planning system data conversion.
- Sec. 904. Additional responsibilities and resources for Deputy Assistant Secretary of Defense for Developmental Test and Evaluation.
- Sec. 905. Definition and report on terms “preparation of the environment” and “operational preparation of the environment” for joint doctrine purposes.
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### **Subtitle B—Space Activities**

- Sec. 911. Reports on integration of acquisition and capability delivery schedules for segments of major satellite acquisition programs and funding for such programs.
- Sec. 912. Commercial space launch cooperation.
- Sec. 913. Limitation on international agreements concerning outer space activities.
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Subtitle C—Intelligence-Related Activities

- Sec. 921. Authority to provide geospatial intelligence support to certain security alliances and regional organizations.
- Sec. 922. Technical amendments to reflect change in name of National Defense Intelligence College to National Intelligence University.
- Sec. 923. Review of Army Distributed Common Ground System.
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Subtitle D—Cyberspace-Related Matters

- Sec. 931. Implementation strategy for Joint Information Environment.
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- Sec. 933. Improvements in assurance of computer software procured by the Department of Defense.
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- Sec. 935. Collection and analysis of network flow data.
- Sec. 936. Competition for large-scale software database and data analysis tools.
- Sec. 937. Software licenses of the Department of Defense.
- Sec. 938. Sense of Congress on potential security risks to Department of Defense networks.
- Sec. 939. Quarterly cyber operations briefings.
- Sec. 940. Sense of Congress on the United States Cyber Command.
- Sec. 941. Reports to Department of Defense on penetrations of networks and information systems of certain contractors.

Subtitle E—Other Matters

- Sec. 951. Advice on military requirements by Chairman of Joint Chiefs of Staff and Joint Requirements Oversight Council.
- Sec. 952. Enhancement of responsibilities of the Chairman of the Joint Chiefs of Staff regarding the national military strategy.
- Sec. 953. One-year extension of authority to waive reimbursement of costs of activities for nongovernmental personnel at Department of Defense regional centers for security studies.
- Sec. 954. National Language Service Corps.
- Sec. 955. Savings to be achieved in civilian personnel workforce and service contractor workforce of the Department of Defense.
- Sec. 956. Expansion of persons eligible for expedited Federal hiring following completion of National Security Education Program scholarship.

## Subtitle A—Department of Defense Management

### SEC. 901. ADDITIONAL DUTIES OF DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MANUFACTURING AND INDUSTRIAL BASE POLICY AND AMENDMENTS TO STRATEGIC MATE- RIALS PROTECTION BOARD.

(a) RESPONSIBILITIES OF DEPUTY ASSISTANT SECRETARY.—Section 139c(b) of title 10, United States Code, is amended—

(1) by striking paragraphs (1) through (4) and inserting the following:

“(1) Providing input to strategy reviews, including quadrennial defense reviews conducted pursuant to section 118 of this title, on matters related to—

“(A) the defense industrial base; and

“(B) materials critical to national security.

“(2) Establishing policies of the Department of Defense for developing and maintaining the defense industrial base of the United States and ensuring a secure supply of materials critical to national security.

“(3) Providing recommendations on budget matters pertaining to the industrial base, the supply chain, and the

development and retention of skills necessary to support the industrial base.

“(4) Providing recommendations and acquisition policy guidance on supply chain management and supply chain vulnerability throughout the entire supply chain, from suppliers of raw materials to producers of major end items.”;

(2) by striking paragraph (5) and redesignating paragraphs (6), (7), (8), (9), and (10) as paragraphs (5), (6), (7), (8), and (9), respectively;

(3) by inserting after paragraph (9), as so redesignated, the following new paragraph (10):

“(10) Providing policy and oversight of matters related to materials critical to national security to ensure a secure supply of such materials to the Department of Defense.”;

(4) by redesignating paragraph (15) as paragraph (18); and

(5) by inserting after paragraph (14) the following new paragraphs:

“(15) Coordinating with the Director of Small Business Programs on all matters related to industrial base policy of the Department of Defense.

“(16) Ensuring reliable sources of materials critical to national security, such as specialty metals, armor plate, and rare earth elements.

“(17) Establishing policies of the Department of Defense for continued reliable resource availability from secure sources for the industrial base of the United States.”.

(b) MATERIALS CRITICAL TO NATIONAL SECURITY DEFINED.—Section 139c of such title is further amended by adding at the end the following new subsection:

“(d) MATERIALS CRITICAL TO NATIONAL SECURITY DEFINED.—In this section, the term ‘materials critical to national security’ has the meaning given that term in section 187(e)(1) of this title.”.

(c) AMENDMENTS TO STRATEGIC MATERIALS PROTECTION BOARD.—

(1) MEMBERSHIP.—Paragraph (2) of section 187(a) of such title is amended to read as follows:

“(2) The Board shall be composed of the following:

“(A) The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy, who shall be the chairman of the Board.

“(B) The Administrator of the Defense Logistics Agency Strategic Materials, or any successor organization, who shall be the vice chairman of the Board.

“(C) A designee of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology.

“(D) A designee of the Assistant Secretary of the Navy for Research, Development, and Acquisition.

“(E) A designee of the Assistant Secretary of the Air Force for Acquisition.”.

(2) DUTIES.—Paragraphs (3) and (4) of section 187(b) of such title are each amended by striking “President” and inserting “Secretary”.

(3) MEETINGS.—Section 187(c) of such title is amended by striking “Secretary of Defense” and inserting “Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy”.

(4) **REPORTS.**—Section 187(d) of such title is amended to read as follows:

“(d) **REPORTS.**—(1) Subject to paragraph (2), after each meeting of the Board, the Board shall prepare a report containing the results of the meeting and such recommendations as the Board determines appropriate. Each such report shall be submitted to the congressional defense committees, together with comments and recommendations from the Secretary of Defense, not later than 90 days after the meeting covered by the report.

“(2) In any year in which the Board meets more than once, each report prepared by the Board as required by paragraph (1) may be combined into one annual report and submitted as provided by paragraph (1) not later than 90 days after the last meeting of the year.”.

**SEC. 902. REQUIREMENT FOR FOCUS ON URGENT OPERATIONAL NEEDS AND RAPID ACQUISITION.**

10 USC 2302  
note.

(a) **DESIGNATION OF SENIOR OFFICIAL RESPONSIBLE FOR FOCUS ON URGENT OPERATIONAL NEEDS AND RAPID ACQUISITION.**—

(1) **IN GENERAL.**—The Secretary of Defense, after consultation with the Secretaries of the military departments, shall designate a senior official in the Office of the Secretary of Defense as the principal official of the Department of Defense responsible for leading the Department’s actions on urgent operational needs and rapid acquisition, in accordance with this section.

(2) **STAFF AND RESOURCES.**—The Secretary shall assign to the senior official designated under paragraph (1) appropriate staff and resources necessary to carry out the official’s functions under this section.

(b) **RESPONSIBILITIES.**—The senior official designated under subsection (a) shall be responsible for the following:

(1) Acting as an advocate within the Department of Defense for issues related to the Department’s ability to rapidly respond to urgent operational needs, including programs funded and carried out by the military departments.

(2) Improving visibility of urgent operational needs throughout the Department, including across the military departments, the Defense Agencies, and all other entities and processes in the Department that address urgent operational needs.

(3) Ensuring that tools and mechanisms are used to track, monitor, and manage the status of urgent operational needs within the Department, from validation through procurement and fielding, including a formal feedback mechanism for the Armed Forces to provide information on how well fielded solutions are meeting urgent operational needs.

(c) **URGENT OPERATIONAL NEEDS DEFINED.**—In this section, the term “urgent operational needs” means capabilities that are determined by the Secretary of Defense, pursuant to the review process required by section 804(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2302 note), to be suitable for rapid fielding in response to urgent operational needs.

10 USC 113 note. **SEC. 903. DESIGNATION OF DEPARTMENT OF DEFENSE SENIOR OFFICIAL FOR ENTERPRISE RESOURCE PLANNING SYSTEM DATA CONVERSION.**

Deadline. Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) designate a senior official of the Department of Defense as the official with principal responsibility for coordination and management oversight of data conversion for all enterprise resource planning systems of the Department; and

(2) set forth the responsibilities of that senior official with respect to such data conversion.

**SEC. 904. ADDITIONAL RESPONSIBILITIES AND RESOURCES FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION.**

(a) **DIRECT COMMUNICATION.**—Section 139b(a)(3) of title 10, United States Code, is amended by striking “to the Under Secretary” before the period and inserting “to the Under Secretary. The Deputy Assistant Secretary may communicate views on matters within the responsibility of the Deputy Assistant Secretary directly to the Under Secretary without obtaining the approval or concurrence of any other official within the Department of Defense”.

(b) **DUTIES.**—Section 139b(a)(5) of such title is amended—

(1) in subparagraph (A)(i), by striking “in the Department of Defense” and inserting “in the military departments and other elements of the Department of Defense”;

(2) in subparagraph (B), by striking “review and approve” and inserting “review and approve or disapprove”;

(3) in subparagraph (C), by striking “programs” and inserting “programs (including the activities of chief developmental testers and lead developmental test evaluation organizations designated in accordance with subsection (c))”;

(4) in subparagraph (E), by striking “and” after the semicolon at the end; and

(5) by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph (F):

“(F) in consultation with the Assistant Secretary of Defense for Research and Engineering, assess the technological maturity and integration risk of critical technologies at key stages in the acquisition process; and”.

(c) **CONCURRENT SERVICE.**—Section 139b(a)(7) of such title is amended by striking “may” and inserting “shall”.

(d) **RESOURCES.**—Section 139b(a) of such title is amended by adding at the end the following new paragraph:

“(8) **RESOURCES.**—

President.

“(A) The President shall include in the budget transmitted to Congress, pursuant to section 1105 of title 31, for each fiscal year, a separate statement of estimated expenditures and proposed appropriations for the fiscal year for the activities of the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation in carrying out the duties and responsibilities of the Deputy Assistant Secretary under this section.

“(B) The Deputy Assistant Secretary of Defense for Developmental Test and Evaluation shall have sufficient professional staff of military and civilian personnel to



enable the Deputy Assistant Secretary to carry out the duties and responsibilities prescribed by law.”.

(e) CONSULTATIONS RELATING TO TECHNOLOGICAL READINESS.—

(1) CONSULTATION ON REPORT ON CRITICAL TECHNOLOGIES.—Section 138b(b)(2) of such title is amended by striking “The Assistant Secretary shall submit” and inserting “The Assistant Secretary, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, shall submit”.

(2) CONSULTATION DURING CERTIFICATION PROCESS FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—Section 2366b(a)(3)(D) of such title is amended by striking “the Assistant Secretary of Defense for Research and Engineering” and inserting “the Assistant Secretary of Defense for Research and Engineering, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation”.

(f) DUTIES OF CHIEF DEVELOPMENTAL TESTER AND LEAD DEVELOPMENTAL TEST AND EVALUATION ORGANIZATION.—Section 139b(c) of such title is amended—

(1) in paragraph (2), by striking “shall be responsible for” and inserting “, consistent with policies and guidance issued pursuant to subsection (a)(5)(A), shall be responsible for”;

(2) in paragraph (3), by striking “shall be responsible for” and inserting “, consistent with policies and guidance issued pursuant to subsection (a)(5)(A), shall be responsible for”; and

(3) by adding at the end the following new paragraph:

“(4) TRANSMITTAL OF RECORDS AND DATA.—The chief developmental tester and the lead developmental test and evaluation organization for a major defense acquisition program shall promptly transmit to the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation any records or data relating to the program that are requested by the Deputy Assistant Secretary, as provided in subsection (a)(6).”.

(g) ANNUAL REPORT.—Section 139b(d) of such title is amended—

(1) in the subsection heading, by striking “JOINT”;

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively, and moving each subparagraph (as so redesignated) two ems to the right;

(3) by striking “Not later than March 31” and inserting:

“(1) IN GENERAL.—Not later than March 31”;

(4) in the matter appearing before subparagraph (A), as so redesignated, by striking “jointly” and inserting “each”; and

(5) by adding at the end the following new paragraph:

“(2) ADDITIONAL REQUIREMENTS FOR REPORT BY DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION.—With respect to the report required under paragraph (1) by the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, the report shall include—

“(A) a separate section that covers the activities of the Department of Defense Test Resource Management Center (established under section 196 of this title) during the preceding year; and

“(B) a separate section that addresses the adequacy of the resources available to the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation and to the lead developmental test and evaluation organizations

of the military departments to carry out the responsibilities prescribed by this section.”.

10 USC 133 note.

(h) REPORTS TO CONGRESS ON FAILURE TO COMPLY WITH RECOMMENDATIONS.—

(1) REPORT REQUIRED.—Not later than 60 days after the end of each fiscal year, from fiscal year 2013 through fiscal year 2018, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on each case in which a major defense acquisition program, in the preceding fiscal year—

(A) proceeded to implement a test and evaluation master plan notwithstanding a decision of the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation to disapprove the developmental test and evaluation plan within that plan in accordance with section 139b(a)(5)(B) of title 10, United States Code; or

(B) proceeded to initial operational testing and evaluation notwithstanding a determination by the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation on the basis of an assessment of operational test readiness that the program is not ready for operational testing.

(2) MATTERS COVERED.—

(A) For each program covered by paragraph (1)(A), the report shall include the following:

(i) A description of the specific aspects of the developmental test and evaluation plan that the Deputy Assistant Secretary determined to be inadequate.

(ii) An explanation of the reasons why the program disregarded the Deputy Assistant Secretary’s recommendations with regard to those aspects of the developmental test and evaluation plan.

(iii) The steps taken to address those aspects of the developmental test and evaluation plan and address the concerns of the Deputy Assistant Secretary.

(B) For each program covered by paragraph (1)(B), the report shall include the following:

(i) An explanation of the reasons why the program proceeded to initial operational testing and evaluation notwithstanding the findings of the assessment of operational test readiness.

(ii) A description of the aspects of the approved testing and evaluation master plan that had to be set aside to enable the program to proceed to initial operational testing and evaluation.

(iii) A description of how the program addressed the specific areas of concern raised in the assessment of operational test readiness.

(iv) A statement of whether initial operational testing and evaluation identified any significant shortcomings in the program.

(3) ADDITIONAL CONGRESSIONAL NOTIFICATION.—Not later than 30 days after any decision to conduct developmental testing on a major defense acquisition program without an approved test and evaluation master plan in place, the Under

Secretary of Defense for Acquisition, Technology, and Logistics shall provide to the congressional defense committees a written explanation of the basis for the decision and a timeline for getting an approved plan in place.

**SEC. 905. DEFINITION AND REPORT ON TERMS “PREPARATION OF THE ENVIRONMENT” AND “OPERATIONAL PREPARATION OF THE ENVIRONMENT” FOR JOINT DOCTRINE PURPOSES.**

(a) **DEFINITIONS REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall define for purposes of joint doctrine the following terms:

(1) The term “preparation of the environment”.

(2) The term “operational preparation of the environment”.

(b) **REPORT REQUIRED.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the terms defined under subsection (a). The report shall include the following:

(A) The definition of the term “preparation of the environment” pursuant to subsection (a).

(B) Examples of activities meeting the definition of the term “preparation of the environment” by special operations forces and general purpose forces.

(C) The definition of the term “operational preparation of the environment” pursuant to subsection (a).

(D) Examples of activities meeting the definition of the term “operational preparation of the environment” by special operations forces and general purpose forces.

(E) An assessment of the appropriate roles of special operations forces and general purpose forces in conducting activities meeting the definition of the term “preparation of the environment” and the definition of the term “operational preparation of the environment”.

(2) **FORM.**—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 906. INFORMATION FOR DEPUTY CHIEF MANAGEMENT OFFICER OF THE DEPARTMENT OF DEFENSE FROM THE MILITARY DEPARTMENTS AND DEFENSE AGENCIES FOR DEFENSE BUSINESS SYSTEM INVESTMENT REVIEWS.**

Section 2222(g) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3)(A) The investment management process required by paragraph (1) shall include requirements for the military departments and the Defense Agencies to make available to the Deputy Chief Management Officer such information on covered defense business system programs and other business functions as the Deputy Chief Management Officer shall require for the review of defense business system programs under the process. Such information shall be made available to the Deputy Chief Management Officer through existing data sources or in a standardized format established by the Deputy Chief Management Officer for purposes of this paragraph.”.

## Subtitle B—Space Activities

### SEC. 911. REPORTS ON INTEGRATION OF ACQUISITION AND CAPABILITY DELIVERY SCHEDULES FOR SEGMENTS OF MAJOR SATELLITE ACQUISITION PROGRAMS AND FUNDING FOR SUCH PROGRAMS.

(a) IN GENERAL.—Chapter 135 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2275.

#### **“§ 2275. Reports on integration of acquisition and capability delivery schedules for segments of major satellite acquisition programs and funding for such programs**

“(a) REPORTS REQUIRED.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on each major satellite acquisition program in accordance with subsection (d) that assesses—

“(1) the integration of the schedules for the acquisition and the delivery of the capabilities of the segments for the program; and

“(2) funding for the program.

“(b) ELEMENTS.—Each report required by subsection (a) with respect to a major satellite acquisition program shall include the following:

“(1) The amount of funding approved for the program and for each segment of the program that is necessary for full operational capability of the program.

“(2) The dates by which the program and each segment of the program is anticipated to reach initial and full operational capability.

“(3) A description of the intended primary capabilities and key performance parameters of the program.

“(4) An assessment of the extent to which the schedules for the acquisition and the delivery of the capabilities of the segments for the program or any related program referred to in paragraph (1) are integrated.

“(5) If the Under Secretary determines pursuant to the assessment under paragraph (4) that the program is a non-integrated program, an identification of—

“(A) the impact on the mission of the program of having the delivery of the segment capabilities of the program more than one year apart;

“(B) the measures the Under Secretary is taking or is planning to take to improve the integration of the acquisition and delivery schedules of the segment capabilities; and

“(C) the risks and challenges that impede the ability of the Department of Defense to fully integrate those schedules.

“(c) CONSIDERATION BY MILESTONE DECISION AUTHORITY.—The Milestone Decision Authority shall include the report required by subsection (a) with respect to a major satellite acquisition program as part of the documentation used to approve the acquisition of the program.

“(d) SUBMITTAL OF REPORTS.—(1) In the case of a major satellite acquisition program initiated before the date of the enactment

of the National Defense Authorization Act for Fiscal Year 2013, the Under Secretary shall submit the report required by subsection (a) with respect to the program not later than one year after such date of enactment.

“(2) In the case of a major satellite acquisition program initiated on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013, the Under Secretary shall submit the report required by subsection (a) with respect to the program at the time of the Milestone B approval of the program.

“(e) NOTIFICATION TO CONGRESS OF NON-INTEGRATED ACQUISITION AND CAPABILITY DELIVERY SCHEDULES.—If, after submitting the report required by subsection (a) with respect to a major satellite acquisition program, the Under Secretary determines that the program is a non-integrated program, the Under Secretary shall, not later than 30 days after making that determination, submit to the congressional defense committees a report—

Determination.

“(1) notifying the committees of that determination; and

“(2) identifying—

“(A) the impact on the mission of the program of having the delivery of the segment capabilities of the program more than one year apart;

“(B) the measures the Under Secretary is taking or is planning to take to improve the integration of the acquisition and delivery schedules of the segment capabilities; and

“(C) the risks and challenges that impede the ability of the Department of Defense to fully integrate those schedules.

“(f) ANNUAL UPDATES FOR NON-INTEGRATED PROGRAMS.—

“(1) REQUIREMENT.—For each major satellite acquisition program that the Under Secretary has determined under subsection (b)(5) or subsection (e) is a non-integrated program, the Under Secretary shall annually submit to Congress, at the same time the budget of the President for a fiscal year is submitted under section 1105 of title 31, an update to the report required by subsection (a) for such program.

“(2) TERMINATION OF REQUIREMENT.—The requirement to submit an annual report update for a program under paragraph (1) shall terminate on the date on which the Under Secretary submits to the congressional defense committees notice that the Under Secretary has determined that such program is no longer a non-integrated program, or on the date that is five years after the date on which the initial report update required under paragraph (1) is submitted, whichever is earlier.

Notification.

“(3) GAO REVIEW OF CERTAIN NON-INTEGRATED PROGRAMS.—If at the time of the termination of the requirement to annually update a report for a program under paragraph (1) the Under Secretary has not provided notice to the congressional defense committees that the Under Secretary has determined that the program is no longer a non-integrated program, the Comptroller General shall conduct a review of such program and submit the results of such review to the congressional defense committees.

“(g) DEFINITIONS.—In this section:

“(1) SEGMENTS.—The term ‘segments’, with respect to a major satellite acquisition program, refers to any satellites acquired under the program and the ground equipment and

user terminals necessary to fully exploit the capabilities provided by those satellites.

“(2) MAJOR SATELLITE ACQUISITION PROGRAM.—The term ‘major satellite acquisition program’ means a major defense acquisition program (as defined in section 2430 of this title) for the acquisition of a satellite.

“(3) MILESTONE B APPROVAL.—The term ‘Milestone B approval’ has the meaning given that term in section 2366(e)(7) of this title.

“(4) NON-INTEGRATED PROGRAM.—The term ‘non-integrated program’ means a program with respect to which the schedules for the acquisition and the delivery of the capabilities of the segments for the program, or a related program that is necessary for the operational capability of the program, provide for the acquisition or the delivery of the capabilities of at least two of the three segments for the program or related program more than one year apart.”.

10 USC  
prec. 2271.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 135 of such title is amended by adding at the end the following new item:

“2275. Reports on integration of acquisition and capability delivery schedules for segments of major satellite acquisition programs and funding for such programs.”.

#### SEC. 912. COMMERCIAL SPACE LAUNCH COOPERATION.

(a) IN GENERAL.—Chapter 135 of title 10, United States Code, as amended by section 911 of this Act, is further amended by adding at the end the following new section:

10 USC 2276.

#### “§ 2276. Commercial space launch cooperation

“(a) AUTHORITY.—The Secretary of Defense may take such actions as the Secretary considers to be in the best interest of the Federal Government to—

“(1) maximize the use of the capacity of the space transportation infrastructure of the Department of Defense by the private sector in the United States;

“(2) maximize the effectiveness and efficiency of the space transportation infrastructure of the Department of Defense;

“(3) reduce the cost of services provided by the Department of Defense related to space transportation infrastructure at launch support facilities and space recovery support facilities;

“(4) encourage commercial space activities by enabling investment by covered entities in the space transportation infrastructure of the Department of Defense; and

“(5) foster cooperation between the Department of Defense and covered entities.

“(b) AUTHORITY FOR CONTRACTS AND OTHER AGREEMENTS RELATING TO SPACE TRANSPORTATION INFRASTRUCTURE.—The Secretary of Defense—

“(1) may enter into an agreement with a covered entity to provide the covered entity with support and services related to the space transportation infrastructure of the Department of Defense; and

Determination.

“(2) upon the request of such covered entity, may include such support and services in the space launch and reentry range support requirements of the Department of Defense if—

“(A) the Secretary determines that the inclusion of such support and services in such requirements—

“(i) is in the best interest of the Federal Government;

“(ii) does not interfere with the requirements of the Department of Defense; and

“(iii) does not compete with the commercial space activities of other covered entities, unless that competition is in the national security interests of the United States; and

“(B) any commercial requirement included in the agreement has full non-Federal funding before the execution of the agreement.

“(c) CONTRIBUTIONS.—

“(1) IN GENERAL.—The Secretary of Defense may enter into an agreement with a covered entity on a cooperative and voluntary basis to accept contributions of funds, services, and equipment to carry out this section.

“(2) USE OF CONTRIBUTIONS.—Any funds, services, or equipment accepted by the Secretary under this subsection—

“(A) may be used only for the objectives specified in this section in accordance with terms of use set forth in the agreement entered into under this subsection; and

“(B) shall be managed by the Secretary in accordance with regulations of the Department of Defense.

“(3) REQUIREMENTS WITH RESPECT TO AGREEMENTS.—An agreement entered into with a covered entity under this subsection—

“(A) shall address the terms of use, ownership, and disposition of the funds, services, or equipment contributed pursuant to the agreement; and

“(B) shall include a provision that the covered entity will not recover the costs of its contribution through any other agreement with the United States.

“(d) DEFENSE COOPERATION SPACE LAUNCH ACCOUNT.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States a special account to be known as the ‘Defense Cooperation Space Launch Account’.

“(2) CREDITING OF FUNDS.—Funds received by the Secretary of Defense under subsection (c) shall be credited to the Defense Cooperation Space Launch Account.

“(3) USE OF FUNDS.—Funds deposited in the Defense Cooperation Space Launch Account under paragraph (2) are authorized to be appropriated and shall be available for obligation only to the extent provided in advance in an appropriation Act for costs incurred by the Department of Defense in carrying out subsection (b). Funds in the Account shall remain available until expended.

“(e) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the funds, services, and equipment accepted and used by the Secretary under this section during the preceding fiscal year.

“(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

“(g) DEFINITIONS.—In this section:

“(1) COVERED ENTITY.—The term ‘covered entity’ means a non-Federal entity that—

“(A) is organized under the laws of the United States or of any jurisdiction within the United States; and

“(B) is engaged in commercial space activities.

“(2) LAUNCH SUPPORT FACILITIES.—The term ‘launch support facilities’ has the meaning given the term in section 50501(7) of title 51.

“(3) SPACE RECOVERY SUPPORT FACILITIES.—The term ‘space recovery support facilities’ has the meaning given the term in section 50501(11) of title 51.

“(4) SPACE TRANSPORTATION INFRASTRUCTURE.—The term ‘space transportation infrastructure’ has the meaning given that term in section 50501(12) of title 51.”.

10 USC  
prec. 2271.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as so amended, is further amended by adding at the end the following new item:

“2276. Commercial space launch cooperation.”.

**SEC. 913. LIMITATION ON INTERNATIONAL AGREEMENTS CONCERNING OUTER SPACE ACTIVITIES.**

51 USC 30701  
note.

(a) CERTIFICATION REQUIRED.—If the United States becomes a signatory to a non-legally binding international agreement concerning an International Code of Conduct for Outer Space Activities or any similar agreement, at the same time as the United States becomes such a signatory—

President.

(1) the President shall submit to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a certification that such agreement has no legally-binding effect or basis for limiting the activities of the United States in outer space; and

(2) the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Director of National Intelligence shall jointly submit to the congressional defense committees a certification that such agreement will be equitable, enhance national security, and have no militarily significant impact on the ability of the United States to conduct military or intelligence activities in space.

51 USC 30701  
note.

(b) BRIEFINGS AND NOTIFICATIONS REQUIRED.—

(1) RESTATEMENT OF POLICY FORMULATION UNDER THE ARMS CONTROL AND DISARMAMENT ACT WITH RESPECT TO OUTER SPACE.—No action shall be taken that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in outer space in a militarily significant manner, except pursuant to the treaty-making power of the President set forth in Article II, Section 2, Clause II of the Constitution or unless authorized by the enactment of further affirmative legislation by the Congress of the United States.

(2) BRIEFINGS.—

(A) REQUIREMENT.—The Secretary of Defense, the Secretary of State, and the Director of National Intelligence shall jointly provide to the covered congressional committees regular, detailed updates on the negotiation of a non-legally binding international agreement concerning an International Code of Conduct for Outer Space Activities or any similar agreement.



(B) **TERMINATION OF REQUIREMENT.**—The requirement to provide regular briefings under subparagraph (A) shall terminate on the date on which the United States becomes a signatory to an agreement referred to in subparagraph (A), or on the date on which the President certifies to Congress that the United States is no longer negotiating an agreement referred to in subparagraph (A), whichever is earlier.

President.  
Certification.

(3) **NOTIFICATIONS.**—If the United States becomes a signatory to a non-legally binding international agreement concerning an International Code of Conduct for Outer Space Activities or any similar agreement, not less than 60 days prior to any action that will obligate the United States to reduce or limit the Armed Forces or armaments or activities of the United States in outer space, the head of each Department or agency of the Federal Government that is affected by such action shall submit to Congress notice of such action and the effect of such action on such Department or agency.

Deadline.

(4) **DEFINITION.**—In this subsection, the term “covered congressional committees” means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(c) **REPORT ON FOREIGN COUNTER-SPACE PROGRAMS.**—

(1) **REPORT REQUIRED.**—Chapter 135 of title 10, United States Code, as amended by section 912 of this Act, is further amended by adding at the end the following new section:

**“§ 2277. Report on foreign counter-space programs**

10 USC 2277.

“(a) **REPORT REQUIRED.**—Not later than January 1 of each year, the Secretary of Defense and the Director of National Intelligence shall jointly submit to Congress a report on the counter-space programs of foreign countries.

“(b) **CONTENTS.**—Each report required under subsection (a) shall include—

“(1) an explanation of whether any foreign country has a counter-space program that could be a threat to the national security or commercial space systems of the United States; and

“(2) the name of each country with a counter-space program described in paragraph (1).

“(c) **FORM.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), each report required under subsection (a) shall be submitted in unclassified form.

“(2) **CLASSIFIED ANNEX.**—The Secretary of Defense and the Director of National Intelligence may submit to the covered congressional committees a classified annex to a report required under subsection (a) containing any classified information required to be submitted for such report.

“(3) **FOREIGN COUNTRY NAMES.**—

“(A) **UNCLASSIFIED FORM.**—Subject to subparagraph (B), each report required under subsection (a) shall include

the information required under subsection (b)(2) in unclassified form.

Determination.

“(B) NATIONAL SECURITY WAIVER.—The Secretary of Defense and the Director of National Intelligence may waive the requirement under subparagraph (A) if the Secretary and the Director of National Intelligence jointly determine it is in the interests of national security to waive such requirement and submits to Congress an explanation of why the Secretary and the Director waived such requirement.

“(d) COVERED CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘covered congressional committees’ means the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate.”.

10 USC  
prec. 2271.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 135 of title 10, United States Code, as so amended, is further amended by adding at the end the following new item:

“2277. Report on foreign counter-space programs.”.

**SEC. 914. OPERATIONALLY RESPONSIVE SPACE PROGRAM OFFICE.**

(a) IN GENERAL.—Subsection (a) of section 2273a of title 10, United States Code, is amended to read as follows:

Establishment.

“(a) IN GENERAL.—There is within the Air Force Space and Missile Systems Center of the Department of Defense a joint program office known as the Operationally Responsive Space Program Office (in this section referred to as the ‘Office’). The facilities of the Office may not be co-located with the headquarters facilities of the Air Force Space and Missile Systems Center.”.

(b) HEAD OF OFFICE.—Subsection (b) of such section is amended by striking “shall be—” and all that follows and inserting “shall be the designee of the Department of Defense Executive Agent for Space. The head of the Office shall report to the Commander of the Air Force Space and Missile Systems Center.”.

(c) MISSION.—Subsection (c)(1) of such section is amended by striking “spacelift” and inserting “launch”.

(d) SENIOR ACQUISITION EXECUTIVE.—Paragraph (1) of subsection (e) of such section is amended to read as follows:

“(1) The Program Executive Officer for Space shall be the Acquisition Executive of the Office and shall provide streamlined acquisition authorities for projects of the Office.”.

(e) EXECUTIVE COMMITTEE.—Such section is further amended by adding at the end the following new subsection:

Establishment.

“(g) EXECUTIVE COMMITTEE.—(1) The Secretary of Defense shall establish for the Office an Executive Committee (to be known as the ‘Operationally Responsive Space Executive Committee’) to provide coordination, oversight, and approval of projects of the Office.

“(2) The Executive Committee shall consist of the officials (and their duties) as follows:

“(A) The Department of Defense Executive Agent for Space, who shall serve as Chair of the Executive Committee and provide oversight, prioritization, coordination, and resources for the Office.

“(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall provide coordination and oversight of the Office and recommend funding sources for programs of the Office that exceed the approved program baseline.

“(C) The Commander of the United States Strategic Command, who shall validate requirements for systems to be acquired by the Office and participate in approval of any acquisition program initiated by the Office.

“(D) The Commander of the Air Force Space Command, the Commander of the Army Space and Missile Defense Command, and the Commander of the Space and Naval Warfare Systems Command, who shall jointly organize, train, and equip forces to support the acquisition programs of the Office.

“(E) Such other officials (and their duties) as the Secretary of Defense considers appropriate.”.

**SEC. 915. REPORT ON OVERHEAD PERSISTENT INFRARED TECHNOLOGY.**

(a) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of National Intelligence, shall submit to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report on overhead persistent infrared technology that includes—

(1) an identification of the comprehensive overhead persistent infrared technology requirements of the Department of Defense and the intelligence community;

(2) a description of the strategy, plan, and budget for the space layer, with supporting ground architecture, including key decision points for the current and next generation overhead persistent infrared technology with respect to missile warning, missile defense, battlespace awareness, and technical intelligence;

(3) an assessment of whether there are further opportunities for the Department of Defense and the intelligence community to capitalize on increased data sharing, fusion, interoperability, and exploitation;

(4) recommendations on how to better coordinate the efforts by the Department and the intelligence community to exploit overhead persistent infrared sensor data; and

(5) any other relevant information that the Secretary considers necessary.

(b) **COMPTROLLER GENERAL ASSESSMENT.**—Not later than 90 days after the date on which the Secretary of Defense submits the report required under subsection (a), the Comptroller General of the United States shall submit to the congressional defense committees an assessment of the report required under subsection (a), including—

(1) an assessment of whether such report is comprehensive, fully supported, and sufficiently detailed; and

(2) an identification of any shortcomings, limitations, or other reportable matters that affect the quality or findings of the report required under subsection (a).

(c) **INTELLIGENCE COMMUNITY DEFINED.**—In this section, the term “intelligence community” has the meaning given that term

in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

**SEC. 916. ASSESSMENT OF FOREIGN COMPONENTS AND THE SPACE LAUNCH CAPABILITY OF THE UNITED STATES.**

(a) **ASSESSMENT.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall conduct an independent assessment of the national security implications of continuing to use foreign component and propulsion systems for the launch vehicles under the evolved expendable launch vehicle program.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the assessment conducted under subsection (a).

**SEC. 917. REPORT ON COUNTER SPACE TECHNOLOGY.**

(a) **REPORT.**—Not later than one year after the date of the enactment of this Act, and annually thereafter for two years, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a report based on all available information (including the Counter Space Technology List of the Department of State) describing key space technologies that could be used, or are being sought, by a foreign country with a counter space or ballistic missile program, and should be subject to export controls by the United States or an ally of the United States, as appropriate.

(b) **FORM.**—Each report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

## Subtitle C—Intelligence-Related Activities

**SEC. 921. AUTHORITY TO PROVIDE GEOSPATIAL INTELLIGENCE SUPPORT TO CERTAIN SECURITY ALLIANCES AND REGIONAL ORGANIZATIONS.**

(a) **AUTHORIZATION.**—Section 443(a) of title 10, United States Code, is amended by striking “foreign countries” and inserting “foreign countries, regional organizations with defense or security components, and security alliances of which the United States is a member”.

(b) **CLERICAL AMENDMENTS.**—

(1) **SECTION HEADING.**—The heading of section 443 of title 10, United States Code, is amended by striking “**foreign countries**” and inserting “**foreign countries, regional organizations, and security alliances**”.

(2) **TABLE OF SECTIONS.**—The table of sections at the beginning of chapter 22 of title 10, United States Code, is amended by striking the item relating to section 443 and inserting the following new item:

“443. Imagery intelligence and geospatial information: support for foreign countries, regional organizations, and security alliances.”.

(c) **REPORTS.**—

(1) **IN GENERAL.**—Not later than January 15 during each of 2014 and 2015, the Director of the National Geospatial-

Intelligence Agency shall submit to the appropriate congressional committees an annual report on the imagery intelligence or geospatial information support that the Director provided to a regional organization or security alliance under section 443(a) of title 10, United States Code, as amended by subsection (a), during the year covered by the report, including an identification of each such organization or alliance and the number of times such organization or alliance received such intelligence or support.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means—

(A) the congressional defense committees; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

**SEC. 922. TECHNICAL AMENDMENTS TO REFLECT CHANGE IN NAME OF NATIONAL DEFENSE INTELLIGENCE COLLEGE TO NATIONAL INTELLIGENCE UNIVERSITY.**

(a) CONFORMING AMENDMENTS TO REFLECT NAME CHANGE.—Section 2161 of title 10, United States Code, is amended by striking “National Defense Intelligence College” each place it appears and inserting “National Intelligence University”.

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

10 USC  
prec. 2161.

**“§ 2161. Degree granting authority for National Intelligence University”.**

(2) TABLE OF SECTIONS.—The item related to such section in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

“2161. Degree granting authority for National Intelligence University.”.

**SEC. 923. REVIEW OF ARMY DISTRIBUTED COMMON GROUND SYSTEM.**

(a) REVIEW.—The Secretary of the Army shall direct the Army Systems Acquisition Review Council to—

(1) review the Distributed Common Ground System program of the Army; and

(2) report the results of such review to the congressional defense committees not later than 180 days after the date of the enactment of this Act.

Reports.  
Deadline.

(b) ELEMENTS.—The review required under subsection (a) shall include—

(1) an assessment of the current acquisition strategy for the Distributed Common Ground System program of the Army to determine the relevance of such program to the current and emerging needs of the Army, including evolving technology needs and architectural strategies;

(2) an assessment of the current technology performance to meet existing program requirements, including interoperability, net-readiness, and functional performance for both cloud-enabled and disconnected operations;

(3) an analysis of competitive procedures that allow new and emerging capabilities, including integration of quick reaction capabilities, to be rapidly integrated into the architecture,

including through the use of product fly-offs using standardized, Government-provided common data sets that allow for equitable comparisons of capabilities;

(4) an analysis of the current technological path to ensure such path incorporates current best practices from industry and is in concert with the emerging needs and requirements of the Joint Information Environment;

(5) an assessment of such program to ensure appropriate investments in human systems integration are being made to ensure interface usability;

(6) an assessment of such program to ensure enterprise knowledge management and training requirements are commensurate with the anticipated force structure of the Army for the decade following the date of the enactment of this Act; and

(7) recommendations for any changes that may be needed as a result of the review.

#### SEC. 924. ELECTRO-OPTICAL IMAGERY.

(a) IDENTIFICATION OF DEPARTMENT OF DEFENSE ELECTRO-OPTICAL SATELLITE IMAGERY REQUIREMENTS.—

(1) REPORT.—Not later than April 1, 2013, the Chairman of the Joint Requirements Oversight Council shall submit to the Director of the Congressional Budget Office a report setting forth a comprehensive description of Department of Defense peacetime and wartime requirements for electro-optical satellite imagery.

(2) SCOPE OF REQUIREMENTS.—The requirements under paragraph (1) shall—

(A) be expressed in such terms as are necessary, which may include daily regional and global area coverage and number of point targets, resolution, revisit rates, mean-time to access, latency, redundancy, survivability, and diversity; and

(B) take into consideration all types of imagery and collection means available.

(b) ASSESSMENT OF IDENTIFIED REQUIREMENTS.—

(1) IN GENERAL.—Not later than September 15, 2013, the Director of the Congressional Budget Office shall submit to the appropriate committees of Congress a report setting forth an assessment by the Director of the report required by subsection (a).

(2) ELEMENTS.—The assessment required by paragraph (1) shall include an assessment of the following:

(A) The extent to which the requirements of the Department for electro-optical imagery from space can be satisfied by commercial companies using either—

(i) current designs; or

(ii) enhanced designs that could be developed at low risk.

(B) The estimated cost and schedule of satisfying such requirements using commercial companies.

(3) CONSULTATION AND OTHER RESOURCES.—In preparing the assessment required by paragraph (1), the Director shall—

(A) consult widely with officials of the Government, private industry, and academia; and

Deadline.  
Reports.

(B) make maximum use of existing studies and modeling and simulations.

(4) ACCESS TO INFORMATION.—The Secretary of Defense shall provide the appropriately cleared staff of the Director of the Congressional Budget Office with such access to information and programs applicable to the assessment required by paragraph (1) as the Director of the Congressional Budget Office shall require for the preparation of the assessment.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

#### SEC. 925. DEFENSE CLANDESTINE SERVICE.

(a) PROHIBITION ON USE OF FUNDS FOR ADDITIONAL PERSONNEL.—

(1) PROHIBITION.—Subject to paragraph (2), none of the funds authorized to be appropriated by this Act may be obligated or expended for—

(A) civilian personnel in the Department of Defense conducting or supporting human intelligence in excess of the number of such civilian personnel as of April 20, 2012; or

(B) positions in the Department of Defense served by members of the Armed Forces conducting or supporting human intelligence within the Department of Defense in excess of the number of such positions as of April 20, 2012.

(2) REDUCTION OF CIVILIAN PERSONNEL.—

(A) REDUCTION.—Subject to subparagraph (B), if on the date of the enactment of this Act the number of civilian personnel in the Department of Defense conducting or supporting human intelligence exceeds the number of such personnel as of April 20, 2012, the Secretary of Defense shall, not later than 30 days after the date of the enactment of this Act, take appropriate action to promptly reduce, consistent with reduction-in-force procedures, the total number of such civilian personnel to the number of such civilian personnel as of April 20, 2012. Deadline.

(B) EXCEPTION.—For each civilian personnel in the Department of Defense conducting or supporting human intelligence in excess of the number of such civilian personnel as of April 20, 2012, that the Secretary considers necessary to maintain after the date of the enactment of this Act during all or part of fiscal year 2013, the Secretary shall submit to the appropriate committees of Congress a comprehensive justification for maintaining such civilian personnel, including the specific role, mission, and responsibilities of such civilian personnel and whether such civilian personnel was employed in another capacity in the Department of Defense immediately prior to beginning the conduct or support of human intelligence.

(C) LIMITATION.—Notwithstanding any other provision of this subsection, following the action taken by the Secretary under subparagraph (A), the number of civilian personnel in the Department of Defense conducting or supporting human intelligence for fiscal year 2013 shall not exceed the total of—

(i) the number of such civilian personnel as of April 20, 2012; and

(ii) the number of such civilian personnel for which the Secretary has submitted a justification under subparagraph (B).

(b) CAPE REPORT ON COSTS.—Not later than 120 days after the date of the enactment of this Act, the Director of Cost Assessment and Program Evaluation of the Department of Defense, in consultation with the Director of National Intelligence, shall submit to the appropriate committees of Congress an independent, comprehensive estimate of the costs of the Defense Clandestine Service, including an estimate of the costs over the period of the current future-years defense program and such years occurring after such period as the Director is able to reasonably estimate.

(c) USDI REPORT ON DCS.—

(1) REPORT REQUIRED.—Not later than February 1, 2013, the Under Secretary of Defense for Intelligence shall submit to the appropriate committees of Congress a report on the Defense Clandestine Service.

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) A detailed description of the location and schedule for current and anticipated deployments of case officers trained under the Field Tradecraft Course and a certification of whether each activity receiving a deployment can accommodate and support the deployment.

(B) A statement of the objectives for the effective management of case officers trained under the Field Tradecraft Course. Such objectives shall include an outline of career management tracks commencing with accession, initial training requirement, number of Defense Clandestine Service tours requiring Field Tradecraft Course training, and objectives for management of career tracks, including promotion criteria.

(C) A statement of the manner in which each military department and the Defense Intelligence Agency will each achieve the objectives applicable under subparagraph (B).

(D) A copy of any memoranda of understanding or memoranda of agreement between the Department of Defense and other departments and agencies of the United States Government, or between components of the Department of Defense, that are required to implement objectives for the Defense Clandestine Service.

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and



(B) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) FUTURE-YEARS DEFENSE PROGRAM.—The term “future-years defense program” means the future-years defense program under section 221 of title 10, United States Code.

## Subtitle D—Cyberspace-Related Matters

### SEC. 931. IMPLEMENTATION STRATEGY FOR JOINT INFORMATION ENVIRONMENT. Deadlines.

(a) IMPLEMENTATION STRATEGY.—Not later than March 31, 2013, the Secretary of Defense shall submit to the congressional defense committees a strategy for implementing the Joint Information Environment. Such strategy shall include—

(1) a description for the vision for the Joint Information Environment, including a roadmap for achieving such vision from the existing baseline architecture;

(2) an assessment of the key milestones, metrics, and resources needed to achieve such vision, including the anticipated implementation cost and lifecycle cost savings of the Joint Information Environment;

(3) a description of the acquisition strategy and management plan for implementing the Joint Information Environment;

(4) an analysis of the key technical and policy challenges that must be addressed to achieve such vision, including assignment of responsibility for addressing such challenges;

(5) an identification of dependencies with existing initiatives or programs and capability gaps not currently addressed by funded initiatives or programs; and

(6) an assessment of the personnel challenges associated with manning, training, operating, defending, and fighting in the Joint Information Environment as a command and control and weapon system.

(b) PERSONNEL PLAN.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall submit to the congressional defense committees a Department-wide personnel plan for making the Joint Information Environment operational. Such personnel plan shall be based on the strategy required under subsection (a) and shall include a validated Joint Staff requirement for manpower levels and the levels required for each of the military departments and combat support agencies needed for full spectrum cyber operations, including the national cyber defense mission and the operational plans of the combatant commands, for each fiscal year across the current future-years defense program.

### SEC. 932. NEXT-GENERATION HOST-BASED CYBER SECURITY SYSTEM FOR THE DEPARTMENT OF DEFENSE.

(a) STRATEGY FOR ACQUISITION OF SYSTEM REQUIRED.—The Chief Information Officer of the Department of Defense shall, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Commander of the United States Cyber Command, develop a strategy to acquire next-generation

host-based cyber security tools and capabilities (in this section referred to as a “next-generation system”) for the Department of Defense.

(b) ELEMENTS OF SYSTEM.—It is the sense of Congress that any next-generation system acquired under the strategy required by subsection (a) should meet the following requirements:

(1) To overcome problems and limitations in current capabilities, the system should not rely on techniques that—

(A) cannot address new or rapidly morphing threats;

(B) consume substantial amounts of communications capacity to remain current with known threats and to report current status; or

(C) consume substantial amounts of resources to store rapidly growing threat libraries.

(2) The system should provide an open architecture-based framework for so-called “plug-and-play” integration of a variety of types of deployable tools, including appropriate commercially available applications, in addition to cyber intrusion detection tools, including tools for—

(A) insider threat detection;

(B) continuous monitoring and configuration management;

(C) remediation following infections; and

(D) protection techniques that do not rely on detection of the attack.

(3) The system should be designed for ease of deployment to potentially millions of host devices of tailored security solutions depending on need and risk, and to be compatible with cloud-based, thin-client, and virtualized environments as well as battlefield devices and weapons systems.

Reports.

(c) SUBMITTAL TO CONGRESS.—The Chief Information Officer shall submit to Congress a report setting forth the strategy required by subsection (a) together with the budget justification materials of the Department of Defense submitted to Congress with the budget of the President for fiscal year 2015 pursuant to section 1105(a) of title 31, United States Code.

10 USC 2224  
note.

**SEC. 933. IMPROVEMENTS IN ASSURANCE OF COMPUTER SOFTWARE PROCURED BY THE DEPARTMENT OF DEFENSE.**

(a) BASELINE SOFTWARE ASSURANCE POLICY.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Chief Information Officer of the Department of Defense, shall develop and implement a baseline software assurance policy for the entire lifecycle of covered systems. Such policy shall be included as part of the strategy for trusted defense systems of the Department of Defense.

(b) POLICY ELEMENTS.—The baseline software assurance policy under subsection (a) shall—

(1) require use of appropriate automated vulnerability analysis tools in computer software code during the entire lifecycle of a covered system, including during development, operational testing, operations and sustainment phases, and retirement;

(2) require covered systems to identify and prioritize security vulnerabilities and, based on risk, determine appropriate remediation strategies for such security vulnerabilities;

(3) ensure such remediation strategies are translated into contract requirements and evaluated during source selection;

(4) promote best practices and standards to achieve software security, assurance, and quality; and

(5) support competition and allow flexibility and compatibility with current or emerging software methodologies.

(c) VERIFICATION OF EFFECTIVE IMPLEMENTATION.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Chief Information Officer of the Department of Defense, shall—

(1) collect data on implementation of the policy developed under subsection (a) and measure the effectiveness of such policy, including the particular elements required under subsection (b); and

(2) identify and promote best practices, tools, and standards for developing and validating assured software for the Department of Defense.

(d) BRIEFING ON ADDITIONAL MEANS OF IMPROVING SOFTWARE ASSURANCE.—Not later than one year after the date of the enactment of this Act, the Under Secretary for Acquisition, Technology, and Logistics shall, in coordination with the Chief Information Officer of the Department of Defense, provide to the congressional defense committees a briefing on the following:

Deadline.

(1) A research and development strategy to advance capabilities in software assurance and vulnerability detection.

(2) The state-of-the-art of software assurance analysis and test.

(3) How the Department might hold contractors liable for software defects or vulnerabilities.

(e) DEFINITIONS.—In this section:

(1) COVERED SYSTEM.—The term “covered system” means any Department of Defense critical information, business, or weapons system that is—

(A) a major system, as that term is defined in section 2302(5) of title 10, United States Code;

(B) a national security system, as that term is defined in section 3542(b)(2) of title 44, United States Code; or

(C) a Department of Defense information system categorized as Mission Assurance Category I in Department of Defense Directive 8500.01E that is funded by the Department of Defense.

(2) SOFTWARE ASSURANCE.—The term “software assurance” means the level of confidence that software functions as intended and is free of vulnerabilities, either intentionally or unintentionally designed or inserted as part of the software, throughout the life cycle.

**SEC. 934. COMPETITION IN CONNECTION WITH DEPARTMENT OF DEFENSE TACTICAL DATA LINK SYSTEMS.**

10 USC 2225 note.

(a) COMPETITION IN CONNECTION WITH TACTICAL DATA LINK SYSTEMS.—Not later than December 1, 2013, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall—

Deadline.

(1) develop an inventory of all tactical data link systems in use and in development in the Department of Defense, including interfaces and waveforms;

Inventory.

(2) conduct an analysis of each data link system contained in the inventory under paragraph (1) to determine whether—

Analysis.

(A) the upgrade, new deployment, or replacement of such system should be open to competition; or

Plans. (B) the data link should be converted to an open architecture, or a different data link standard should be adopted to enable such competition;

(3) for each data link system for which competition is determined advisable under subparagraph (A) or (B) of paragraph (2), develop a plan to achieve such competition, including a plan to address any policy, legal, programmatic, or technical barriers to such competition; and

(4) for each data link system for which competition is determined not advisable under paragraph (2), prepare an explanation for such determination.

(b) EARLIER ACTIONS.—If the Under Secretary completes any portion of the plan described in subsection (a)(3) before December 1, 2013, the Secretary may commence action on such portion of the plan upon completion of such portion, including publication of such portion of the plan.

(c) REPORT.—At the same time the budget of the President for fiscal year 2015 is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, the Under Secretary shall submit to the congressional defense committees a report on the plans described in paragraph (3) of subsection (a), including any explanation prepared under paragraph (4) of such subsection.

10 USC 2223  
note.

#### **SEC. 935. COLLECTION AND ANALYSIS OF NETWORK FLOW DATA.**

(a) DEVELOPMENT OF TECHNOLOGIES.—The Chief Information Officer of the Department of Defense may, in coordination with the Under Secretary of Defense for Policy and the Under Secretary of Defense for Intelligence and acting through the Director of the Defense Information Systems Agency, use the available funding and research activities and capabilities of the Community Data Center of the Defense Information Systems Agency to develop and demonstrate collection, processing, and storage technologies for network flow data that—

(1) are potentially scalable to the volume used by Tier 1 Internet Service Providers to collect and analyze the flow data across their networks;

(2) will substantially reduce the cost and complexity of capturing and analyzing high volumes of flow data; and

(3) support the capability—

(A) to detect and identify cyber security threats, networks of compromised computers, and command and control sites used for managing illicit cyber operations and receiving information from compromised computers;

(B) to track illicit cyber operations for attribution of the source; and

(C) to provide early warning and attack assessment of offensive cyber operations.

(b) COORDINATION.—Any research and development required in the development of the technologies described in subsection (a) shall be conducted in cooperation with the heads of other appropriate departments and agencies of the Federal Government and, whenever feasible, Tier 1 Internet Service Providers and other managed security service providers.

10 USC 2223  
note.

#### **SEC. 936. COMPETITION FOR LARGE-SCALE SOFTWARE DATABASE AND DATA ANALYSIS TOOLS.**

(a) ANALYSIS.—

(1) **REQUIREMENT.**—The Secretary of Defense, acting through the Chief Information Officer of the Department of Defense, shall conduct an analysis of large-scale software database tools and large-scale software data analysis tools that could be used to meet current and future Department of Defense needs for large-scale data analytics.

(2) **ELEMENTS.**—The analysis required under paragraph (1) shall include—

(A) an analysis of the technical requirements and needs for large-scale software database and data analysis tools, including prioritization of key technical features needed by the Department of Defense; and

(B) an assessment of the available sources from Government and commercial sources to meet such needs, including an assessment by the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy to ensure sufficiency and diversity of potential commercial sources.

(3) **SUBMISSION.**—Not later than 180 days after the date of the enactment of this Act, the Chief Information Officer shall submit to the congressional defense committees the results of the analysis required under paragraph (1).

Deadline.

(b) **COMPETITION REQUIRED.**—

(1) **IN GENERAL.**—If, following the analysis required under subsection (a), the Chief Information Officer of the Department of Defense identifies needs for software systems or large-scale software database or data analysis tools, the Department shall acquire such systems or such tools based on market research and using competitive procedures in accordance with applicable law and the Defense Federal Acquisition Regulation Supplement.

(2) **NOTIFICATION.**—If the Chief Information Officer elects to acquire large-scale software database or data analysis tools using procedures other than competitive procedures, the Chief Information Officer and the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit a written notification to the congressional defense committees on a quarterly basis until September 30, 2018, that describes the acquisition involved, the date the decision was made, and the rationale for not using competitive procedures.

Deadlines.

#### **SEC. 937. SOFTWARE LICENSES OF THE DEPARTMENT OF DEFENSE.**

10 USC 2223  
note.

(a) **PLAN FOR INVENTORY OF LICENSES.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Chief Information Officer of the Department of Defense shall, in consultation with the chief information officers of the military departments and the Defense Agencies, issue a plan for the inventory of selected software licenses of the Department of Defense, including a comparison of licenses purchased with licenses installed.

Deadline.

(2) **SELECTED SOFTWARE LICENSES.**—The Chief Information Officer shall determine the software licenses to be treated as selected software licenses of the Department for purposes of this section. The licenses shall be determined so as to maximize the return on investment in the inventory conducted pursuant to the plan required by paragraph (1).

Determination.

(3) **PLAN ELEMENTS.**—The plan under paragraph (1) shall include the following:

(A) An identification and explanation of the software licenses determined by the Chief Information Officer under paragraph (2) to be selected software licenses for purposes of this section, and a summary outline of the software licenses determined not to be selected software licenses for such purposes.

(B) Means to assess the needs of the Department and the components of the Department for selected software licenses during the two fiscal years following the date of the issuance of the plan.

(C) Means by which the Department can achieve the greatest possible economies of scale and cost savings in the procurement, use, and optimization of selected software licenses.

Determination.

(b) **PERFORMANCE PLAN.**—If the Chief Information Officer determines through the inventory conducted pursuant to the plan required by subsection (a) that the number of selected software licenses of the Department and the components of the Department exceeds the needs of the Department for such software licenses, the Secretary of Defense shall implement a plan to bring the number of such software licenses into balance with the needs of the Department.

**SEC. 938. SENSE OF CONGRESS ON POTENTIAL SECURITY RISKS TO DEPARTMENT OF DEFENSE NETWORKS.**

It is the sense of Congress that the Department of Defense—

(1) must ensure it maintains full visibility and adequate control of its supply chain, including subcontractors, in order to mitigate supply chain exploitation; and

(2) needs the authority and capability to mitigate supply chain risks to its information technology systems that fall outside the scope of National Security Systems.

**SEC. 939. QUARTERLY CYBER OPERATIONS BRIEFINGS.**

(a) **BRIEFINGS.**—Chapter 23 of title 10, United States Code, is amended by inserting after section 483 the following new section:

10 USC 484.

**“§ 484. Quarterly cyber operations briefings**

“The Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate quarterly briefings on all offensive and significant defensive military operations in cyberspace carried out by the Department of Defense during the immediately preceding quarter.”.

Deadline.

10 USC 484 note.

(b) **INITIAL BRIEFING.**—The first briefing required under section 484 of title 10, United States Code, as added by subsection (a), shall be provided not later than March 1, 2013.

10 USC  
prec. 480.

(c) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 23 of title 10, United States Code, is amended by inserting after the item relating to section 483 the following new item:

“484. Quarterly cyber operations briefings.”.

**SEC. 940. SENSE OF CONGRESS ON THE UNITED STATES CYBER COMMAND.**

It is the sense of Congress that—

(1) there is a serious cyber threat to the national security of the United States and the need to work both offensively and defensively to protect the networks and critical infrastructure of the United States;

(2) it is important to have a unified command structure in the Department of Defense to direct military operations in cyberspace;

(3) a change in the status of the United States Cyber Command has implications for the entire Department and the national security of the United States, which require careful consideration;

(4) Congress expects to be briefed and consulted about any proposal to elevate the United States Cyber Command to a unified command at the time when the Secretary of Defense makes such a proposal and to receive—

(A) a clear statement of mission of the United States Cyber Command and related legal definitions;

(B) an outline of the specific national security benefits of elevating the sub-unified United States Cyber Command to a unified command;

(C) an estimate of the cost of creating a unified United States Cyber Command and a justification of the expenditure; and

(D) if the Secretary considers it advisable to continue the designation of the Commander of the United States Cyber Command as also being the Director of the National Security Agency—

(i) an explanation of how a single individual could serve as a commander of a combatant command that conducts overt, though clandestine, cyber operations under title 10, United States Code, and serve as the head of an element of the intelligence community that conducts covert cyber operations under the National Security Act of 1947 (50 U.S.C. 401 et seq.) in a manner that affords deniability to the United States; and

(ii) a statement of whether the Secretary believes it is appropriate either to appoint a line officer as the Director of the National Security Agency or to take the unprecedented step of appointing an intelligence officer as a unified commander; and

(5) appropriate policy foundations and standing rules of engagement must be in place before any decision to create a unified United States Cyber Command.

**SEC. 941. REPORTS TO DEPARTMENT OF DEFENSE ON PENETRATIONS OF NETWORKS AND INFORMATION SYSTEMS OF CERTAIN CONTRACTORS.**

10 USC 2224  
note.

(a) **PROCEDURES FOR REPORTING PENETRATIONS.**—The Secretary of Defense shall establish procedures that require each cleared defense contractor to report to a component of the Department of Defense designated by the Secretary for purposes of such procedures when a network or information system of such contractor that meets the criteria established pursuant to subsection (b) is successfully penetrated.

(b) **NETWORKS AND INFORMATION SYSTEMS SUBJECT TO REPORTING.**—

(1) **CRITERIA.**—The Secretary of Defense shall designate a senior official to, in consultation with the officials specified in paragraph (2), establish criteria for covered networks to be subject to the procedures for reporting system penetrations under subsection (a).

(2) **OFFICIALS.**—The officials specified in this subsection are the following:

(A) The Under Secretary of Defense for Policy.

(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(C) The Under Secretary of Defense for Intelligence.

(D) The Chief Information Officer of the Department of Defense.

(E) The Commander of the United States Cyber Command.

(c) **PROCEDURE REQUIREMENTS.**—

(1) **RAPID REPORTING.**—The procedures established pursuant to subsection (a) shall require each cleared defense contractor to rapidly report to a component of the Department of Defense designated pursuant to subsection (a) of each successful penetration of the network or information systems of such contractor that meet the criteria established pursuant to subsection (b). Each such report shall include the following:

(A) A description of the technique or method used in such penetration.

(B) A sample of the malicious software, if discovered and isolated by the contractor, involved in such penetration.

(C) A summary of information created by or for the Department in connection with any Department program that has been potentially compromised due to such penetration.

(2) **ACCESS TO EQUIPMENT AND INFORMATION BY DEPARTMENT OF DEFENSE PERSONNEL.**—The procedures established pursuant to subsection (a) shall—

(A) include mechanisms for Department of Defense personnel to, upon request, obtain access to equipment or information of a cleared defense contractor necessary to conduct forensic analysis in addition to any analysis conducted by such contractor;

(B) provide that a cleared defense contractor is only required to provide access to equipment or information as described in subparagraph (A) to determine whether information created by or for the Department in connection with any Department program was successfully exfiltrated from a network or information system of such contractor and, if so, what information was exfiltrated; and

(C) provide for the reasonable protection of trade secrets, commercial or financial information, and information that can be used to identify a specific person.

(3) **LIMITATION ON DISSEMINATION OF CERTAIN INFORMATION.**—The procedures established pursuant to subsection (a) shall prohibit the dissemination outside the Department of Defense of information obtained or derived through such procedures that is not created by or for the Department except with the approval of the contractor providing such information.

(d) **ISSUANCE OF PROCEDURES AND ESTABLISHMENT OF CRITERIA.**—



(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act—

(A) the Secretary of Defense shall establish the procedures required under subsection (a); and

(B) the senior official designated under subsection (b)(1) shall establish the criteria required under such subsection.

(2) APPLICABILITY DATE.—The requirements of this section shall apply on the date on which the Secretary of Defense establishes the procedures required under this section.

(e) DEFINITIONS.—In this section:

(1) CLEARED DEFENSE CONTRACTOR.—The term “cleared defense contractor” means a private entity granted clearance by the Department of Defense to access, receive, or store classified information for the purpose of bidding for a contract or conducting activities in support of any program of the Department of Defense.

(2) COVERED NETWORK.—The term “covered network” means a network or information system of a cleared defense contractor that contains or processes information created by or for the Department of Defense with respect to which such contractor is required to apply enhanced protection.

## Subtitle E—Other Matters

### SEC. 951. ADVICE ON MILITARY REQUIREMENTS BY CHAIRMAN OF JOINT CHIEFS OF STAFF AND JOINT REQUIREMENTS OVERSIGHT COUNCIL.

(a) AMENDMENTS RELATED TO CHAIRMAN OF JOINT CHIEFS OF STAFF.—Section 153(a)(4) of title 10, United States Code, is amended by striking subparagraph (F) and inserting the following new subparagraphs:

“(F) Identifying, assessing, and approving military requirements (including existing systems and equipment) to meet the National Military Strategy.

“(G) Recommending to the Secretary appropriate trade-offs among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, to ensure that such trade-offs are made in the acquisition of materiel and equipment to support the strategic and contingency plans required by this subsection in the most effective and efficient manner.”.

(b) AMENDMENTS RELATED TO JROC.—Section 181(b) of such title is amended—

(1) in paragraph (1)(C), by striking “in ensuring” and all that follows through “requirements” and inserting the following: “in ensuring that appropriate trade-offs are made among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, in the establishment and approval of military requirements”; and

(2) in paragraph (3), by striking “such resource level” and inserting “the total cost of such resources”.

(c) AMENDMENTS RELATED TO CHIEFS OF ARMED FORCES.—Section 2547(a) of such title is amended—

(1) in paragraph (1), by striking “of requirements relating to the defense acquisition system” and inserting “of requirements for equipping the armed force concerned”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

“(3) The recommendation of trade-offs among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, to ensure acquisition programs deliver best value in meeting the approved military requirements.

“(4) Termination of development or procurement programs for which life-cycle cost, schedule, and performance expectations are no longer consistent with approved military requirements and levels of priority, or which no longer have approved military requirements.”.

**SEC. 952. ENHANCEMENT OF RESPONSIBILITIES OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF REGARDING THE NATIONAL MILITARY STRATEGY.**

(a) IN GENERAL.—Subsection (b) of section 153 of title 10, United States Code, is amended to read as follows:

“(b) NATIONAL MILITARY STRATEGY.—

Determination.

“(1) NATIONAL MILITARY STRATEGY.—(A) The Chairman shall determine each even-numbered year whether to prepare a new National Military Strategy in accordance with this subparagraph or to update a strategy previously prepared in accordance with this subsection. The Chairman shall complete preparation of the National Military Strategy or update in time for transmittal to Congress pursuant to paragraph (3), including in time for inclusion of the report of the Secretary of Defense, if any, under paragraph (4).

“(B) Each National Military Strategy (or update) under this paragraph shall be based on a comprehensive review conducted by the Chairman in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified combatant commands.

“(C) Each National Military Strategy (or update) submitted under this paragraph shall describe how the military will achieve the objectives of the United States as articulated in—

“(i) the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

“(ii) the most recent annual report of the Secretary of Defense submitted to the President and Congress pursuant to section 113 of this title;

“(iii) the most recent Quadrennial Defense Review conducted by the Secretary of Defense pursuant to section 118 of this title; and

“(iv) any other national security or defense strategic guidance issued by the President or the Secretary of Defense.

“(D) Each National Military Strategy (or update) submitted under this paragraph shall identify—

“(i) the United States military objectives and the relationship of those objectives to the strategic environment and to the threats required to be described under subparagraph (E);

“(ii) the operational concepts, missions, tasks, or activities necessary to support the achievement of the objectives identified under clause (i);

“(iii) the fiscal, budgetary, and resource environments and conditions that, in the assessment of the Chairman, affect the strategy; and

“(iv) the assumptions made with respect to each of clauses (i) through (iii).

“(E) Each National Military Strategy (or update) submitted under this paragraph shall also include a description of—

“(i) the strategic environment and the opportunities and challenges that affect United States national interests and United States national security;

“(ii) the threats, such as international, regional, transnational, hybrid, terrorism, cyber attack, weapons of mass destruction, asymmetric challenges, and any other categories of threats identified by the Chairman, to the United States national security;

“(iii) the implications of current force planning and sizing constructs for the strategy;

“(iv) the capacity, capabilities, and availability of United States forces (including both the active and reserve components) to support the execution of missions required by the strategy;

“(v) areas in which the armed forces intends to engage and synchronize with other departments and agencies of the United States Government contributing to the execution of missions required by the strategy;

“(vi) areas in which the armed forces could be augmented by contributions from alliances (such as the North Atlantic Treaty Organization), international allies, or other friendly nations in the execution of missions required by the strategy;

“(vii) the requirements for operational contractor support to the armed forces for conducting security force assistance training, peacekeeping, overseas contingency operations, and other major combat operations under the strategy; and

“(viii) the assumptions made with respect to each of clauses (i) through (vii).

“(F) Each update to a National Military Strategy under this paragraph shall address only those parts of the most recent National Military Strategy for which the Chairman determines, on the basis of a comprehensive review conducted in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the combatant commands, that a modification is needed.

“(2) RISK ASSESSMENT.—(A) The Chairman shall prepare each year an assessment of the risks associated with the most current National Military Strategy (or update) under paragraph (1). The risk assessment shall be known as the ‘Risk Assessment of the Chairman of the Joint Chiefs of Staff’. The Chairman shall complete preparation of the Risk Assessment in time for transmittal to Congress pursuant to paragraph (3), including in time for inclusion of the report of the Secretary of Defense, if any, under paragraph (4).

Deadline.

“(B) The Risk Assessment shall do the following:

“(i) As the Chairman considers appropriate, update any changes to the strategic environment, threats, objectives, force planning and sizing constructs, assessments, and assumptions that informed the National Military Strategy required by this section.

“(ii) Identify and define the strategic risks to United States interests and the military risks in executing the missions of the National Military Strategy.

“(iii) Identify and define levels of risk distinguishing between the concepts of probability and consequences, including an identification of what constitutes ‘significant’ risk in the judgment of the Chairman.

“(iv)(I) Identify and assess risk in the National Military Strategy by category and level and the ways in which risk might manifest itself, including how risk is projected to increase, decrease, or remain stable over time; and

“(II) for each category of risk, assess the extent to which current or future risk increases, decreases, or is stable as a result of budgetary priorities, tradeoffs, or fiscal constraints or limitations as currently estimated and applied in the most current future-years defense program under section 221 of this title.

“(v) Identify and assess risk associated with the assumptions or plans of the National Military Strategy about the contributions or support of—

“(I) other departments and agencies of the United States Government (including their capabilities and availability);

“(II) alliances, allies, and other friendly nations (including their capabilities, availability, and interoperability); and

“(III) contractors.

“(vi) Identify and assess the critical deficiencies and strengths in force capabilities (including manpower, logistics, intelligence, and mobility support) identified during the preparation and review of the contingency plans of each unified combatant command, and identify and assess the effect of such deficiencies and strengths for the National Military Strategy.

“(3) SUBMITTAL OF NATIONAL MILITARY STRATEGY AND RISK ASSESSMENT TO CONGRESS.—(A) Not later than February 15 of each even-numbered year, the Chairman shall, through the Secretary of Defense, submit to the Committees on Armed Services of the Senate and the House of Representatives the National Military Strategy or update, if any, prepared under paragraph (1) in such year.

“(B) Not later than February 15 each year, the Chairman shall, through the Secretary of Defense, submit to the Committees on Armed Services of the Senate and the House of Representatives the Risk Assessment prepared under paragraph (2) in such year.

“(4) SECRETARY OF DEFENSE REPORTS TO CONGRESS.—(A) In transmitting a National Military Strategy (or update) or Risk Assessment to Congress pursuant to paragraph (3), the Secretary of Defense shall include in the transmittal such comments of the Secretary thereon, if any, as the Secretary considers appropriate.

Deadlines.

“(B) If the Risk Assessment transmitted under paragraph (3) in a year includes an assessment that a risk or risks associated with the National Military Strategy (or update) are significant, or that critical deficiencies in force capabilities exist for a contingency plan described in paragraph (2)(B)(vi), the Secretary shall include in the transmittal of the Risk Assessment the plan of the Secretary for mitigating such risk or deficiency. A plan for mitigating risk of deficiency under this subparagraph shall—

Plans.

“(i) address the risk assumed in the National Military Strategy (or update) concerned, and the additional actions taken or planned to be taken to address such risk using only current technology and force structure capabilities; and

“(ii) specify, for each risk addressed, the extent of, and a schedule for expected mitigation of, such risk, and an assessment of the potential for residual risk, if any, after mitigation.”.

(b) CONFORMING AMENDMENT.—Such section is further amended by striking subsection (d).

**SEC. 953. ONE-YEAR EXTENSION OF AUTHORITY TO WAIVE REIMBURSEMENT OF COSTS OF ACTIVITIES FOR NON-GOVERNMENTAL PERSONNEL AT DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.**

Paragraph (1) of section 941(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 10 U.S.C. 184 note) is amended by striking “through 2012” and inserting “through 2013”.

**SEC. 954. NATIONAL LANGUAGE SERVICE CORPS.**

(a) CHARTER FOR NATIONAL LANGUAGE SERVICE CORPS.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

**“SEC. 813. NATIONAL LANGUAGE SERVICE CORPS.**

50 USC 1913.

“(a) ESTABLISHMENT.—(1) The Secretary of Defense may establish and maintain within the Department of Defense a National Language Service Corps (in this section referred to as the ‘Corps’).

“(2) The purpose of the Corps is to provide a pool of nongovernmental personnel with foreign language skills who, as provided in regulations prescribed under this section, agree to provide foreign language services to the Department of Defense or another department or agency of the United States.

“(b) NATIONAL SECURITY EDUCATION BOARD.—If the Secretary establishes the Corps, the Secretary shall provide for the National Security Education Board to oversee and coordinate the activities of the Corps to such extent and in such manner as determined by the Secretary under paragraph (9) of section 803(d).

“(c) MEMBERSHIP.—To be eligible for membership in the Corps, a person must be a citizen of the United States authorized by law to be employed in the United States, have attained the age of 18 years, and possess such foreign language skills as the Secretary considers appropriate for membership in the Corps.

“(d) TRAINING.—The Secretary may provide members of the Corps such training as the Secretary prescribes for purposes of this section.

Determination.

“(e) SERVICE.—Upon a determination that it is in the national interests of the United States, the Secretary shall call upon members of the Corps to provide foreign language services to the Department of Defense or another department or agency of the United States. If a member of the Corps is, as of the time of such determination, employed by or performing under a contract for an element of another Federal agency, the Secretary shall first obtain the concurrence of the head of that agency.

“(f) FUNDING.—The Secretary may impose fees, in amounts up to full-cost recovery, for language services and technical assistance rendered by members of the Corps. Amounts of fees received under this section shall be credited to the account of the Department providing funds for any costs incurred by the Department in connection with the Corps. Amounts so credited to such account shall be merged with amounts in such account, and shall be available to the same extent, and subject to the same conditions and limitations, as amounts in such account. Any amounts so credited shall remain available until expended.”.

(b) NATIONAL SECURITY EDUCATION BOARD MATTERS.—

(1) COMPOSITION.—Subsection (b) of section 803 of such Act (50 U.S.C. 1903) is amended—

(A) by striking paragraph (5);

(B) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (4) the following new paragraphs:

“(5) The Secretary of Homeland Security.

“(6) The Secretary of Energy.

“(7) The Director of National Intelligence.”.

(2) FUNCTIONS.—Subsection (d) of such section is amended by adding at the end the following new paragraph:

“(9) To the extent provided by the Secretary of Defense, oversee and coordinate the activities of the National Language Service Corps under section 813, including—

“(A) assessing on a periodic basis whether the Corps is addressing the needs identified by the heads of departments and agencies of the Federal Government for personnel with skills in various foreign languages;

“(B) recommending plans for the Corps to address foreign language shortfalls and requirements of the departments and agencies of the Federal Government;

“(C) recommending effective ways to increase public awareness of the need for foreign languages skills and career paths in the Federal Government that use those skills; and

“(D) overseeing the Corps efforts to work with Executive agencies and State and Local governments to respond to interagency plans and agreements to address overall foreign language shortfalls and to utilize personnel to address the various types of crises that warrant foreign language skills.”.

10 USC 129a  
note.

**SEC. 955. SAVINGS TO BE ACHIEVED IN CIVILIAN PERSONNEL  
WORKFORCE AND SERVICE CONTRACTOR WORKFORCE OF  
THE DEPARTMENT OF DEFENSE.**

(a) REQUIRED PLAN.—

(1) IN GENERAL.—The Secretary of Defense shall ensure that the civilian personnel workforce and service contractor workforce of the Department of Defense are appropriately sized to support and execute the National Military Strategy, taking into account military personnel and force structure levels. Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall develop and begin to execute an efficiencies plan for the civilian personnel workforce and service contractor workforce of the Department of Defense.

Deadline.

(2) CONSISTENCY WITH OTHER POLICIES AND PROCEDURES.—The Secretary shall ensure the plan required under this subsection is consistent with the policies and procedures required under section 129a of title 10, United States Code, as implemented under the policies issued by the Under Secretary of Defense for Personnel and Readiness for determining the most appropriate and cost-efficient mix of military, civilian, and service contractor personnel to perform the missions of the Department of Defense.

(b) SAVINGS.—The plan required under subsection (a) shall achieve savings in the total funding for each workforce covered by such plan over the period from fiscal year 2012 through fiscal year 2017 that are not less, as a percentage of such funding, than the savings in funding for basic military personnel pay achieved from reductions in military end strengths over the same period of time.

(c) EXCLUSIONS.—In developing and implementing the plan required by subsection (a) and achieving the savings percentages required by subsection (b), the Secretary of Defense may exclude expenses related to the performance of functions identified as core or critical to the mission of the Department, consistent with the workload analysis and risk assessments required by sections 129 and 129a of title 10, United States Code. In making a determination of core or critical functions, the Secretary shall consider at least the following:

(1) Civilian personnel expenses for personnel as follows:

(A) Personnel in Mission Critical Occupations, as defined by the Civilian Human Capital Strategic Plan of the Department of Defense and the Acquisition Workforce Plan of the Department of Defense.

(B) Personnel employed at facilities providing core logistics capabilities pursuant to section 2464 of title 10, United States Code.

(C) Personnel in the Offices of the Inspectors General of the Department of Defense.

(2) Service contractor expenses for personnel as follows:

(A) Personnel performing maintenance and repair of military equipment.

(B) Personnel providing medical services.

(C) Personnel performing financial audit services.

(3) Personnel expenses for personnel in the civilian personnel workforce or service contractor workforce performing such other critical functions as may be identified by the Secretary as requiring exemption in the interest of the national defense.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense

shall submit to the congressional defense committees a report including a comprehensive description of the plan required by subsection (a).

(2) STATUS REPORTS.—As part of the budget submitted by the President to Congress for each of fiscal years 2015 through 2018, the Secretary shall include a report describing the implementation of the plan during the prior fiscal year and any modifications to the plan required due to changing circumstances. Each such report shall include a summary of the savings achieved in such prior fiscal year through reductions in the military, civilian, and service contractor personnel workforces, and the number of military, civilian, and service contractor personnel reduced. In any case in which savings fall short of the annual target, the report shall include an explanation of the reasons for such shortfall.

(3) EXCLUSIONS.—Each report under paragraphs (1) and (2) shall specifically identify any exclusion granted by the Secretary under subsection (c) in the period of time covered by the report.

(e) LIMITATION ON TRANSFERS OF FUNCTIONS.—The Secretary shall ensure that the savings required by this section are not achieved through unjustified transfers of functions between or among the military, civilian, and service contractor personnel workforces of the Department of Defense. Nothing in this section shall be construed to preclude the Secretary from exercising authority available to the Department under sections 129a, 2330a, 2461, and 2463 of title 10, United States Code.

(f) SENSE OF CONGRESS.—It is the sense of Congress that an amount equal to 30 percent of the amount of the reductions in appropriated funds attributable to reduced budgets for the civilian and service contractor workforces of the Department by reason of the plan required by subsection (a) should be made available for costs of assisting military personnel separated from the Armed Forces in the transition from military service.

(g) SERVICE CONTRACTOR WORKFORCE DEFINED.—In this section, the term “service contractor workforce” means contractor employees performing contract services, as defined in section 2330(c)(2) of title 10, United States Code, other than contract services that are funded out of amounts available for overseas contingency operations.

(h) COMPTROLLER GENERAL REVIEW AND REPORT.—For each fiscal year from fiscal year 2015 through fiscal year 2018, the Comptroller General of the United States shall review the status reports submitted by the Secretary as required by subsection (d)(2) to determine whether the savings required by subsection (b) are being achieved in the civilian personnel workforce and the service contractor workforce and whether the plan required under subsection (a) is being implemented consistent with sourcing and workforce management laws, including sections 129, 129a, 2330a, 2461, and 2463 of title 10, United States Code. The Comptroller General shall submit a report on the findings of each review to the congressional defense committees not later than 120 days after the end of each fiscal year covered by this subsection.



**SEC. 956. EXPANSION OF PERSONS ELIGIBLE FOR EXPEDITED FEDERAL HIRING FOLLOWING COMPLETION OF NATIONAL SECURITY EDUCATION PROGRAM SCHOLARSHIP.**

Section 802(k) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902(k)) is amended to read as follows:

“(k) EMPLOYMENT OF PROGRAM PARTICIPANTS.—

“(1) APPOINTMENT AUTHORITY.—The Secretary of Defense, the Secretary of Homeland Security, the Secretary of State, or the head of a Federal agency or office identified by the Secretary of Defense under subsection (g) as having national security responsibilities—

“(A) may, without regard to any provision of title 5, United States Code, governing appointments in the competitive service, appoint an eligible program participant—

“(i) to a position in the excepted service that is certified by the Secretary of Defense under clause (i) of subsection (b)(2)(A) as contributing to the national security of the United States; or

“(ii) subject to clause (ii) of such subsection, to a position in the excepted service in such Federal agency or office identified by the Secretary; and

“(B) may, upon satisfactory completion of two years of substantially continuous service by an incumbent who was appointed to an excepted service position under the authority of subparagraph (A), convert the appointment of such individual, without competition, to a career or career-conditional appointment.

“(2) TREATMENT OF CERTAIN SERVICE.—In the case of an eligible program participant described in clause (ii) or (iii) of paragraph (3)(C) who receives an appointment under paragraph (1)(A), the head of a Department or Federal agency or office referred to in paragraph (1) may count any period that the individual served in a position with the Federal Government toward satisfaction of the service requirement under paragraph (1)(B) if that service—

“(A) in the case of an appointment under clause (i) of paragraph (1)(A), was in a position that is identified under clause (i) of subsection (b)(2)(A) as contributing to the national security of the United States; or

“(B) in the case of an appointment under clause (ii) of paragraph (1)(A), was in the Federal agency or office in which the appointment under that clause is made.

“(3) ELIGIBLE PROGRAM PARTICIPANT DEFINED.—In this subsection, the term ‘eligible program participant’ means an individual who—

“(A) has successfully completed an academic program for which a scholarship or fellowship under this section was awarded;

“(B) has not previously been appointed to the excepted service position under paragraph (1)(A); and

“(C) at the time of the appointment of the individual to an excepted service position under paragraph (1)(A)—

“(i) under the terms of the agreement for such scholarship or fellowship, owes a service commitment

to a Department or Federal agency or office referred to in paragraph (1);

“(ii) is employed by the Federal Government under a non-permanent appointment to a position in the excepted service that has national security responsibilities; or

“(iii) is a former civilian employee of the Federal Government who has less than a one-year break in service from the last period of Federal employment of such individual in a non-permanent appointment in the excepted service with national security responsibilities.”.

## TITLE X—GENERAL PROVISIONS

### Subtitle A—Financial Matters

- Sec. 1001. General transfer authority.
- Sec. 1002. Budgetary effects of this Act.
- Sec. 1003. Sense of Congress on notice to Congress on unfunded priorities.
- Sec. 1004. Authority to transfer funds to the National Nuclear Security Administration to sustain nuclear weapons modernization.
- Sec. 1005. Audit readiness of Department of Defense statements of budgetary resources.
- Sec. 1006. Report on balances carried forward by the Department of Defense at the end of fiscal year 2012.
- Sec. 1007. Report on elimination and streamlining of reporting requirements, thresholds, and statutory and regulatory requirements resulting from unqualified audit opinion of Department of Defense financial statements.

### Subtitle B—Counter-Drug Activities

- Sec. 1008. Extension of the authority to establish and operate National Guard counterdrug schools.
- Sec. 1009. Biannual reports on use of funds in the Drug Interdiction and Counter-Drug Activities, Defense-wide account.
- Sec. 1010. Extension of authority to support unified counter-drug and counterterrorism campaign in Colombia.
- Sec. 1011. Extension of authority for joint task forces to provide support to law enforcement agencies conducting counter-terrorism activities.
- Sec. 1012. Requirement for biennial certification on provision of support for counter-drug activities to certain foreign governments.

### Subtitle C—Naval Vessels and Shipyards

- Sec. 1013. Policy relating to major combatant vessels of the strike forces of the United States Navy.
- Sec. 1014. Limitation on availability of funds for delayed annual naval vessel construction plan.
- Sec. 1015. Retirement of naval vessels.
- Sec. 1016. Termination of a Maritime Prepositioning Ship squadron.
- Sec. 1017. Sense of Congress on recapitalization for the Navy and Coast Guard.
- Sec. 1018. Notice to Congress for the review of proposals to name naval vessels.

### Subtitle D—Counterterrorism

- Sec. 1021. Extension of authority to make rewards for combating terrorism.
- Sec. 1022. Prohibition on use of funds to construct or modify facilities in the United States to house detainees transferred from United States Naval Station, Guantanamo Bay, Cuba.
- Sec. 1023. Report on recidivism of individuals detained at United States Naval Station, Guantanamo Bay, Cuba, who have been transferred to foreign countries.
- Sec. 1024. Notice and report on use of naval vessels for detention of individuals captured outside Afghanistan pursuant to the Authorization for Use of Military Force.
- Sec. 1025. Notice required prior to transfer of certain individuals detained at the Detention Facility at Parwan, Afghanistan.
- Sec. 1026. Report on recidivism of individuals formerly detained at the Detention Facility at Parwan, Afghanistan.

- Sec. 1027. Prohibition on the use of funds for the transfer or release of individuals detained at United States Naval Station, Guantanamo Bay, Cuba.
- Sec. 1028. Requirements for certifications relating to the transfer of detainees at United States Naval Station, Guantanamo Bay, Cuba, to foreign countries and other foreign entities.
- Sec. 1029. Rights Unaffected.

#### Subtitle E—Nuclear Forces

- Sec. 1031. Nuclear weapons employment strategy of the United States.
- Sec. 1032. Progress of modernization.
- Sec. 1033. Report in the event of insufficient funding for modernization of nuclear weapons stockpile.
- Sec. 1034. Prevention of asymmetry of nuclear weapon stockpile reductions.
- Sec. 1035. Strategic delivery systems.
- Sec. 1036. Consideration of expansion of nuclear forces of other countries.
- Sec. 1037. Nonstrategic nuclear weapon reductions and extended deterrence policy.
- Sec. 1038. Unilateral change in nuclear weapons stockpile of the United States.
- Sec. 1039. Expansion of duties and responsibilities of the Nuclear Weapons Council.
- Sec. 1040. Interagency Council on the Strategic Capability of the National Laboratories.
- Sec. 1041. Cost estimates for nuclear weapons.
- Sec. 1042. Prior notification with regard to retirement of strategic delivery systems.
- Sec. 1043. Report on nuclear warheads on intercontinental ballistic missiles of the United States.
- Sec. 1044. Requirements for combined or interoperable warhead for certain missile systems.
- Sec. 1045. Reports on capability of conventional and nuclear forces against certain tunnel sites and on nuclear weapons program of the People's Republic of China.
- Sec. 1046. Report on conventional and nuclear forces in the Western Pacific region.

#### Subtitle F—Miscellaneous Authorities and Limitations

- Sec. 1051. Expansion of authority of the Secretary of the Army to loan or donate excess non-automatic service rifles for funeral and other ceremonial purposes.
- Sec. 1052. Interagency collaboration on unmanned aircraft systems.
- Sec. 1053. Authority to transfer surplus Mine-Resistant Ambush-Protected vehicles and spare parts.
- Sec. 1054. Notice to Congress of certain Department of Defense nondisclosure agreements.
- Sec. 1055. Extension of authority to provide assured business guarantees to carriers participating in Civil Reserve Air Fleet.
- Sec. 1056. Authority for short-term extension of lease for aircraft supporting the Blue Devil intelligence, surveillance, and reconnaissance program.
- Sec. 1057. Rule of construction relating to prohibition on infringing on the individual right to lawfully acquire, possess, own, carry, and otherwise use privately owned firearms, ammunition, and other weapons.
- Sec. 1058. Sense of Congress on the Joint Warfighting Analysis Center.
- Sec. 1059. Limitations on retirement of fixed-wing intra-theater airlift aircraft for general support and time sensitive/mission critical direct support airlift missions of the Department of Defense.

#### Subtitle G—Studies and Reports

- Sec. 1061. Electronic warfare strategy of the Department of Defense.
- Sec. 1062. Report on counterproliferation capabilities and limitations.
- Sec. 1063. Report on strategic airlift aircraft.
- Sec. 1064. Repeat of biennial report on the Global Positioning System.
- Sec. 1065. Improvements to reports required on acquisition of technology relating to weapons of mass destruction and the threat posed by weapons of mass destruction, ballistic missiles, and cruise missiles.
- Sec. 1066. Report on force structure of the United States Army.
- Sec. 1067. Report on planned efficiency initiatives at Space and Naval Warfare Systems Command.
- Sec. 1068. Report on military resources necessary to execute United States Force Posture Strategy in the Asia Pacific Region.
- Sec. 1069. Rialto-Colton Basin, California, water resources study.
- Sec. 1070. Reports on the potential security threat posed by Boko Haram.
- Sec. 1071. Study on the ability of national test and evaluation capabilities to support the maturation of hypersonic technologies for future defense systems development.

Subtitle H—Other Matters

- Sec. 1076. Technical and clerical amendments.
- Sec. 1077. Sense of Congress on recognizing Air Mobility Command on its 20th anniversary.
- Sec. 1078. Dissemination abroad of information about the United States.
- Sec. 1079. Coordination for computer network operations.
- Sec. 1080. Sense of Congress regarding unauthorized disclosures of classified information.
- Sec. 1081. Technical amendments to repeal statutory references to United States Joint Forces Command.
- Sec. 1082. Sense of Congress on non-United States citizens who are graduates of United States educational institutions with advanced degrees in science, technology, engineering, and mathematics.
- Sec. 1083. Scientific framework for recalcitrant cancers.
- Sec. 1084. Protection of veterans' memorials.
- Sec. 1085. Sense of Congress regarding spectrum.
- Sec. 1086. Public Safety Officers' Benefits Program.
- Sec. 1087. Removal of action.
- Sec. 1088. Transport for female genital mutilation.
- Sec. 1089. Amendments to law enforcement officer safety provisions of title 18.
- Sec. 1090. Reauthorization of sale of aircraft and parts for wildfire suppression purposes.
- Sec. 1091. Transfer of excess aircraft to other departments of the Federal Government.

## Subtitle A—Financial Matters

### SEC. 1001. GENERAL TRANSFER AUTHORITY.

#### (a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

Determinations.

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2013 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—Except as provided in paragraph (3), the total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed \$4,000,000,000.

(3) EXCEPTION FOR TRANSFERS BETWEEN MILITARY PERSONNEL AUTHORIZATIONS.—A transfer of funds between military personnel authorizations under title IV shall not be counted toward the dollar limitation in paragraph (2).

(b) LIMITATIONS.—The authority provided by subsection (a) to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

**SEC. 1002. BUDGETARY EFFECTS OF THIS ACT.**

The budgetary effects of this Act, for the purposes of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on the conference report or amendment between the Houses.

**SEC. 1003. SENSE OF CONGRESS ON NOTICE TO CONGRESS ON UNFUNDED PRIORITIES.**

It is the sense of Congress that—

- (1) not later than 45 days after the submittal to Congress of the budget for a fiscal year under section 1105(a) of title 31, United States Code, each officer specified in paragraph (2) should, through the Chairman of the Joint Chiefs of Staff and the Secretary of Defense, submit to the congressional defense committees a list of any priority military programs or activities under the jurisdiction of such officer for which, in the estimate of such officer additional funds, if available, would substantially reduce operational or programmatic risk or accelerate the creation or fielding of a critical military capability;
- (2) the officers specified in this paragraph are—
  - (A) the Chief of Staff of the Army;
  - (B) the Chief of Naval Operations;
  - (C) the Chief of Staff of the Air Force;
  - (D) the Commandant of the Marine Corps; and
  - (E) the Commander of the United States Special Operations Command; and
- (3) each list, if any, under paragraph (1) should set forth for each military program or activity on such list—
  - (A) a description of such program or activity;
  - (B) a summary description of the justification for or objectives of additional funds, if available for such program or activity; and
  - (C) the additional amount of funds recommended in connection with the justification or objectives described for such program or activity under subparagraph (B).

Deadline.  
Lists.

**SEC. 1004. AUTHORITY TO TRANSFER FUNDS TO THE NATIONAL NUCLEAR SECURITY ADMINISTRATION TO SUSTAIN NUCLEAR WEAPONS MODERNIZATION.**

(a) **TRANSFER AUTHORIZED.**—If the amount authorized to be appropriated for the weapons activities of the National Nuclear Security Administration for fiscal year 2013 in section 3101 is less than \$7,900,000,000 (the amount projected to be required for such activities in fiscal year 2013 as specified in the report under section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2549)), the Secretary of Defense may transfer, from amounts authorized to be appropriated for the Department of Defense for fiscal year 2013 pursuant to this Act, to the Secretary of Energy an amount, not to exceed \$150,000,000, to be available only for weapons activities of the National Nuclear Security Administration.

(b) NOTICE TO CONGRESS.—In the event of a transfer under subsection (a), the Secretary of Defense shall promptly notify Congress of the transfer, and shall include in such notice the Department of Defense account or accounts from which funds are transferred.

(c) TRANSFER MECHANISM.—Any funds transferred under this section shall be transferred in accordance with established procedures for reprogramming under section 1001 or successor provisions of law.

(d) CONSTRUCTION OF AUTHORITY.—The transfer authority provided under subsection (a) is in addition to any other transfer authority provided under this Act.

**SEC. 1005. AUDIT READINESS OF DEPARTMENT OF DEFENSE STATEMENTS OF BUDGETARY RESOURCES.**

(a) OBJECTIVE.—Section 1003(a)(2)(A)(ii) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2439; 10 U.S.C. 2222 note) is amended by inserting “, and the statement of budgetary resources of the Department of Defense is validated as ready for audit by not later than September 30, 2014” after “September 30, 2017”.

(b) AFFORDABLE AND SUSTAINABLE APPROACH.—

(1) IN GENERAL.—The Chief Management Officer of the Department of Defense and the Chief Management Officers of each of the military departments shall ensure that plans to achieve an auditable statement of budgetary resources of the Department of Defense by September 30, 2014, include appropriate steps to minimize one-time fixes and manual work-arounds, are sustainable and affordable, and will not delay full auditability of financial statements.

(2) ADDITIONAL ELEMENTS IN FIAR PLAN REPORT.—Each semi-annual report on the Financial Improvement and Audit Readiness Plan of the Department of Defense submitted by the Under Secretary of Defense (Comptroller) under section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2439; 10 U.S.C. 2222 note) during the period beginning on the date of the enactment of this Act and ending on September 30, 2014, shall include the following:

(A) A description of the actions taken by the military departments pursuant to paragraph (1).

(B) A determination by the Chief Management Officer of each military department whether or not such military department is able to achieve an auditable statement of budgetary resources by September 30, 2014, without an unaffordable or unsustainable level of one-time fixes and manual work-arounds and without delaying the full auditability of the financial statements of such military department.

(C) If the Chief Management Officer of a military department determines under subparagraph (B) that the military department is not able to achieve an auditable statement of budgetary resources by September 30, 2014, as described in that subparagraph—

(i) an explanation why the military department is unable to meet the deadline;

10 USC 2222  
note.  
Deadline.

Time period.

(ii) an alternative deadline by which the military department will achieve an auditable statement of budgetary resources; and

(iii) a description of the plan of the military department for meeting the alternative deadline.

**SEC. 1006. REPORT ON BALANCES CARRIED FORWARD BY THE DEPARTMENT OF DEFENSE AT THE END OF FISCAL YEAR 2012.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress, and publish on the Internet website of the Department of Defense available to the public, the following:

Web posting.  
Public  
information.

(1) The total dollar amount of all balances carried forward by the Department of Defense at the end of fiscal year 2012 by account.

(2) The total dollar amount of all unobligated balances carried forward by the Department of Defense at the end of fiscal year 2012 by account.

(3) The total dollar amount of any balances (both obligated and unobligated) that have been carried forward by the Department of Defense for five years or more as of the end of fiscal year 2012 by account.

**SEC. 1007. REPORT ON ELIMINATION AND STREAMLINING OF REPORTING REQUIREMENTS, THRESHOLDS, AND STATUTORY AND REGULATORY REQUIREMENTS RESULTING FROM UNQUALIFIED AUDIT OPINION OF DEPARTMENT OF DEFENSE FINANCIAL STATEMENTS.**

Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees a report setting forth, in the opinion of the Under Secretary, the following:

Lists.

(1) A list of reports currently required by law to be submitted by the Department of Defense to Congress that would be no longer necessary if the financial statements of the Department of Defense were audited with an unqualified opinion.

(2) A list of each statutory and regulatory requirement that would be no longer necessary if the financial statements of the Department of defense were audited with an unqualified opinion.

(3) A list of each statutory and regulatory requirement that could be revised and streamlined if the financial statement of the Department of Defense were audited with an unqualified opinion.

## **Subtitle B—Counter-Drug Activities**

**SEC. 1008. EXTENSION OF THE AUTHORITY TO ESTABLISH AND OPERATE NATIONAL GUARD COUNTERDRUG SCHOOLS.**

Section 901 of the Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109–469; 120 Stat. 3536; 32 U.S.C. 112 note) is amended—

(1) in subsection (c)—

(A) by striking paragraph (1) and redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(B) by adding at the end the following new paragraph:

“(5) The Western Regional Counterdrug Training Center, Camp Murray, Washington.”;

(2) by striking subsection (f) and inserting the following new subsection (f):

“(f) ANNUAL REPORT ON ACTIVITIES.—Not later than February 1 each year, the Secretary of Defense shall submit to Congress a report on the activities of the National Guard counterdrug schools during the preceding year. Each such report shall set forth a description of the activities of each National Guard counterdrug school for the fiscal year preceding the fiscal year during which the report is submitted, including—

“(1) the amount of funding made available and the appropriation account for each National Guard counterdrug school during such fiscal year;

“(2) the cumulative amount of funding made available for each National Guard counterdrug school during five fiscal years preceding such fiscal year;

“(3) a description of the curriculum and training used at each National Guard counterdrug school;

“(4) a description of how the activities conducted at each National Guard counterdrug school fulfilled Department of Defense counterdrug mission;

“(5) a list of the entities described in subsection (b) whose personnel received training at each National Guard counterdrug school; and

“(6) updates, if any, to the Department of Defense regulations prescribed under subsection (a).”; and

(3) in subsection (g)—

(A) in paragraph (1), by striking “There is hereby authorized” and all that follows through “such fiscal year” and inserting the following: “Not more than \$30,000,000 may be expended by the Secretary of Defense for purposes of the National Guard counterdrug schools in any fiscal year”; and

(B) in paragraph (2), by striking “amount authorized to be appropriated by paragraph (1)” and inserting “amount expended pursuant to paragraph (1)”.

**SEC. 1009. BIENNIAL REPORTS ON USE OF FUNDS IN THE DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE ACCOUNT.**

Time periods.

(a) BIENNIAL REPORTS ON EXPENDITURES OF FUNDS.—Not later than 60 days after the end of the first half of a fiscal year and after the end of the second half of a fiscal year, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a description of the expenditure of funds, by project code, from the Drug Interdiction and Counter-Drug Activities, Defense-wide account during such half of the fiscal year, including expenditures of funds in direct or indirect support of the counter-drug activities of foreign governments.

(b) INFORMATION ON SUPPORT OF COUNTER-DRUG ACTIVITIES OF FOREIGN GOVERNMENTS.—The information in a report under subsection (a) on direct or indirect support of the counter-drug activities of foreign governments shall include, for each foreign government so supported, the following:

(1) The total amount of assistance provided to, or expended on behalf of, the foreign government.



(2) A description of the types of counter-drug activities conducted using the assistance.

(3) An explanation of the legal authority under which the assistance was provided.

(c) DEFINITIONS.—In this section:

(1) The term “first half of a fiscal year” means the period beginning on October 1 of any year and ending on March 31 of the following year.

(2) The term “second half of a fiscal year” means the period beginning on April 1 of any year and ending on September 30 of such year.

(d) CESSATION OF REQUIREMENT.—No report shall be required under subsection (a) for any half of a fiscal year beginning on or after October 1, 2017.

(e) REPEAL OF OBSOLETE AUTHORITY.—Section 1022 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) is hereby repealed.

**SEC. 1010. EXTENSION OF AUTHORITY TO SUPPORT UNIFIED COUNTER-DRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.**

Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2042), as most recently amended by section 1007 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1558), is amended—

(1) in subsection (a), by striking “2012” and inserting “2013”; and

(2) in subsection (c), by striking “2012” and inserting “2013”.

**SEC. 1011. EXTENSION OF AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.**

Section 1022(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1594; 10 U.S.C. 371 note) is amended by striking “2012” and inserting “2013”.

**SEC. 1012. REQUIREMENT FOR BIENNIAL CERTIFICATION ON PROVISION OF SUPPORT FOR COUNTER-DRUG ACTIVITIES TO CERTAIN FOREIGN GOVERNMENTS.**

Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), as most recently amended by section 1006 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1557), is further amended—

(1) in subsection (f)(1), by striking “the written certification described in subsection (g) for that fiscal year.” and inserting “a written certification described in subsection (g) applicable to that fiscal year. The first such certification with respect to any such government may apply only to a period of one fiscal year. Subsequent certifications with respect to any such government may apply to a period of not to exceed two fiscal years.”; and

(2) in subsection (g), in the matter preceding paragraph (1)—

(A) by striking “The written” and inserting “A written”; and

(B) by striking “for a fiscal year” and all that follows through the colon and inserting “for a government to receive support under this section for any period of time is a certification of each of the following with respect to that government:”.

## Subtitle C—Naval Vessels and Shipyards

### SEC. 1013. POLICY RELATING TO MAJOR COMBATANT VESSELS OF THE STRIKE FORCES OF THE UNITED STATES NAVY.

Section 1012(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 303), as most recently amended by section 1015 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4586), is amended by striking “Secretary of Defense” and all that follows through the period and inserting the following: “Secretary of the Navy notifies the congressional defense committees that, as a result of a cost-benefit analysis, it would not be practical for the Navy to design the class of ships with an integrated nuclear power system.”.

10 USC 7291  
note.

Notification.

### SEC. 1014. LIMITATION ON AVAILABILITY OF FUNDS FOR DELAYED ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.

(a) IN GENERAL.—Section 231 of title 10, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

“(e) LIMITATION ON AVAILABILITY OF FUNDS FOR FISCAL YEARS WITHOUT PLAN AND CERTIFICATION.—(1) If the Secretary of Defense does not include with the defense budget materials for a fiscal year the plan and certification under subsection (a), the Secretary of the Navy may not use more than 50 percent of the funds described in paragraph (2) during the fiscal year in which such materials are submitted until the date on which such plan and certification are submitted to the congressional defense committees.

“(2) The funds described in this paragraph are funds made available to the Secretary of the Navy for operation and maintenance, Navy, for emergencies and extraordinary expenses.”.

(b) CONFORMING AMENDMENT.—Section 12304b(i) of title 10, United States Code, is amended by striking “section 231(g)(2)” and inserting “section 231(f)(2)”.

### SEC. 1015. RETIREMENT OF NAVAL VESSELS.

(a) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Chief of Naval Operations shall submit to the congressional defense committees a report that sets forth a comprehensive description of the current requirements of the Navy for combatant vessels of the Navy, including submarines.

(b) ADDITIONAL REPORT ELEMENT IF LESS THAN 313 VESSELS REQUIRED.—If the number of combatant vessels for the Navy (including submarines) specified as being required in the report under subsection (a) is less than 313 combatant vessels, the report shall include a justification for the number of vessels specified as being so required and the rationale by which the number of vessels is considered consistent with applicable strategic guidance issued by the President and the Secretary of Defense in 2012.

**SEC. 1016. TERMINATION OF A MARITIME PREPOSITIONING SHIP SQUADRON.****(a) REPORT REQUIRED.—**

(1) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Chief of Naval Operations and the Commandant of the Marine Corps shall jointly submit to the congressional defense committees a report setting forth an assessment of the Marine Corps Prepositioning Program—Norway and the capability of that program to address any readiness gaps that will be created by the termination of Maritime Prepositioning Ship Squadron One in the Mediterranean.

(2) **ELEMENTS.**—The report required by paragraph (1) shall include the following:

(A) A detailed description of the time required to transfer stockpiles onto naval vessels for use in contingency operations.

(B) A comparison of the response time of the Marine Corps Prepositioning Program—Norway with the response time of Maritime Prepositioning Ship Squadron One.

(C) A description of the equipment stored in the stockpiles of the Marine Corps Prepositioning Program—Norway, the differences (if any) between that equipment and the equipment of a Maritime Prepositioning Ship squadron, and any increased risk or operational plan impacts associated with using Prepositioning Program—Norway to fulfill the Maritime Prepositioning Ship squadron requirements.

(D) A description and assessment of the current age and state of maintenance of the equipment of the Marine Corps Maritime Prepositioning Program—Norway.

(E) A plan to address future requirements, equipment shortages, and modernization needs of the Marine Corps Maritime Prepositioning Program—Norway.

(b) **LIMITATION ON AVAILABILITY OF FUNDS.**—Amounts authorized to be appropriated by this Act may not be obligated or expended to terminate a Maritime Prepositioning Ship squadron until the date of the submittal to the congressional defense committees of the report required by subsection (a).

**SEC. 1017. SENSE OF CONGRESS ON RECAPITALIZATION FOR THE NAVY AND COAST GUARD.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) More than 70 percent of the world's surface is comprised of navigable oceans.

(2) More than 80 percent of the population of the world lives within 100 miles of an ocean.

(3) More than 90 percent of the world's commerce traverses an ocean.

(4) The national security of the United States is inextricably linked to the maintenance of global freedom of access for both the strategic and commercial interests of the United States.

(5) To maintain that freedom of access the sea services of the United States, composed of the Navy, the Marine Corps, and the Coast Guard, must be sufficiently positioned as rotationally globally deployable forces with the capability to decisively defend United States citizens, homeland, and interests abroad from direct or asymmetric attack and must

be comprised of sufficient vessels to maintain global freedom of action.

(6) To achieve appropriate capabilities to ensure national security, the Government of the United States must continue to recapitalize the fleets of the Navy and Coast Guard and must continue to conduct vital maintenance and repair of existing vessels to ensure such vessels meet service life goals.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the sea services of the United States should be funded and maintained to provide the broad spectrum of capabilities required to protect the national security of the United States;

(2) such capabilities should include—

(A) the ability to project United States power rapidly anywhere on the globe without the need for host nation basing permission or long and potentially vulnerable logistics supply lines;

(B) the ability to land and recover maritime forces from the sea for direct combat action, to evacuate United States citizens from hostile situations, and to provide humanitarian assistance where needed;

(C) the ability to operate from the subsurface with overpowering conventional combat power, as well as strategic deterrence; and

(D) the ability to operate in collaboration with United States maritime partners in the common interest of preventing piracy at sea and maintaining the commercial sea lanes available for global commerce;

(3) the Secretary of Defense, in coordination with the Secretary of the Navy, should maintain the recapitalization plans for the Navy as a priority in all future force structure decisions; and

(4) the Secretary of Homeland Security should maintain the recapitalization plans for the Coast Guard as a priority in all future force structure decisions.

**SEC. 1018. NOTICE TO CONGRESS FOR THE REVIEW OF PROPOSALS TO NAME NAVAL VESSELS.**

10 USC 7292  
note.

(a) FINDINGS.—Congress makes the following findings:

(1) The Navy traces its ancestry to October 13, 1775, when an Act of the Continental Congress authorized the first vessel of a navy for the United Colonies. Vessels of the Continental Navy were named for early patriots and military heroes, Federal institutions, colonial cities, and positive character traits representative of naval and military virtues.

(2) An Act of Congress on March 3, 1819, made the Secretary of the Navy responsible for assigning names to vessels of the Navy. Traditional sources for vessel names customarily encompassed such categories as geographic locations in the United States; historic sites, battles, and ships; naval and military heroes and leaders; and noted individuals who made distinguished contributions to United States national security.

(3) These customs and traditions provide appropriate and necessary standards for the naming of vessels of the Navy.

(b) NOTICE TO CONGRESS.—Section 7292 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) The Secretary of the Navy may not announce or implement any proposal to name a vessel of the Navy until 30 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth such proposal.

Time period.  
Reports.

“(2) Each report under this subsection shall describe the justification for the proposal covered by such report in accordance with the standards referred to in section 1024(a) of the National Defense Authorization Act for Fiscal Year 2013.”.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall go into effect on the date that is 30 days after the date of the enactment of this Act.

10 USC 7292  
note.

## Subtitle D—Counterterrorism

### SEC. 1021. EXTENSION OF AUTHORITY TO MAKE REWARDS FOR COMBATING TERRORISM.

(a) EXTENSION.—Section 127b(c)(3)(C) of title 10, United States Code, is amended by striking “September 30, 2013” and inserting “September 30, 2014”.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that outlines the future requirements and authorities to make rewards for combating terrorism. The report shall include—

- (1) an analysis of future requirements under section 127b of title 10, United States Code;
- (2) a detailed description of requirements for rewards in support of operations with allied forces; and
- (3) an overview of geographic combatant commander requirements through September 30, 2014.

### SEC. 1022. PROHIBITION ON USE OF FUNDS TO CONSTRUCT OR MODIFY FACILITIES IN THE UNITED STATES TO HOUSE DETAINEES TRANSFERRED FROM UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—No amounts authorized to be appropriated or otherwise made available to the Department of Defense for fiscal year 2013 may be used to construct or modify any facility in the United States, its territories, or possessions to house any individual detained at Guantanamo for the purposes of detention or imprisonment in the custody or under the control of the Department of Defense unless authorized by Congress.

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to any modification of facilities at United States Naval Station, Guantanamo Bay, Cuba.

(c) INDIVIDUAL DETAINED AT GUANTANAMO DEFINED.—In this section, the term “individual detained at Guantanamo” has the meaning given that term in section 1028(f)(2).

### SEC. 1023. REPORT ON RECIDIVISM OF INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, WHO HAVE BEEN TRANSFERRED TO FOREIGN COUNTRIES.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, and annually thereafter for five years, the Director of the Defense Intelligence Agency, in consultation

with the head of each element of the intelligence community that the Director considers appropriate, shall submit to the covered congressional committees a report assessing the factors that cause or contribute to the recidivism of individuals detained at Guantanamo who are transferred or released to a foreign country. Such report shall include—

(1) a discussion of trends, by country and region, where recidivism has occurred; and

(2) an assessment of the implementation by foreign countries of the international arrangements relating to the transfer or release of individuals detained at Guantanamo reached between the United States and each foreign country to which an individual detained at Guantanamo has been transferred or released.

(b) FORM.—The report required under subsection (a) may be submitted in classified form.

(c) DEFINITIONS.—In this section:

(1) The term “covered congressional committees” means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(2) The term “individual detained at Guantanamo” means any individual who is or was located at United States Naval Station, Guantanamo Bay, Cuba, who—

(A) is not a citizen of the United States or a member of the Armed Forces of the United States; and

(B) on or after January 1, 2002, was—

(i) in the custody or under the control of the Department of Defense; or

(ii) otherwise under detention at United States Naval Station, Guantanamo Bay, Cuba.

**SEC. 1024. NOTICE AND REPORT ON USE OF NAVAL VESSELS FOR DETENTION OF INDIVIDUALS CAPTURED OUTSIDE AFGHANISTAN PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE.**

10 USC 801 note.

(a) NOTICE TO CONGRESS.—Not later than 30 days after first detaining an individual pursuant to the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note) on a naval vessel outside the United States, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives notice of the detention. In the case of such an individual who is transferred or released before the submittal of the notice of the individual’s detention, the Secretary shall also submit to such Committees notice of the transfer or release.

(b) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of naval vessels for the detention outside the United States of any individual who is detained pursuant to the Authorization for

Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note). Such report shall include—

- (A) procedures and any limitations on detaining such individuals at sea on board United States naval vessels;
- (B) an assessment of any force protection issues associated with detaining such individuals on such vessels;
- (C) an assessment of the likely effect of such detentions on the original mission of such naval vessels; and
- (D) any restrictions on long-term detention of individuals on United States naval vessels.

(2) FORM OF REPORT.—The report required under paragraph (1) may be submitted in classified form.

**SEC. 1025. NOTICE REQUIRED PRIOR TO TRANSFER OF CERTAIN INDIVIDUALS DETAINED AT THE DETENTION FACILITY AT PARWAN, AFGHANISTAN.**

10 USC 801 note.

(a) NOTICE REQUIRED.—The Secretary of Defense shall submit to the appropriate congressional committees notice in writing of the proposed transfer of any individual detained pursuant to the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note) who is a national of a country other than the United States or Afghanistan from detention at the Detention Facility at Parwan, Afghanistan, to the custody of the Government of Afghanistan or of any other country. Such notice shall be provided not later than 10 days before such a transfer may take place.

Deadline.

(b) ASSESSMENTS REQUIRED.—Prior to any transfer referred to under subsection (a), the Secretary shall ensure that an assessment is conducted as follows:

(1) In the case of the proposed transfer of such an individual by reason of the individual being released, an assessment of the threat posed by the individual and the security environment of the country to which the individual is to be transferred.

(2) In the case of the proposed transfer of such an individual to a country other than Afghanistan for the purpose of the prosecution of the individual, an assessment regarding the capacity, willingness, and historical track record of the country with respect to prosecuting similar cases, including a review of the primary evidence against the individual to be transferred and any significant admissibility issues regarding such evidence that are expected to arise in connection with the prosecution of the individual.

(3) In the case of the proposed transfer of such an individual for reintegration or rehabilitation in a country other than Afghanistan, an assessment regarding the capacity, willingness, and historical track records of the country for reintegrating or rehabilitating similar individuals.

(4) In the case of the proposed transfer of such an individual to the custody of the Government of Afghanistan for prosecution or detention, an assessment regarding the capacity, willingness, and historical track record of Afghanistan to prosecute or detain long-term such individuals.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

**SEC. 1026. REPORT ON RECIDIVISM OF INDIVIDUALS FORMERLY DETAINED AT THE DETENTION FACILITY AT PARWAN, AFGHANISTAN.**

(a) **REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the relevant congressional committees a report on the estimated recidivism rates and the factors that appear to contribute to the recidivism of individuals formerly detained at the Detention Facility at Parwan, Afghanistan, who were transferred or released, including the estimated total number of individuals who have been recaptured on one or more occasion.

(b) **FORM.**—The report required under subsection (a) may be submitted in classified form.

(c) **RELEVANT CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “relevant congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

**SEC. 1027. PROHIBITION ON THE USE OF FUNDS FOR THE TRANSFER OR RELEASE OF INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.**

Khalid Sheikh  
Mohammed.

None of the funds authorized to be appropriated by this Act for fiscal year 2013 may be used to transfer, release, or assist in the transfer or release to or within the United States, its territories, or possessions of Khalid Sheikh Mohammed or any other detainee who—

(1) is not a United States citizen or a member of the Armed Forces of the United States; and

(2) is or was held on or after January 20, 2009, at United States Naval Station, Guantanamo Bay, Cuba, by the Department of Defense.

10 USC 801 note. **SEC. 1028. REQUIREMENTS FOR CERTIFICATIONS RELATING TO THE TRANSFER OF DETAINEES AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, TO FOREIGN COUNTRIES AND OTHER FOREIGN ENTITIES.**

(a) **CERTIFICATION REQUIRED PRIOR TO TRANSFER.**—

Deadline.

(1) **IN GENERAL.**—Except as provided in paragraph (2) and subsection (d), the Secretary of Defense may not use any amounts authorized to be appropriated or otherwise available to the Department of Defense for fiscal year 2013 to transfer any individual detained at Guantanamo to the custody or control of the individual’s country of origin, any other foreign country, or any other foreign entity unless the Secretary submits to Congress the certification described in subsection (b) not later than 30 days before the transfer of the individual.

Notification.

(2) **EXCEPTION.**—Paragraph (1) shall not apply to any action taken by the Secretary to transfer any individual detained at Guantanamo to effectuate an order affecting the disposition of the individual that is issued by a court or competent tribunal of the United States having lawful jurisdiction (which the Secretary shall notify Congress of promptly after issuance).

Consultation.

(b) **CERTIFICATION.**—A certification described in this subsection is a written certification made by the Secretary of Defense, with



the concurrence of the Secretary of State and in consultation with the Director of National Intelligence, that—

(1) the government of the foreign country or the recognized leadership of the foreign entity to which the individual detained at Guantanamo is to be transferred—

(A) is not a designated state sponsor of terrorism or a designated foreign terrorist organization;

(B) maintains control over each detention facility in which the individual is to be detained if the individual is to be housed in a detention facility;

(C) is not, as of the date of the certification, facing a threat that is likely to substantially affect its ability to exercise control over the individual;

(D) has taken or agreed to take effective actions to ensure that the individual cannot take action to threaten the United States, its citizens, or its allies in the future;

(E) has taken or agreed to take such actions as the Secretary of Defense determines are necessary to ensure that the individual cannot engage or reengage in any terrorist activity; and

(F) has agreed to share with the United States any information that—

(i) is related to the individual or any associates of the individual; and

(ii) could affect the security of the United States, its citizens, or its allies; and

(2) includes an assessment, in classified or unclassified form, of the capacity, willingness, and past practices (if applicable) of the foreign country or entity in relation to the Secretary's certifications.

Assessment.

(c) PROHIBITION IN CASES OF PRIOR CONFIRMED RECIDIVISM.—

(1) PROHIBITION.—Except as provided in paragraph (2) and subsection (d), the Secretary of Defense may not use any amounts authorized to be appropriated or otherwise made available to the Department of Defense to transfer any individual detained at Guantanamo to the custody or control of the individual's country of origin, any other foreign country, or any other foreign entity if there is a confirmed case of any individual who was detained at United States Naval Station, Guantanamo Bay, Cuba, at any time after September 11, 2001, who was transferred to such foreign country or entity and subsequently engaged in any terrorist activity.

(2) EXCEPTION.—Paragraph (1) shall not apply to any action taken by the Secretary to transfer any individual detained at Guantanamo to effectuate an order affecting the disposition of the individual that is issued by a court or competent tribunal of the United States having lawful jurisdiction (which the Secretary shall notify Congress of promptly after issuance).

Notification.

(d) NATIONAL SECURITY WAIVER.—

(1) IN GENERAL.—The Secretary of Defense may waive the applicability to a detainee transfer of a certification requirement specified in subparagraph (D) or (E) of subsection (b)(1) or the prohibition in subsection (c), if the Secretary certifies the rest of the criteria required by subsection (b) for transfers prohibited by (c) and, with the concurrence of the Secretary of State and in consultation with the Director of National Intelligence, determines that—

Consultation.  
Determination.

(A) alternative actions will be taken to address the underlying purpose of the requirement or requirements to be waived;

(B) in the case of a waiver of subparagraph (D) or (E) of subsection (b)(1), it is not possible to certify that the risks addressed in the paragraph to be waived have been completely eliminated, but the actions to be taken under subparagraph (A) will substantially mitigate such risks with regard to the individual to be transferred;

(C) in the case of a waiver of subsection (c), the Secretary has considered any confirmed case in which an individual who was transferred to the country subsequently engaged in terrorist activity, and the actions to be taken under subparagraph (A) will substantially mitigate the risk of recidivism with regard to the individual to be transferred; and

(D) the transfer is in the national security interests of the United States.

(2) REPORTS.—Whenever the Secretary makes a determination under paragraph (1), the Secretary shall submit to the appropriate committees of Congress, not later than 30 days before the transfer of the individual concerned, the following:

(A) A copy of the determination and the waiver concerned.

(B) A statement of the basis for the determination, including—

(i) an explanation why the transfer is in the national security interests of the United States;

(ii) in the case of a waiver of paragraph (D) or (E) of subsection (b)(1), an explanation why it is not possible to certify that the risks addressed in the paragraph to be waived have been completely eliminated; and

(iii) a classified summary of—

(I) the individual's record of cooperation while in the custody of or under the effective control of the Department of Defense; and

(II) the agreements and mechanisms in place to provide for continuing cooperation.

(C) A summary of the alternative actions to be taken to address the underlying purpose of, and to mitigate the risks addressed in, the paragraph or subsection to be waived.

(D) The assessment required by subsection (b)(2).

(e) RECORD OF COOPERATION.—In assessing the risk that an individual detained at Guantanamo will engage in terrorist activity or other actions that could affect the security of the United States if released for the purpose of making a certification under subsection (b) or a waiver under subsection (d), the Secretary of Defense may give favorable consideration to any such individual—

(1) who has substantially cooperated with United States intelligence and law enforcement authorities, pursuant to a pre-trial agreement, while in the custody of or under the effective control of the Department of Defense; and

(2) for whom agreements and effective mechanisms are in place, to the extent relevant and necessary, to provide for

continued cooperation with United States intelligence and law enforcement authorities.

(f) DEFINITIONS.—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term “individual detained at Guantanamo” means any individual located at United States Naval Station, Guantanamo Bay, Cuba, as of October 1, 2009, who—

(A) is not a citizen of the United States or a member of the Armed Forces of the United States; and

(B) is—

(i) in the custody or under the control of the Department of Defense; or

(ii) otherwise under detention at United States Naval Station, Guantanamo Bay, Cuba.

(3) The term “foreign terrorist organization” means any organization so designated by the Secretary of State under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

**SEC. 1029. RIGHTS UNAFFECTED.**

10 USC 801 note.

Nothing in the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) or the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81) shall be construed to deny the availability of the writ of habeas corpus or to deny any Constitutional rights in a court ordained or established by or under Article III of the Constitution to any person inside the United States who would be entitled to the availability of such writ or to such rights in the absence of such laws.

## Subtitle E—Nuclear Forces

**SEC. 1031. NUCLEAR WEAPONS EMPLOYMENT STRATEGY OF THE UNITED STATES.**

(a) REPORTS ON STRATEGY.—Section 491 of title 10, United States Code, is—

(1) transferred to chapter 24 of such title, as added by subsection (b)(1); and

(2) amended—

(A) in the heading, by inserting “**weapons**” after “**Nuclear**”;

(B) by striking “nuclear employment strategy” each place it appears and inserting “nuclear weapons employment strategy”;

(C) in paragraph (1)—

(i) by inserting “the” after “modifications to”; and

(ii) by inserting “, plans, and options” after “employment strategy”;

(D) by inserting after paragraph (3) the following new paragraph:

“(4) The extent to which such modifications include an increased reliance on conventional or non-nuclear global strike capabilities or missile defenses of the United States.”;

(E) by striking “On the date” and inserting “(a) REPORTS.—On the date”; and

(F) by adding at the end the following new subsections:

“(b) ANNUAL BRIEFINGS.—Not later than March 15 of each year, the Secretary of Defense shall provide to the congressional defense committees a briefing regarding the nuclear weapons employment strategy, plans, and options of the United States.

“(c) NOTIFICATION OF ANOMALIES.—(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the nuclear command, control, and communications system of the United States that is reported to the Secretary of Defense or the Nuclear Weapons Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

“(2) In this subsection, the term ‘anomaly’ means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system.”.

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER 24.—Part I of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

10 USC  
prec. 491.

#### “CHAPTER 24—NUCLEAR POSTURE

“Sec.

“491. Nuclear weapons employment strategy of the United States: reports on modification of strategy.”.

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part I of such subtitle, are each amended by inserting after the item relating to chapter 23 the following new item:

10 USC  
prec. 101.

“24. Nuclear posture ..... 491”.

(3) TRANSFER OF PROVISIONS.—

(A) CHAPTER 23.—Chapter 23 of title 10, United States Code, is amended as follows:

(i) Section 490a is—

(I) transferred to chapter 24 of such title, as added by paragraph (1);

(II) inserted after section 491 of such title, as added to such chapter 24 by subsection (a)(1); and

(III) redesignated as section 492.

(ii) The table of sections at the beginning of such chapter 23 is amended by striking the items relating to sections 490a and 491.

(B) FY12 NDAA.—Section 1077 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 50 U.S.C. 2514) is—

(i) transferred to chapter 24 of title 10, United States Code, as added by paragraph (1);

(ii) inserted after section 492 of such title, as added by subparagraph (A)(i);

(iii) redesignated as section 493; and

10 USC  
prec. 480.

(iv) amended by striking “the date of the enactment of this Act” and inserting “December 31, 2011,”.

(III) by striking “the date of the enactment of this Act” and inserting “December 31, 2011,”.

(C) CLERICAL AMENDMENTS.—

(i) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 24 of title 10, United States Code, as added by paragraph (1), is amended by inserting after the item relating to section 491 the following new items:

10 USC  
prec. 491.

“492. Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system.

“493. Reports to Congress on the modification of the force structure for the strategic nuclear weapons delivery systems of the United States.”.

(ii) SECTION HEADING TYPEFACE AND TYPESTYLE.—Section 493 of title 10, United States Code, as added by subparagraph (B), is amended—

(I) in the enumerator, by striking “SEC.” and inserting “§”; and

(II) in the section heading—

(aa) by striking the period at the end; and

(bb) by conforming the typeface and typestyle, including capitalization, to the typeface and typestyle as used in the section heading of section 491 of such title.

(4) CONFORMING AMENDMENT.—Section 1031(b) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1574) is amended by striking “section 490a of title 10, United States Code, as added by subsection (a),” and inserting “section 492 of title 10, United States Code,”.

10 USC 490a  
note.

#### SEC. 1032. PROGRESS OF MODERNIZATION.

(a) NUCLEAR EMPLOYMENT STRATEGY.—Subsection (a) of section 491 of title 10, United States Code, as amended by section 1031, is amended by striking “On the date on which the President issues” and inserting “By not later than 60 days before the date on which the President implements”.

Deadline.  
President.

(b) REPORTS REQUIRED.—Such section 491 is further amended by adding at the end the following:

“(d) REPORTS ON 2010 NUCLEAR POSTURE REVIEW IMPLEMENTATION STUDY DECISIONS.—During each of fiscal years 2012 through 2021, not later than 60 days before the date on which the President carries out the results of the decisions made pursuant to the 2010 Nuclear Posture Review Implementation Study that would alter the nuclear weapons employment strategy, guidance, plans, or options of the United States, the President shall—

President.

“(1) ensure that the annual report required under section 1043(a)(1) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576) is transmitted to Congress, if so required;

“(2) ensure that the report required under section 494(a)(2)(A) of this title is transmitted to Congress, if so required under such section; and

“(3) transmit to the congressional defense committees a report providing the high-, medium-, and low- confidence assessments of the intelligence community (as defined in section

3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) as to whether the United States will have significant warning of a strategic surprise or breakout caused by foreign nuclear weapons developments.”.

**SEC. 1033. REPORT IN THE EVENT OF INSUFFICIENT FUNDING FOR MODERNIZATION OF NUCLEAR WEAPONS STOCKPILE.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) consistent with Condition 9 of the Resolution of Advice and Consent to Ratification of the New START Treaty of the Senate, agreed to on December 22, 2010, the United States is committed to ensuring the safety, security, reliability, and credibility of its nuclear forces; and

(2) the United States is committed to—

(A) proceeding with a robust stockpile stewardship program and maintaining and modernizing nuclear weapons production capabilities and capacities of the United States to ensure the safety, security, reliability, and credibility of the nuclear arsenal of the United States at the New START Treaty levels and meeting requirements for hedging against possible international developments or technical problems;

(B) reinvigorating and sustaining the nuclear security laboratories of the United States and preserving the core nuclear weapons competencies therein; and

(C) providing the resources needed to achieve these objectives, using as a starting point the levels set forth in the President’s 10-year plan provided to Congress in November 2010 pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549).

(b) INSUFFICIENT FUNDING REPORT.—

(1) IN GENERAL.—Section 1045 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 50 U.S.C. 2523b) is—

(A) transferred to chapter 24 of title 10, United States Code, as added by section 1031(b);

(B) inserted after section 493 of such title, as added to such chapter 24 by such section 1031(b);

(C) redesignated as section 494; and

(D) amended by amending paragraph (2) of subsection

(a) to read as follows:

“(2) INSUFFICIENT FUNDING.—

“(A) REPORT.—During each year in which the New START Treaty is in force, if the President determines that an appropriations Act is enacted that fails to meet the resource levels set forth in the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549) or if at any time determines that more resources are required to carry out such plan than were estimated, the President shall transmit to the appropriate congressional committees, within 60 days of making such a determination, a report detailing—

“(i) a plan to address the resource shortfall;

“(ii) if more resources are required to carry out the plan than were estimated—

President.  
Determination.

“(I) the proposed level of funding required; and

“(II) an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;

“(iii) any effects caused by the shortfall on the safety, security, reliability, or credibility of the nuclear forces of the United States;

“(iv) whether and why, in light of the shortfall, remaining a party to the New START Treaty is still in the national interest of the United States; and

“(v) a detailed explanation of why the modernization timelines established in the 2010 Nuclear Posture Review are no longer applicable.

“(B) PRIOR NOTIFICATION.—If the President transmits a report under subparagraph (A), the President shall notify the appropriate congressional committees of any determination by the President to reduce the number of deployed nuclear warheads of the United States by not later than 60 days before taking any action to carry out such reduction.

“(C) EXCEPTION.—The limitation in subparagraph (B) shall not apply to—

“(i) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

“(ii) nuclear warheads that are retired or awaiting dismantlement on the date of the report under subparagraph (A).

“(D) DEFINITIONS.—In this paragraph:

“(i) The term ‘appropriate congressional committees’ means—

“(I) the congressional defense committees; and

“(II) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

“(ii) The term ‘New START Treaty’ means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.”.

(2) CLERICAL AMENDMENTS.—

(A) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 24 of title 10, United States Code, as added by section 1031(b), is amended by inserting after the item relating to section 493 the following new item:

10 USC  
prec. 491.

“494. Nuclear force reductions.”.

(B) SECTION HEADING TYPEFACE AND TYPESTYLE.—Section 494 of title 10, United States Code, as added by paragraph (1), is amended—

(i) in the enumerator, by striking “SEC.” and inserting “§”; and

(ii) in the section heading—

(I) by striking the period at the end; and

(II) by conforming the typeface and typestyle, including capitalization, to the typeface and typestyle as used in the section heading of section 491 of such title.

10 USC 494 note.

(4) EFFECTIVE DATE.—The amendment made by paragraph (1)(D) shall take effect on October 1, 2012.

President.

**SEC. 1034. PREVENTION OF ASYMMETRY OF NUCLEAR WEAPON STOCKPILE REDUCTIONS.**

Section 494 of title 10, United States Code, as added by section 1033(b)(1), is amended by adding at the end the following new subsection:

“(d) PREVENTION OF ASYMMETRY IN REDUCTIONS.—

“(1) CERTIFICATION.—During any year in which the President recommends to reduce the number of nuclear weapons in the active and inactive stockpiles of the United States by a number that is greater than a de minimis reduction, the President shall certify in writing to the congressional defense committees whether such reductions will cause the number of nuclear weapons in such stockpiles to be fewer than the high-confidence assessment of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) with respect to the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation.

Reports.

“(2) NOTIFICATION.—If the President certifies under paragraph (1) that the recommended number of nuclear weapons in the active and inactive stockpiles of the United States is fewer than the high-confidence assessment of the intelligence community with respect to the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation, the President shall transmit to the congressional defense committees a report by the Commander of the United States Strategic Command, without change, detailing whether the recommended reduction would create a strategic imbalance or degrade deterrence and extended deterrence between the total number of nuclear weapons of the United States and the total number of nuclear weapons of the Russian Federation. The President shall transmit such report by not later than 60 days before the date on which the President carries out any such recommended reductions.

Deadline.

“(3) EXCEPTION.—The notification in paragraph (2) shall not apply to—

“(A) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

“(B) nuclear warheads that are retired or awaiting dismantlement on the date of the certification under paragraph (1).



“(4) ADDITIONAL VIEWS.—On the date on which the President transmits to the congressional defense committees a report by the Commander of the United States Strategic Command under paragraph (2), the President may transmit to such committees a report by the President with respect to whether the recommended reductions covered by the report of the Commander will impact the deterrence or extended deterrence capabilities of the United States.”.

#### SEC. 1035. STRATEGIC DELIVERY SYSTEMS.

President.

(a) IN GENERAL.—Chapter 24 of title 10, United States Code, as added by section 1031(b), is amended by inserting after section 494, as added by section 1033(b)(1), the following new section:

#### “§ 495. Strategic delivery systems

10 USC 495.

“(a) ANNUAL CERTIFICATION.—Beginning in fiscal year 2013, the President shall annually certify in writing to the congressional defense committees whether plans to modernize or replace strategic delivery systems are fully funded at levels equal to or more than the levels set forth in the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549), including plans regarding—

Effective date.

“(1) a heavy bomber and air-launched cruise missile;

“(2) an intercontinental ballistic missile;

“(3) a submarine-launched ballistic missile;

“(4) a ballistic missile submarine; and

“(5) maintaining the nuclear command and control system (as first reported under section 1043 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576)).

“(b) ADDITIONAL REPORT MATTERS FOLLOWING CERTAIN CERTIFICATIONS.—If in any year before fiscal year 2020 the President certifies under subsection (a) that plans to modernize or replace strategic delivery systems are not fully funded, the President shall include in the next annual report transmitted to Congress under section 1043 of the National Defense Authorization Act for Fiscal Year 2012 the following:

Determination.

“(1) A determination of whether or not the lack of full funding will result in a loss of military capability when compared with the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010.

“(2) If the determination under paragraph (1) is that the lack of full funding will result in a loss of military capability—

“(A) a plan to preserve or retain the military capability that would otherwise be lost; or

Plans.

“(B) a report setting forth—

“(i) an assessment of the impact of the lack of full funding on the strategic delivery systems specified in subsection (a); and

Assessment.

“(ii) a description of the funding required to restore or maintain the capability.

“(3) A certification by the President of whether or not the President is committed to accomplishing the modernization and replacement of strategic delivery systems and will meet the obligations concerning nuclear modernization as set forth

	in declaration 12 of the Resolution of Advice and Consent to Ratification of the New START Treaty.
Deadline.	“(c) PRIOR NOTIFICATION.—Not later than 60 days before the date on which the President carries out any reduction to the number of strategic delivery systems, the President shall— “(1) make the certification under subsection (a) for the fiscal year for which the reductions are proposed to be carried out; “(2) transmit the additional report matters under subsection (b) for such fiscal year, if such additional report matters are so required; and
Certification.	“(3) certify to the congressional defense committees that the Russian Federation is in compliance with its arms control obligations with the United States and is not engaged in activity in violation of, or inconsistent with, such obligations. “(d) TREATMENT OF CERTAIN REDUCTIONS.—Any certification under subsection (a) shall not take into account the following: “(1) Reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and delivery systems. “(2) Strategic delivery systems that are retired or awaiting dismantlement on the date of the certification under subsection (a). “(e) DEFINITIONS.—In this section: “(1) The term ‘New START Treaty’ means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011. “(2) The term ‘strategic delivery system’ means a delivery system for nuclear weapons.”.
10 USC prec. 491.	(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 24 of such title is amended by inserting after the item relating to section 494, as added by section 1033(b)(2), the following new item:  “495. Strategic delivery systems.”.
	<b>SEC. 1036. CONSIDERATION OF EXPANSION OF NUCLEAR FORCES OF OTHER COUNTRIES.</b>
	(a) IN GENERAL.—Chapter 24 of title 10, United States Code, as added by section 1031(b), is amended by inserting after section 495, as added by section 1035(a), the following new section:
10 USC 496.	<b>“§ 496. Consideration of expansion of nuclear forces of other countries</b>
President.	“(a) REPORT AND CERTIFICATION.—Not later than 60 days before the President recommends any reductions to the nuclear forces of the United States— “(1) the President shall transmit to the appropriate congressional committees a report detailing, for each country with nuclear weapons, the high-, medium-, and low- confidence assessment of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) with respect to—

“(A) the number of each type of nuclear weapons possessed by such country;

“(B) the modernization plans for such weapons of such country;

“(C) the production capacity of nuclear warheads and strategic delivery systems (as defined in section 495(e)(2) of this title) of such country;

“(D) the nuclear doctrine of such country; and

“(E) the impact of such recommended reductions on the deterrence and extended deterrence capabilities of the United States; and

“(2) the Commander of the United States Strategic Command shall certify to the appropriate congressional committees whether such recommended reductions in the nuclear forces of the United States will—

“(A) impair the ability of the United States to address—

“(i) unplanned strategic or geopolitical events; or

“(ii) technical challenge; or

“(B) degrade the deterrence or assurance provided by the United States to friends and allies of the United States.

“(b) FORM.—The reports required by subsection (a)(1) shall be submitted in unclassified form, but may include a classified annex.

“(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means the following:

“(1) The congressional defense committees.

“(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 495, as added by section 1035(b), the following new item:

10 USC  
prec. 491.

“496. Consideration of expansion of nuclear forces of other countries.”.

**SEC. 1037. NONSTRATEGIC NUCLEAR WEAPON REDUCTIONS AND EXTENDED DETERRENCE POLICY.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should pursue negotiations with the Russian Federation aimed at the reduction of Russian deployed and nondeployed nonstrategic nuclear forces;

(2) nonstrategic nuclear weapons should be considered when weighing the balance of the nuclear forces of the United States and the Russian Federation;

(3) any geographical relocation or storage of nonstrategic nuclear weapons by the Russian Federation does not constitute a reduction or elimination of such weapons;

(4) the vast advantage of the Russian Federation in nonstrategic nuclear weapons constitutes a threat to the United States and its allies and a growing asymmetry in Western Europe;

(5) the forward-deployed nuclear forces of the United States are an important contributor to the assurance of the allies of the United States and constitute a check on proliferation and a tool in dealing with neighboring states hostile to the North Atlantic Treaty Organization (“NATO”);

(6) the United States should maintain its commitment to extended deterrence, specifically the nuclear alliance of NATO, as an important component of ensuring and linking the national security interests of the United States and the security of its European allies;

(7) forward-deployed nuclear forces of the United States shall remain based in Europe in support of the nuclear policy and posture of NATO subject to the policy and requirements of NATO;

(8) the presence of nuclear weapons of the United States in Europe—combined with NATO's unique nuclear sharing arrangements under which non-nuclear members participate in nuclear planning and possess specially configured aircraft capable of delivering nuclear weapons—provides reassurance to allies and partners who feel exposed to regional threats; and

(9) only the President and Congress have the legal authority over the nuclear forces of the United States and no multilateral organization, not even NATO, can articulate a declaratory policy concerning the use of nuclear weapons that binds the United States.

(b) NOTIFICATION.—

(1) IN GENERAL.—Chapter 24 of title 10, United States Code, as added by section 1031(b), is amended by inserting after section 496, as added by section 1036(a), the following new section:

President.  
10 USC 497.

**“§ 497. Notification required for reduction, consolidation, or withdrawal of nuclear forces based in Europe**

“(a) NOTIFICATION.—Upon any decision to reduce, consolidate, or withdraw the nuclear forces of the United States that are based in Europe, the President shall transmit to the appropriate congressional committees a notification containing—

“(1) justification for such reduction, consolidation, or withdrawal; and

Assessment.

“(2) an assessment of how member states of the North Atlantic Treaty Organization, in light of such reduction, consolidation, or withdrawal, assess the credibility of the deterrence capability of the United States in support of its commitments undertaken pursuant to article 5 of the North Atlantic Treaty, signed at Washington, District of Columbia, on April 4, 1949, and entered into force on August 24, 1949 (63 Stat. 2241; TIAS 1964).

“(b) PRIOR NOTIFICATION REQUIRED.—

Deadline.

“(1) IN GENERAL.—The President shall transmit the notification required by subsection (a) by not later than 60 days before the date on which the President commences a reduction, consolidation, or withdrawal of the nuclear forces of the United States that are based in Europe described in such notification.

“(2) EXCEPTION.—The limitation in paragraph (1) shall not apply to a reduction, consolidation, or withdrawal of nuclear weapons of the United States that are based in Europe made to ensure the safety, security, reliability, and credibility of such weapons.

“(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the Committees on Armed Services of the House of Representatives and the Senate; and

“(2) the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating section 496, as added by section 1036(b), the following new item:

“497. Notification required for reduction, consolidation, or withdrawal of nuclear forces based in Europe.”.

**SEC. 1038. UNILATERAL CHANGE IN NUCLEAR WEAPONS STOCKPILE OF THE UNITED STATES.**

(a) IN GENERAL.—Chapter 24 of title 10, United States Code, as added by section 1031(b), is amended by inserting after section 497, as added by section 1037(b)(1), the following new section: 10 USC prec. 491.

**“§ 498 Unilateral change in nuclear weapons stockpile of the United States** 10 USC 498.

“(a) IN GENERAL.—Other than pursuant to a treaty, if the President has under consideration to unilaterally change the size of the total stockpile of nuclear weapons of the United States by more than 25 percent, prior to doing so the President shall initiate a Nuclear Posture Review.

“(b) TERMS OF REFERENCE.—Prior to the initiation of a Nuclear Posture Review under this section, the President shall determine the terms of reference for the Nuclear Posture Review, which the President shall provide to the congressional defense committees.

“(c) NUCLEAR POSTURE REVIEW.—Upon completion of a Nuclear Posture Review under this section, the President shall submit the Nuclear Posture Review to the congressional defense committees prior to implementing any change in the nuclear weapons stockpile by more than 25 percent.

“(d) CONSTRUCTION.—This section shall not apply to changes to the nuclear weapons stockpile resulting from treaty obligations.

“(e) FORM.—A Nuclear Posture Review under this section shall be submitted in unclassified form, but may include a classified annex.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating section 497, as added by section 1037(b)(2), the following new item: 10 USC 491.

“498. Unilateral change in nuclear weapons stockpile of the United States.”.

**SEC. 1039. EXPANSION OF DUTIES AND RESPONSIBILITIES OF THE NUCLEAR WEAPONS COUNCIL.**

(a) GUIDANCE ON NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS SYSTEMS.—Section 179(d) of title 10, United States Code, is amended—

(1) in paragraph (2), by inserting “and alternatives” before the period;

(2) in paragraph (3), by inserting “and approving” after “Coordinating”;

(3) in paragraph (7)—

(A) by striking “broad” and inserting “specific”; and  
 (B) by inserting before the period at the end the following: “and priorities among activities, including production, surveillance, research, construction, and any other programs within the National Nuclear Security Administration”;

(4) by redesignating paragraph (10) as paragraph (12);  
 and

(5) by inserting after paragraph (9) the following new paragraph (10):

“(10) Coordinating and providing guidance and oversight on nuclear command, control, and communications systems.”.

(b) BUDGET AND FUNDING MATTERS.—Section 179 of such title is further amended—

(1) in subsection (d), as amended by subsection (a), by inserting after paragraph (10) the following new paragraph (11):

“(11) Coordinating and approving the annual budget proposals of the National Nuclear Security Administration.”;

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection (f):

Certification.

“(f) BUDGET AND FUNDING MATTERS.—(1) The Council shall submit to Congress each year, at the same time the budget of the President for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105(a) of title 31, a certification whether or not the amounts requested for the National Nuclear Security Administration in such budget, and anticipated over the four fiscal years following such budget, meets nuclear stockpile and stockpile stewardship program requirements for such fiscal year and over such four fiscal years. If a member of the Council does not concur in a certification, the certification shall include the reasons for the member’s non-concurrence.

Determination.  
Notification.

“(2) If a House of Congress adopts a bill authorizing or appropriating funds for the National Nuclear Security Administration for nuclear stockpile and stockpile stewardship program activities or other activities that, as determined by the Council, provides insufficient funds for such activities for the period covered by such bill, the Council shall notify the congressional defense committees of the determination.”.

Deadline.

(c) AGENDA OF MEETINGS.—Section 179(b)(3) of such title is amended by adding at the end the following: “To the extent possible, not later than seven days before a meeting, the Chairman shall disseminate to each member of the Council the agenda and documents for such meeting.”.

#### **SEC. 1040. INTERAGENCY COUNCIL ON THE STRATEGIC CAPABILITY OF THE NATIONAL LABORATORIES.**

(a) ESTABLISHMENT.—Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 188.

#### **“§ 188. Interagency Council on the Strategic Capability of the National Laboratories**

“(a) ESTABLISHMENT.—There is an Interagency Council on the Strategic Capability of the National Laboratories (in this section referred to as the ‘Council’).

“(b) MEMBERSHIP.—The membership of the Council is comprised of the following:

- “(1) The Secretary of Defense.
- “(2) The Secretary of Energy.
- “(3) The Secretary of Homeland Security.
- “(4) The Director of National Intelligence.
- “(5) The Administrator for Nuclear Security.
- “(6) Such other officials as the President considers appropriate.

“(c) STRUCTURE AND PROCEDURES.—The President may determine the chair, structure, staff, and procedures of the Council.

“(d) RESPONSIBILITIES.—The Council shall be responsible for the following matters:

“(1) Identifying and considering the science, technology, and engineering capabilities of the national laboratories that could be leveraged by each participating agency to support national security missions.

“(2) Reviewing and assessing the adequacy of the national security science, technology, and engineering capabilities of the national laboratories for supporting national security missions throughout the Federal Government.

“(3) Establishing and overseeing means of ensuring that—

“(A) capabilities identified by the Council under paragraph (1) are sustained to an appropriate level; and

“(B) each participating agency provides the appropriate level of institutional support to sustain such capabilities.

“(4) In accordance with acquisition rules regarding federally funded research and development centers, establishing criteria for when each participating agency should seek to use the services of the national laboratories, including the identification of appropriate mission areas and capabilities.

“(5) Making recommendations to the President and Congress regarding regulatory or statutory changes needed to better support—

“(A) the strategic capabilities of the national laboratories; and

“(B) the use of such laboratories by each participating agency.

“(6) Other actions the Council considers appropriate with respect to—

“(A) the sustainment of the national laboratories; and

“(B) the use of the strategic capabilities of such laboratories.

“(e) STREAMLINED PROCESS.—With respect to the participating agency for which a member of the Council is the head of, each member of the Council shall—

“(1) establish processes to streamline the consideration and approval of procuring the services of the national laboratories on appropriate matters; and

“(2) ensure that such processes are used in accordance with the criteria established under subsection (d)(4).

“(f) DEFINITIONS.—In this section:

“(1) The term ‘participating agency’ means a department or agency of the Federal Government that is represented on the Council by a member under subsection (b).

“(2) The term ‘national laboratories’ means—

“(A) each national security laboratory (as defined in section 3281(1) of the National Nuclear Security Administration Act (50 U.S.C. 2471(1))); and

“(B) each national laboratory of the Department of Energy.”.

10 USC  
prec. 171.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 187 the following new item:

“188. Interagency Council on the Strategic Capability of the National Laboratories.”.

10 USC 188 note.

(c) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2013, the Interagency Council on the Strategic Capability of the National Laboratories established under section 188 of title 10, United States Code, as added by subsection (a), shall submit to the appropriate congressional committees a report describing and assessing the following:

(A) The actions taken to implement the requirements of such section 188 and the charter titled “Governance Charter for an Interagency Council on the Strategic Capability of DOE National Laboratories as National Security Assets” signed by the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, and the Director of National Intelligence in July 2010.

(B) The effectiveness of the Council in accomplishing the purpose and objectives of such section and such Charter.

(C) Efforts to strengthen work-for-others programs at the national laboratories.

(D) Efforts to make work-for-others opportunities at the national laboratories more cost-effective.

(E) Ongoing and planned measures for increasing cost-sharing and institutional support investments at the national laboratories from other agencies.

(F) Any regulatory or statutory changes recommended to improve the ability of such other agencies to leverage expertise and capabilities at the national laboratories.

(G) The strategic capabilities and core competencies of laboratories and engineering centers operated by the Department of Defense, including identification of mission areas and functions that should be carried out by such laboratories and engineering centers.

(H) Consistent with the protection of sources and methods, the level of funding and general description of programs that were funded during fiscal year 2012 by—

(i) the Department of Defense and carried out at the national laboratories; and

(ii) the Department of Energy and the national laboratories and carried out at the laboratories and engineering centers of the Department of Defense.

(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means the following:

(A) The congressional defense committees.



(B) The Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(C) The Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

(D) The Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(E) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) CONSTRUCTION.—Nothing in section 188 of title 10, United States Code, as added by subsection (a), shall be construed to limit section 309 of the Homeland Security Act of 2002 (6 U.S.C. 189). 10 USC 188 note.

#### SEC. 1041. COST ESTIMATES FOR NUCLEAR WEAPONS.

(a) BUDGET REQUIREMENTS.—Section 1043 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by amending subparagraph (F) to read as follows:

“(F) In accordance with paragraph (3), a detailed estimate of the budget requirements associated with sustaining and modernizing the nuclear deterrent of the United States and the nuclear weapons stockpile of the United States, including the costs associated with the plans outlined under subparagraphs (A) through (E), over the 10-year period following the date of the report, including the applicable and appropriate costs associated with the procurement, military construction, operation and maintenance, and research, development, test, and evaluation accounts of the Department of Defense.”; and

Time period.

(B) by adding at the end the following new paragraph:

“(3) BUDGET ESTIMATE CONTENTS AND METHODOLOGY.—Each budget estimate under paragraph (2)(F) shall include a detailed description of the costs included in such estimate and the methodology used to create such estimate.”; and

(2) by adding at the end the following new subsection:

“(c) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall—

“(1) review each report under subsection (a) for accuracy and completeness with respect to the matters described in paragraphs (2)(F) and (3) of such subsection; and

“(2) not later than 180 days after the date on which such report under subsection (a) is submitted, submit to the congressional defense committees a summary of each such review.”.

Deadline.

(b) CBO ESTIMATE OF COSTS.—Not later than one year after the date of the enactment of this Act, the Director of the Congressional Budget Office shall submit to the congressional defense committees a report setting forth the following:

Deadline.

Reports.

Time period.

(1) An estimate of the costs over the 10-year period beginning on the date of the report associated with fielding and maintaining the current nuclear weapons and nuclear weapon delivery systems of the United States.

(2) An estimate of the costs over the 10-year period beginning on the date of the report of any life extension, modernization, or replacement of any current nuclear weapons or nuclear weapon delivery systems of the United States that is anticipated as of the date of the report.

**SEC. 1042. PRIOR NOTIFICATION WITH REGARD TO RETIREMENT OF STRATEGIC DELIVERY SYSTEMS.**

President.  
Deadline.

(a) **PRIOR NOTIFICATION.**—The President shall ensure that the Secretary of Defense submits to Congress the plan required by section 1042(a) of the National Defense Authorization Act of Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1575) by not later than 60 days before the date on which the President carries out any reduction, conversion, or decommissioning of any strategic delivery system pursuant to the levels set forth for such systems under the New START Treaty.

(b) **DEFINITIONS.**—In this section:

(1) The term “New START Treaty” means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.

(2) The term “strategic delivery system” means the following delivery platforms for nuclear weapons:

(A) Land-based intercontinental ballistic missiles.

(B) Submarine-launched ballistic missiles and associated ballistic missile submarines.

(C) Nuclear-certified strategic bombers.

(D) Nuclear-capable cruise missiles.

**SEC. 1043. REPORT ON NUCLEAR WARHEADS ON INTERCONTINENTAL BALLISTIC MISSILES OF THE UNITED STATES.**

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the requirements necessary to ensure that the United States retains the ability (and all of the related capabilities) to upload an intercontinental ballistic missile with multiple nuclear warheads in the event that operational requirements, technical failures, or other decisions require such an ability.

**SEC. 1044. REQUIREMENTS FOR COMBINED OR INTEROPERABLE WARHEAD FOR CERTAIN MISSILE SYSTEMS.**

Deadline.

(a) **NAVY AND AIR FORCE STATEMENTS.**—Not later than 75 days after the date of the enactment of this Act, the Secretary of the Navy and the Secretary of the Air Force shall each submit separate statements to the Nuclear Weapons Council established by section 179 of title 10, United States Code, on—

(1) plans related to a combined or interoperable warhead for the W78 Minuteman III missile system and the W88 Trident II D5 missile system; and

(2) the views of the Secretary with respect to such combined or interoperable warhead.

(b) **REPORT BY NUCLEAR WEAPONS COUNCIL.**—

(1) **IN GENERAL.**—Not later than 120 days after the date of the enactment of this Act, the Nuclear Weapons Council shall submit to the congressional defense committees a report setting forth the requirements for a combined or interoperable

warhead for the W78 Minuteman III missile system and the W88 Trident II D5 missile system.

(2) MATTERS INCLUDED.—The report under paragraph (1) shall include—

(A) the views of the Council with respect to the combined or interoperable warhead; and

(B) the unaltered statements of the Secretary of the Navy and the Secretary of the Air Force submitted to the Council under subsection (a).

**SEC. 1045. REPORTS ON CAPABILITY OF CONVENTIONAL AND NUCLEAR FORCES AGAINST CERTAIN TUNNEL SITES AND ON NUCLEAR WEAPONS PROGRAM OF THE PEOPLE'S REPUBLIC OF CHINA.**

(a) REPORT ON CAPABILITY OF U.S. CONVENTIONAL AND NUCLEAR FORCES AGAINST CERTAIN TUNNEL SITES.—

(1) REPORT.—Not later than one year after the date of the enactment of this Act, the Commander of the United States Strategic Command shall submit to the appropriate congressional committees a report on the underground tunnel network used by the People's Republic of China with respect to the capability of the United States to use conventional and nuclear forces to neutralize such tunnels and what is stored within such tunnels.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(b) ASSESSMENT OF NUCLEAR WEAPONS PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense shall enter into an agreement with a federally funded research and development center to conduct an assessment of the nuclear weapons program of the People's Republic of China.

(2) PANEL.—To conduct the assessment under paragraph (1), the federally funded research and development center shall convene a panel consisting of individuals who—

(A) are nuclear weapons or military experts;

(B) have significant experience and subject matter expertise based on the service of the individual in the Federal Government or the nuclear weapons laboratories; and

(C) possess (or have recently possessed) the appropriate security clearance required to access relevant classified information of the intelligence community and the Department of Energy.

(3) MATTERS INCLUDED.—The assessment under paragraph (1) shall include the following:

(A) An assessment of the nuclear deterrence strategy of China, including a historical perspective and the assessed geopolitical drivers of such strategy.

(B) A detailed description of the nuclear arsenal of China, including—

(i) the capabilities of such arsenal;

(ii) the number of nuclear weapons in such arsenal capable of being delivered at intercontinental range; and

(iii) any associated doctrines (including targeting doctrines) relating to such arsenal.

Contracts.

(C) A comparison of the nuclear forces of the United States with the nuclear forces of China, including with respect to nuclear forces that are deployed, in reserve, or awaiting dismantlement.

(D) Projections of the possible future nuclear arsenals of China, including the capabilities and associated doctrines of such arsenals.

(E) A description of command and control functions and gaps.

(F) An assessment of the fissile material stockpile of China and the civil and military production capabilities and capacities.

(G) An assessment of the production capacities of China for nuclear weapons and nuclear weapon delivery vehicles.

(H) A discussion of any significant uncertainties surrounding the nuclear weapons program of China, including—

(i) identification of the knowledge gaps regarding such nuclear weapons program; and

(ii) a discussion of the implications of any such gaps for the security of the United States and the allies of the United States.

(I) Any recommendations to improve the understanding of the United States with respect to the nuclear weapons program of China.

(4) REPORT.—Not later than August 15, 2013, the federally funded research and development center shall submit to the appropriate congressional committees a report on the assessment conducted under paragraph (1).

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means the following:

(1) The congressional defense committees.

(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

**SEC. 1046. REPORT ON CONVENTIONAL AND NUCLEAR FORCES IN THE WESTERN PACIFIC REGION.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the congressional defense committees a report on the feasibility and strategic value of deploying additional conventional and nuclear forces to the Western Pacific region to ensure the presence of a robust conventional and nuclear capability, including a forward-deployed nuclear capability, of the United States in response to the ballistic missile and nuclear weapons developments of North Korea and the other belligerent actions North Korea has made against allies of the United States. The report shall include an evaluation of any bilateral agreements, basing arrangements, and costs that would be involved with such additional deployments.

## Subtitle F—Miscellaneous Authorities and Limitations

### SEC. 1051. EXPANSION OF AUTHORITY OF THE SECRETARY OF THE ARMY TO LOAN OR DONATE EXCESS NON-AUTOMATIC SERVICE RIFLES FOR FUNERAL AND OTHER CEREMONIAL PURPOSES.

(a) IN GENERAL.—Section 4683 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

“(3)(A) In order to meet the needs of an eligible organization with respect to performing funeral and other ceremonies, if the Secretary determines appropriate, the Secretary may—

“(i) loan or donate excess non-automatic service rifles to an eligible organization; or

“(ii) authorize an eligible organization to retain non-automatic service rifles other than M–1 rifles.

“(B) Nothing in this paragraph shall be construed to supersede any Federal law or regulation governing the use or ownership of firearms.”; and

(2) by striking the section heading and inserting the following:

**“§ 4683. Excess non-automatic service rifles: loan or donation for funeral and other ceremonial purposes”.**

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 443 of such title is amended by striking the item relating to section 4683 and inserting the following new item:

10 USC  
prec. 4681.

“4683. Excess non-automatic service rifles: loan or donation for funeral and other ceremonial purposes.”.

### SEC. 1052. INTERAGENCY COLLABORATION ON UNMANNED AIRCRAFT SYSTEMS.

(a) FINDINGS ON JOINT DEPARTMENT OF DEFENSE FEDERAL AVIATION ADMINISTRATION EXECUTIVE COMMITTEE ON CONFLICT AND DISPUTE RESOLUTION.—Section 1036(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4596) is amended by adding at the end the following new paragraph:

“(9) Collaboration of scientific and technical personnel and sharing of technical information, test results, and resources where available from the Department of Defense, the Federal Aviation Administration, and the National Aeronautics and Space Administration can advance an enduring relationship of research capability to advance the access of unmanned aircraft systems of the Department of Defense, the National Aeronautics and Space Administration and other public agencies to the National Airspace System.”.

(b) INTERAGENCY COLLABORATION.—

(1) IN GENERAL.—The Secretary of Defense shall collaborate with the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration to conduct research and seek solutions to challenges associated with the safe integration of unmanned aircraft

49 USC 40101  
note.

systems into the National Airspace System in accordance with subtitle B of title III of the FAA Modernization and Reform Act of 2012 (Public Law 112-95; 126 Stat. 72).

(2) ACTIVITIES IN SUPPORT OF PLAN ON ACCESS TO NATIONAL AIRSPACE FOR UNMANNED AIRCRAFT SYSTEMS.—Collaboration under paragraph (1) may include research and development of scientific and technical issues, equipment, and technology in support of the plan to safely accelerate the integration of unmanned aircraft systems as required by subtitle B of title III of the FAA Modernization and Reform Act of 2012.

Determination.

(3) NONDUPLICATIVE EFFORTS.—If the Secretary of Defense determines it is in the interest of the Department of Defense, the Secretary may use existing aerospace-related laboratories, personnel, equipment, research radars, and ground facilities of the Department of Defense to avoid duplication of efforts in carrying out collaboration under paragraph (1).

(4) REPORTS.—

(A) REQUIREMENT.—The Secretary of Defense, on behalf of the UAS Executive Committee, shall annually submit to the congressional defense committees, the Committee on Transportation and Infrastructure, and the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report on the progress of research activity of the Department of Defense, including—

(i) progress in accomplishing the goals of the unmanned aircraft systems research, development, and demonstration as related to the Department of Defense Final Report to Congress on Access to National Airspace for Unmanned Aircraft Systems of October 2010, and any ongoing and collaborative research and development programs with the Federal Aviation Administration and the National Aeronautics and Space Administration;

(ii) estimates of long-term funding needs and details of funds expended and allocated in the budget requests of the President that support integration into the National Airspace; and

(iii) progress in sharing with the Federal Aviation Administration safety operational and performance data as it relates to unmanned aircraft system operation and the impact on the National Airspace System.

(B) TERMINATION.—The requirement to submit a report under subparagraph (A) shall terminate on the date that is 5 years after the date of the enactment of this Act.

49 USC 40101  
note.

(c) UAS EXECUTIVE COMMITTEE DEFINED.—In this section, the term “UAS Executive Committee” means the National Aeronautics and Space and Administration and the Department of Defense—Federal Aviation Administration executive committee described in section 1036(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 and established by the Secretary of Defense and the Administrator of the Federal Aviation Administration.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 1053. AUTHORITY TO TRANSFER SURPLUS MINE-RESISTANT  
AMBUSH-PROTECTED VEHICLES AND SPARE PARTS.** 10 USC 407 note.

(a) **AUTHORITY.**—The Secretary of Defense is authorized to transfer surplus Mine-Resistant Ambush-Protected vehicles, including spare parts for such vehicles, to non-profit United States humanitarian demining organizations for purposes of demining activities and training of such organizations.

(b) **TERMS AND CONDITIONS.**—Any transfer of vehicles or spare parts under subsection (a) shall be subject to the following terms and conditions:

(1) The transfer shall be made on a loan basis.

(2) The costs of operation and maintenance of the vehicles shall be borne by the recipient organization.

(3) Any other terms and conditions as the Secretary of Defense determines to be appropriate.

(c) **NOTIFICATION.**—The Secretary of Defense shall notify the congressional defense committees in writing not less than 60 days before making any transfer of vehicles or spare parts under subsection (a). Such notification shall include the name of the organization, the number and model of the vehicle to be transferred, a listing of any spare parts to be transferred, and any other information the Secretary considers appropriate. Deadline.  
Lists.

**SEC. 1054. NOTICE TO CONGRESS OF CERTAIN DEPARTMENT OF  
DEFENSE NONDISCLOSURE AGREEMENTS.** 10 USC 1034  
note.

(a) **NOTICE REQUIRED.**—The Secretary of Defense shall submit to the congressional defense committees notice of any request or requirement for members of the Armed Forces or civilian employees of the Department of Defense to enter into nondisclosure agreements that could restrict the ability of such members or employees to communicate with Congress. Each such notice shall include the following:

(1) The basis in law for the agreement.

(2) An explanation for the restriction of the ability to communicate with Congress.

(3) A description of the category of individuals requested or required to enter into the agreement.

(4) A copy of the language contained in the agreement.

(b) **TIMING OF NOTIFICATION.**—

(1) **REQUESTS OR REQUIREMENTS BEFORE DATE OF ENACTMENT.**—In the case of nondisclosure agreements described in subsection (a) that members or employees were first requested or required to enter into on or before the date of the enactment of this Act, the notice required by subsection (a) shall be submitted not later than 60 days after the date of enactment.

(2) **REQUESTS OR REQUIREMENTS AFTER DATE OF ENACTMENT.**—In the case of nondisclosure agreements described in subsection (a) that members or employees were first requested or required to enter into after the date of the enactment of this Act, the notice required by subsection (a) shall be submitted not later than 30 days after the date on which the Secretary first requests or requires that the members or employees enter into the agreements. Records.  
Deadlines.

**SEC. 1055. EXTENSION OF AUTHORITY TO PROVIDE ASSURED BUSINESS GUARANTEES TO CARRIERS PARTICIPATING IN CIVIL RESERVE AIR FLEET.**

(a) **EXTENSION.**—Subsection (k) of section 9515 of title 10, United States Code, is amended by striking “December 31, 2015” and inserting “December 31, 2020”.

(b) **APPLICATION TO ALL SEGMENTS OF CRAF.**—Such section is further amended—

(1) in subsection (a)(3), by striking “passenger”; and

(2) in subsection (j), by striking “, except that it only means such transportation for which the Secretary of Defense has entered into a contract for the purpose of passenger travel”.

**SEC. 1056. AUTHORITY FOR SHORT-TERM EXTENSION OF LEASE FOR AIRCRAFT SUPPORTING THE BLUE DEVIL INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE PROGRAM.**

(a) **IN GENERAL.**—Notwithstanding section 2401 of title 10, United States Code, the Secretary of the Air Force may extend or renew the lease of aircraft supporting the Blue Devil intelligence, surveillance, and reconnaissance program after the date of the expiration of the current lease of such aircraft for a term that is the shorter of—

(1) the period beginning on the date of the expiration of the current lease and ending on the date on which the Commander of the United States Central Command notifies the Secretary that a substitute is available for the capabilities provided by the lease, or that the capabilities provided by such aircraft are no longer required; or

(2) six months.

(b) **FUNDING.**—Amounts authorized to be appropriated for fiscal year 2013 by title XV and available for Overseas Contingency Operations for operation and maintenance as specified in the funding tables in section 4302 may be available for the extension or renewal of the lease authorized by subsection (a).

**SEC. 1057. RULE OF CONSTRUCTION RELATING TO PROHIBITION ON INFRINGING ON THE INDIVIDUAL RIGHT TO LAWFULLY ACQUIRE, POSSESS, OWN, CARRY, AND OTHERWISE USE PRIVATELY OWNED FIREARMS, AMMUNITION, AND OTHER WEAPONS.**

Section 1062(c) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4363) is amended—

(1) in paragraph (1)(B), by striking “; or” and inserting a semicolon;

(2) in paragraph (2), by striking “others.” and inserting “others; or”; and

(3) by adding at the end the following new paragraph:

“(3) authorize a health professional that is a member of the Armed Forces or a civilian employee of the Department of Defense or a commanding officer to inquire if a member of the Armed Forces plans to acquire, or already possesses or owns, a privately-owned firearm, ammunition, or other weapon, if such health professional or such commanding officer has reasonable grounds to believe such member is at risk for suicide or causing harm to others.”.

Time period.  
Notification.

10 USC  
prec. 1030 note.



**SEC. 1058. SENSE OF CONGRESS ON THE JOINT WARFIGHTING ANALYSIS CENTER.**

It is the sense of Congress that the Joint Warfighting Analysis Center (JWAC) should have adequate resources to meet the continuing requirements of the combatant commands.

**SEC. 1059. LIMITATIONS ON RETIREMENT OF FIXED-WING INTRA-THEATER AIRLIFT AIRCRAFT FOR GENERAL SUPPORT AND TIME SENSITIVE/MISSION CRITICAL DIRECT SUPPORT AIRLIFT MISSIONS OF THE DEPARTMENT OF DEFENSE.**

(a) **LIMITATION ON RETIREMENTS.**—During fiscal year 2013, the Secretary of the Air Force shall retain an additional 32 fixed-wing, intra-theater airlift aircraft beyond the number of such aircraft proposed to be retained in the Secretary's total force structure proposal provided to the congressional defense committees on November 2, 2012.

(b) **INCORPORATION OF CONCEPT OF EMPLOYMENT.**—Not later than June 1, 2013, the Secretary of the Air Force shall ensure that the concept of employment for the Department of the Air Force direct support of Department of the Army time sensitive or mission critical intra-theater airlift mission, as agreed to by the Vice Chiefs of Staff of the Air Force and the Army by memorandum of agreement dated September 13, 2009, and agreed to by the Chiefs of Staff of the Air Force and the Army and the Vice Chairman of the Joint Chiefs of Staff, by memorandum of understanding dated January 27, 2012, is wholly incorporated into Department of the Air Force doctrine, strategy, tactics, and modeling and the Air Force core capabilities of agile combat support and rapid global mobility operations.

Deadline.

## **Subtitle G—Studies and Reports**

**SEC. 1061. ELECTRONIC WARFARE STRATEGY OF THE DEPARTMENT OF DEFENSE.**

(a) **GUIDANCE REQUIRED.**—Not later than January 1, 2013, the Secretary of Defense shall review and update Department of Defense guidance related to electronic warfare to ensure that oversight roles and responsibilities within the Department related to electronic warfare policy and programs are clearly defined. Such guidance shall clarify, as appropriate, the roles and responsibilities related to the integration of electronic warfare matters and cyberspace operations.

10 USC 113 note.

(b) **PLAN REQUIRED.**—Not later than October 1, 2013, the Commander of the United States Strategic Command shall update and issue guidance regarding the responsibilities of the Command with regard to joint electronic warfare capabilities. Such guidance shall—

10 USC 113 note.

(1) define the role and objectives of the Joint Electromagnetic Spectrum Control Center or any other center established in the Command to provide governance and oversight of electronic warfare matters; and

(2) include an implementation plan outlining tasks, metrics, and timelines to establish such a center.

(c) **ADDITIONAL REPORTING REQUIREMENTS.**—Section 1053(b)(1) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2459) is amended—

(1) in subparagraph (B), by striking “; and” and inserting a semicolon;

(2) in subparagraph (C), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

“(D) performance measures to guide the implementation of such strategy;

“(E) an identification of resources and investments necessary to implement such strategy; and

“(F) an identification of the roles and responsibilities within the Department to implement such strategy.”.

**SEC. 1062. REPORT ON COUNTERPROLIFERATION CAPABILITIES AND LIMITATIONS.**

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees a report outlining operational capabilities, limitations, and shortfalls within the Department of Defense with respect to counterproliferation and combating weapons of mass destruction involving special operations forces and key enabling forces.

(b) **ELEMENTS.**—The report required under subsection (a) shall include each of the following elements:

(1) An overview and assessment of current counterproliferation and combating weapons of mass destruction capabilities, capacity, and limitations of special operations forces and key enabling capabilities provided by other supporting elements of the Department of Defense and other Government agencies.

(2) An assessment of the unique capabilities of special operations forces to counter a proliferant’s ability to develop weapons of mass destruction, including all phases of weaponization.

(3) An overview and assessment of current and future training requirements and gaps, including the adequacy and availability of training facilities relative to paragraphs (1) and (2).

(4) An assessment of technical capability gaps relative to paragraphs (1) and (2), including an identification of any gaps that are unique to special operations forces.

(5) An assessment of interagency coordination capabilities and gaps, including intelligence support to countering weapons of mass destruction.

(6) An assessment of current international bilateral and multilateral partnerships and the limitations of such partnerships, including an assessment of existing authorities to build partnership capacity in countering weapons of mass destruction unique to special operations forces.

(7) A description of efforts to address the limitations and gaps referred to in paragraphs (1) through (6), including timelines and requirements to address such limitations and such gaps.

(8) Any other matters the Secretary considers appropriate.

**SEC. 1063. REPORT ON STRATEGIC AIRLIFT AIRCRAFT.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on

Commerce, Science, and Transportation of the Senate a report that sets forth the following:

(1) An assessment of the feasibility and advisability of obtaining a Federal Aviation Administration certification for commercial use of each of the following:

- (A) A commercial variant of the C-17 aircraft.
- (B) A retired C-17A aircraft.
- (C) A retired C-5A aircraft.

(2) An assessment of the current limitations of the aircraft of the Civil Reserve Air Fleet.

(3) An assessment of the potential for using the aircraft referred to in paragraph (1) in the Civil Reserve Air Fleet.

(4) An assessment of the advantages of adding the aircraft referred to in paragraph (1) to the Civil Reserve Air Fleet.

(5) An update on the status of any cooperation between the Federal Aviation Administration and the Department of Defense on the certification of the aircraft referred to in paragraph (1).

(6) A description of all actions required, including any impediments to such actions, to offering retired C-5A aircraft or retired C-17A aircraft as excess defense articles to United States allies or for sale to Civil Reserve Air Fleet carriers.

(7) A description of the actions required for interested allies or Civil Reserve Air Fleet carriers to take delivery of excess C-5A aircraft or excess C-17A aircraft, including the actions, modifications, or demilitarization necessary for such recipients to take delivery of such aircraft, and provisions for permitting such recipients to undertake responsibility for such actions, to the maximum extent practicable.

**SEC. 1064. REPEAL OF BIENNIAL REPORT ON THE GLOBAL POSITIONING SYSTEM.**

Section 2281 of title 10, United States Code, is amended—

- (1) by striking subsection (d); and
- (2) by redesignating subsection (e) as subsection (d).

**SEC. 1065. IMPROVEMENTS TO REPORTS REQUIRED ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND THE THREAT POSED BY WEAPONS OF MASS DESTRUCTION, BALLISTIC MISSILES, AND CRUISE MISSILES.**

(a) IN GENERAL.—Section 234 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. 2367) is amended to read as follows:

**“SEC. 234. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND THE THREAT POSED BY WEAPONS OF MASS DESTRUCTION, BALLISTIC MISSILES, AND CRUISE MISSILES.**

“(a) ANNUAL REPORT.—Not later than January 30 of each year, the Secretary of Defense, in consultation with the Director of National Intelligence, shall submit to the appropriate congressional committees a report on the following:

“(1) The threats posed to the United States and allies of the United States—

“(A) by weapons of mass destruction, ballistic missiles, and cruise missiles; and

“(B) by the proliferation of weapons of mass destruction, ballistic missiles, and cruise missiles.

“(2) The acquisition by foreign countries during the preceding 12 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions.

“(3) Any trends with respect to the acquisition described in paragraph (2).

“(b) MATTERS INCLUDED.—Each report submitted under subsection (a) shall include the following:

“(1) Identification of each foreign country and non-State organization that possesses weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

“(2) A description of the means by which any foreign country and non-State organization that has achieved, or is making progress toward achieving, capability with respect to weapons of mass destruction, ballistic missiles, or cruise missiles has achieved, or is making progress toward achieving, that capability, including a description of the international network of foreign countries and private entities that provide assistance to foreign countries and non-State organizations in achieving that capability.

“(3) An examination of the doctrines that guide the use of weapons of mass destruction in each foreign country that possesses such weapons.

“(4) An examination of the existence and implementation of the control mechanisms that exist with respect to nuclear weapons in each foreign country that possesses such weapons.

“(5) Identification of each foreign country and non-State organization that seeks to acquire or develop (indigenously or with foreign assistance) weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

“(6) An assessment of various possible timelines for the achievement by foreign countries and non-State organizations of capability with respect to weapons of mass destruction, ballistic missiles, and cruise missiles, taking into account the probability of whether foreign countries that are a party to the Missile Technology Control Regime will comply with and enforce the regime, the potential availability of assistance from foreign technical specialists, and the potential for independent sales by foreign private entities without authorization from their national governments.

“(7) For each foreign country or non-State organization that has not achieved the capability to target the United States or its territories with weapons of mass destruction, ballistic missiles, or cruise missiles as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

“(8) For each foreign country or non-State organization that has not achieved the capability to target members of

the Armed Forces of the United States deployed abroad with weapons of mass destruction, ballistic missiles, or cruise missiles as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

“(c) CLASSIFICATION.—Each report submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

“(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means the following:

“(1) The congressional defense committees.

“(2) The congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).

“(3) The Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) is amended by striking the item relating to section 234 and inserting the following new item:

“Sec. 234. Reports on acquisition of technology relating to weapons of mass destruction and the threat posed by weapons of mass destruction, ballistic missiles, and cruise missiles.”

(c) CONFORMING REPEAL.—Section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (50 U.S.C. 2366) is repealed.

**SEC. 1066. REPORT ON FORCE STRUCTURE OF THE UNITED STATES ARMY.**

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the force structure of the Army.

(b) ELEMENTS OF REPORT.—The report required under subsection (a) shall include each of the following:

(1) A description of the planning assumptions and scenarios used to determine the size and force structure of the United States Army, including the reserve component, for the Future Years Defense Program for fiscal years 2014 through 2018.

(2) An evaluation of the adequacy of the proposed force structure for meeting the goals of the national military strategy of the United States.

(3) A description of any alternative force structures considered, including the assessed advantages and disadvantages of each and a brief explanation of why those not selected were rejected.

(4) The estimated resource requirements of each of the alternative force structures referred to in paragraph (3).

(5) An independent risk assessment of the proposed Army force structure, to be conducted by the Chief of Staff of the Army.

(6) Such other information as the Secretary of the Army determines is appropriate.

(c) CLASSIFIED ANNEX.—The report required by subsection (a) shall be in unclassified form but may include a classified annex.

**SEC. 1067. REPORT ON PLANNED EFFICIENCY INITIATIVES AT SPACE AND NAVAL WARFARE SYSTEMS COMMAND.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees a report on plans to implement efficiency initiatives to reduce overhead costs at all echelons of the Space and Naval Warfare Systems Command (SPAWAR), including a detailed description of the long-term impacts on current and planned future mission requirements.

**SEC. 1068. REPORT ON MILITARY RESOURCES NECESSARY TO EXECUTE UNITED STATES FORCE POSTURE STRATEGY IN THE ASIA PACIFIC REGION.****(a) REVIEW REQUIRED.—**

Consultation.

(1) **IN GENERAL.**—The Secretary of Defense shall, in consultation with the Chairman of the Joint Chiefs of Staff, conduct a comprehensive review of the national defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies of the United States with regard to the Asia Pacific region to determine the resources, equipment, and transportation required to meet the strategic and operational plans of the United States.

(2) **ELEMENTS.**—The review required under paragraph (1) shall include the following elements:

(A) The force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program of the United States associated with the Asia Pacific region that would be required to execute successfully the full range of missions called for in the national defense strategy.

(B) An estimate of the timing for initial and final operational capability for each unit based in, realigned within, or identified for support to the Asia Pacific region.

(C) An assessment of the strategic and tactical sea, ground, and air transportation required for the forces assigned to the Asia Pacific region to meet strategic and operational plans.

(D) The specific capabilities, including the general number and type of specific military platforms, their permanent station, and planned forward operating locations needed to achieve the strategic and warfighting objectives identified in the review.

(E) The forward presence, phased deployments, prepositioning, and other anticipatory deployments of manpower or military equipment necessary for conflict deterrence and adequate military response to anticipated conflicts.

(F) The budget plan that would be required to provide sufficient resources to execute successfully the full range of missions and phased operations in the Asia Pacific region at a low-to-moderate level of risk and any additional resources (beyond those programmed in the current future-years defense program) required to achieve such a level of risk.

(G) Budgetary recommendations that are not constrained to comply with and are fully independent of the

budget submitted to Congress by the President pursuant to section 1105 of title 31, United States Code.

(b) **CJCS REVIEW.**—Upon the completion of the review under subsection (a), the Chairman of the Joint Chiefs of Staff shall prepare and submit to the Secretary of Defense the Chairman's assessment of the review, including the Chairman's assessment of risk and a description of the capabilities needed to address such risk. Assessment.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the results of the review required under subsection (a).

(2) **CONTENT.**—The report required under paragraph (1) shall include the following elements:

(A) A description of the elements set forth under subsection (a)(1).

(B) A description of the assumptions used in the examination, including assumptions relating to—

(i) the status of readiness of the Armed Forces;

(ii) the cooperation of allies and partners, mission-sharing, and additional benefits to and burdens on the Armed Forces resulting from coalition operations;

(iii) warning times;

(iv) levels of engagement in operations other than war and smaller-scale contingencies and withdrawal from such operations and contingencies;

(v) the intensity, duration, and military and political end-states of conflicts and smaller-scale contingencies; and

(vi) the roles and responsibilities that would be discharged by contractors.

(C) Any other matters the Secretary of Defense considers appropriate.

(D) The full and complete assessment of the Chairman of the Joint Chiefs of Staff under subsection (b), including related comments of the Secretary of Defense.

(3) **FORM.**—The report required under paragraph (1) may be submitted in classified or unclassified form.

**SEC. 1069. RIALTO-COLTON BASIN, CALIFORNIA, WATER RESOURCES STUDY.**

(a) **IN GENERAL.**—Not later than two years after the date of the enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Geological Survey, shall complete a study of water resources in the Rialto-Colton Basin in the State of California (in this section referred to as the “Basin”), including—

(1) a survey of ground water resources in the Basin, including an analysis of—

(A) the delineation, either horizontally or vertically, of the aquifers in the Basin, including the quantity of water in the aquifers;

(B) the availability of ground water resources for human use;

(C) the salinity of ground water resources;

(D) the identification of a recent surge in perchlorate concentrations in ground water, whether significant sources are being flushed through the vadose zone, or if perchlorate is being remobilized;

(E) the identification of impacts and extents of all source areas that contribute to the regional plume to be fully characterized;

(F) the potential of the ground water resources to recharge;

(G) the interaction between ground water and surface water;

(H) the susceptibility of the aquifers to contamination, including identifying the extent of commingling of plume emanating within surrounding areas in San Bernardino County, California; and

(I) any other relevant criteria; and

(2) a characterization of surface and bedrock geology of the Basin, including the effect of the geology on ground water yield and quality.

(b) COORDINATION.—The Secretary shall carry out the study in coordination with the State of California and any other entities that the Secretary determines to be appropriate, including other Federal agencies and institutions of higher education.

(c) REPORT.—Upon completion of the study, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the results of the study.

**SEC. 1070. REPORTS ON THE POTENTIAL SECURITY THREAT POSED BY BOKO HARAM.**

(a) DIRECTOR OF NATIONAL INTELLIGENCE REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a classified intelligence assessment of the Nigerian organization known as Boko Haram. Such assessment shall address the following:

(1) The organizational structure, operational goals, and funding sources of Boko Haram.

(2) The extent to which Boko Haram threatens the stability of Nigeria and surrounding countries.

(3) The extent to which Boko Haram threatens the security of citizens of the United States or the national security or interests of the United States.

(4) Any interaction between Boko Haram and al-Qaeda in the Islamic Maghreb or other al-Qaeda affiliates with respect to operational planning and execution, training, and funding.

(5) The capacity of Nigerian security forces to counter the threat posed by Boko Haram and an assessment of the effectiveness of the strategy of the Nigerian government to date.

(6) Any intelligence gaps with respect to the leadership, operational goals, and capabilities of Boko Haram.

(b) SECRETARY OF STATE AND SECRETARY OF DEFENSE JOINT REPORT.—Not later than 90 days after the date on which the report required by subsection (a) is submitted to Congress, the Secretary of State and the Secretary of Defense shall jointly submit to Congress a classified report describing the strategy of the United States to counter the threat posed by Boko Haram.

Classified  
information.  
Assessment.



**SEC. 1071. STUDY ON THE ABILITY OF NATIONAL TEST AND EVALUATION CAPABILITIES TO SUPPORT THE MATURATION OF HYPERSONIC TECHNOLOGIES FOR FUTURE DEFENSE SYSTEMS DEVELOPMENT.**

(a) **STUDY REQUIRED.**—The Director of the Office of Science and Technology Policy, working with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration (NASA), shall conduct a study on the ability of the national test and evaluation infrastructure, including ground test facilities and open air ranges of the Department of Defense, and leveraging NASA and private facilities, when appropriate, to effectively and efficiently mature hypersonic technologies for defense systems development in the short and long term.

(b) **REPORT AND PLAN.**—

(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees a report containing the results of the study required under subsection (a) together with a plan for requirements and proposed investments to meet Department of Defense needs through 2030.

(2) **CONTENT.**—The report required under paragraph (1) shall include the following elements:

(A) An assessment of the current condition and adequacy of the hypersonics test and evaluation infrastructure within the Department of Defense, NASA, and the private sector to support hypersonic research and development within the Department of Defense.

(B) An identification of test and evaluation infrastructure outside the Department of Defense that could be used to support Department of Defense hypersonic research and development and assess means to ensure the availability of such capabilities to the Department in the present and future.

(C) A time-phased plan to acquire required hypersonics research, development, test and evaluation capabilities, including identification of the resources necessary to acquire any needed capabilities that are currently not available.

(D) Other matters the Secretary determines are appropriate.

(3) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this subsection, the term “appropriate congressional committees” means—

(A) the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Armed Services and the Committee on Science, Space, and Technology of the House of Representatives.

## **Subtitle H—Other Matters**

**SEC. 1076. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) **AMENDMENTS TO NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012.**—Effective as of December 31, 2011, and

Effective date.  
10 USC 139c  
note.

as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81) is amended as follows:

- (1) Section 243(d) (125 Stat. 1344) is amended by striking “paragraph” and inserting “subsection”.
- (2) Section 323(b) (125 Stat. 1362) is amended by striking “Section 328(b)(A)” and inserting “Section 328(b)(2)(A)”.
- (3) Section 541(b) (125 Stat. 1407) is amended by striking “, as amended by subsection (a),”.
- (4) Section 589(b) (125 Stat. 1438) is amended by striking “section 717” and inserting “section 2564”.
- (5) Section 602(a)(2) (125 Stat. 1447) is amended by striking “repairs,” and inserting “repairs”.
- (6) Section 631(e)(28)(A) (125 Stat. 1464) is amended by striking “before ‘In addition’” and inserting “before ‘Under regulations’”.
- (7) Section 631(f)(2) (125 Stat. 1464) is amended by striking “table of chapter” and inserting “table of chapters”.
- (8) Section 631(f)(3)(B) (125 Stat. 1465) is amended by striking “chapter 9” and inserting “chapter 10”.
- (9) Section 631(f)(4) (125 Stat. 1465) is amended by striking “subsection (c)” both places it appears and inserting “subsection (d)”.
- (10) Section 801 (125 Stat. 1482) is amended—
  - (A) in subsection (a)(1)(B), by striking “paragraphs (6) and (7)” and inserting “paragraphs (5) and (6)”;
  - (B) in subsection (a)(2), in the matter proposed to be inserted as a new paragraph, by striking the double closing quotation marks after “capabilities” and inserting a single closing quotation mark; and
  - (C) in subsection (e)(1)(A), by striking “**Point**” in the matter proposed to be struck and inserting “**Point A**”.
- (11) Section 806(d) (125 Stat. 1487) is amended by striking “paragraph (2)” and inserting “subsection (c)(2)”.
- (12) Section 832(b)(1) (125 Stat. 1504) is amended by striking “Defenese” and inserting “Defense”.
- (13) Section 855 (125 Stat. 1521) is amended by striking “Section 139e(b)(12)” and inserting “Section 139c(b)(12)”.
- (14) Section 864(a)(2) (125 Stat. 1522) is amended by striking “for Acquisition Workforce Programs” in the matter proposed to be struck.
- (15) Section 864(d)(2) (125 Stat. 1525) is amended to read as follows:
 

“(2) in paragraph (6), by striking ‘ensure that amounts collected’ and all that follows through the end of the paragraph (as amended by section 526 of division C of Public Law 112–74 (125 Stat. 914)) and inserting ‘ensure that amounts collected under this section are not used for a purpose other than the activities set forth in section 1201(a) of this title.’”.
- (16) Section 866(a) (125 Stat. 1526) is amended by striking “September 30” in the matter proposed to be struck and inserting “December 31”.
- (17) Section 867 (125 Stat. 1526) is amended—
  - (A) in paragraph (1), by striking “2010” in the matter proposed to be struck and inserting “2011”; and
  - (B) in paragraph (2), by striking “2013” in the matter proposed to be struck and inserting “2014”.

10 USC 4544  
note.

10 USC 920b.

10 USC  
prec. 2551.

10 USC 7572.

37 USC 489.

37 USC  
prec. 101.

37 USC  
prec. 551.

2 USC 906;  
5 USC 4109,  
5760; 10 USC  
701 note prec.,  
1071 note, 1174a,  
1175, 1175a,  
1491, 1591 note;  
14 USC 512;  
32 USC 115;  
36 USC 2101;  
37 USC 403, 420,  
422.  
10 USC 2366a.

10 USC 2302  
note.

10 USC 2430  
note.

10 USC 139c.

41 USC 1704.

41 USC 1703.

15 USC 637 note.

10 USC 2302  
note.

(18) Section 933(c) (125 Stat. 1544; 10 U.S.C. 2330 note) is amended by striking “of this title” in the matter proposed to be inserted and inserting “of title 10, United States Code”.

(19) Section 1045(c)(1) (125 Stat. 1577) is amended by striking “described in subsection (b)” and inserting “described in paragraph (2)”. 50 USC 2523b.

(20) Section 1067 (125 Stat. 1589) is amended— 15 USC 638.

(A) by striking subsection (a); and

(B) by striking the subsection designation and the subsection heading of subsection (b). 50 USC 2911.

(21) Section 2702 (125 Stat. 1681) is amended—

(A) in the section heading, by striking “AUTHORIZED” and inserting “AUTHORIZATION OF APPROPRIATIONS FOR”; and

(B) by striking “Using amounts” and all that follows through “may carry out” and inserting “Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2011, for”.

(22) Section 2815(c) (125 Stat. 1689) is amended by inserting “subchapter III of” before “chapter 169”. 10 USC prec. 2851.

(b) AMENDMENTS TO IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011.—Effective as of January 7, 2011, and as if included therein as enacted, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383) is amended as follows: 10 USC 139c note. Effective date.

(1) Section 358(c)(3) (124 Stat. 4199) is amended by striking “fulfil” and inserting “fulfill”. 49 USC 44718 note.

(2) Section 533(b) (124 Stat. 4216) is amended by inserting “Section” before “1559(a)”. 10 USC 1559.

(3) Section 896(a) (124 Stat. 4314) is amended by striking “Chapter 7” and inserting “Chapter 4”. 10 USC 139c.

(4) Section 1075(b)(50)(C) (124 Stat. 4371) is amended by striking “subsection (j)(1)” and inserting “subsection (j)”. 10 USC 9515.

(5) Section 1203(a) (124 Stat. 4386) is amended in the matter preceding paragraph (1) by striking “Fiscal Year 2009” and inserting “Fiscal Year 2008”.

(c) AMENDMENTS TO REFLECT REDESIGNATION OF CERTAIN POSITIONS IN OFFICE OF SECRETARY OF DEFENSE.—

(1) ASSISTANT SECRETARY OF DEFENSE FOR NUCLEAR, CHEMICAL, AND BIOLOGICAL DEFENSE PROGRAMS.—Section 1605(a)(5) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 22 U.S.C. 2751 note) is amended by striking “The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs” and inserting “The Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs”.

(2) ASSISTANT SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING.—

(A) The following provisions are amended by striking “Director of Defense Research and Engineering” and inserting “Assistant Secretary of Defense for Research and Engineering”:

(i) Sections 2362(a)(1) and 2521(e)(5) of title 10, United States Code.

(ii) Section 241(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 10 U.S.C. 2521 note).

(iii) Section 212(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 2358 note).

(iv) Section 246(d)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 2358 note).

(v) Section 257(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 2358 note).

(vi) Section 1101(b)(1)(D) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 5 U.S.C. 3104 note).

(vii) Section 802(g)(1)(B)(ii) of the Higher Education Opportunity Act (20 U.S.C. 9631(g)(1)(B)(ii)).

(B) Section 2365 of title 10, United States Code, is amended—

(i) in subsection (a), by inserting “of Defense for Research and Engineering” after “Assistant Secretary”; and

(ii) in subsection (d)(3)(A), by striking “Director” and inserting “Assistant Secretary”.

(C) Section 256 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 10 U.S.C. 1071 note) is amended in subsections (b)(4) and (d) by striking “Director, Defense” and inserting “Assistant Secretary of Defense for”.

(D) Section 1504 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 10 U.S.C. 2358 note) is amended—

(i) in subsection (a), by striking “Director of Defense” and inserting “Assistant Secretary of Defense for”; and

(ii) in subsection (b)(9), by striking “the Director of the” and all that follows through “Engineering” and inserting “the Director and the Assistant Secretary”.

(E) Section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2358 note) is amended—

(i) in subsection (a), by striking “Director of Defense” and inserting “Assistant Secretary of Defense for”;

(ii) in subsections (b), (d), and (e), by striking “Director” and inserting “Assistant Secretary”; and

(iii) in subsection (f), by striking “Not later than” and all that follows through “the Director” and inserting “The Assistant Secretary”.

(F) Section 214 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2521 note) is amended by striking “unless the” and all that follows through “ensures” and inserting “unless the Assistant Secretary of Defense for Research and Engineering ensures”.

(3) ASSISTANT SECRETARY OF DEFENSE FOR OPERATIONAL ENERGY PLANS AND PROGRAMS.—Section 2925(b) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking “Director of” and inserting “Assistant Secretary of Defense for”; and

(B) in paragraph (2)(G), by striking “Director” both places it appears and inserting “Assistant Secretary”.

(d) CROSS-REFERENCE AMENDMENTS IN TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Section 1722b(c) is amended—

(A) in paragraph (3), by striking “subsections (b)(2)(A) and (b)(2)(B)” and inserting “subsections (b)(1)(A) and (b)(1)(B)”; and

(B) in paragraph (4), by striking “1734(d), or 1736(c)” and inserting “or 1734(d)”.

(2) Section 1787(b) is amended—

(A) by striking “section 3(1)” and inserting “section 3”; and

(B) by striking “42 U.S.C. 5102” and inserting “Public Law 93-247; 42 U.S.C. 5101 note”.

(3) Section 2382(b)(1) is amended by inserting “of the Small Business Act (15 U.S.C. 657q(c)(4))” after “section 44(c)(4)”.

(4) Section 2474(d) is amended by striking “section 2667(d)” and inserting “section 2667(e)”.

(5) Section 2548(e)(2) is amended by striking “section 103(f) of the Weapon Systems Acquisition Reform Act of 2009 (10 U.S.C. 2430 note),” and inserting “section 2438(f) of this title”.

(6) Section 2925 is amended—

(A) in subsection (a)(1), by striking “section 533” and inserting “section 553”; and

(B) in subsection (b)(1), by striking “section 139b” and inserting “section 138c”.

(e) DATE OF ENACTMENT REFERENCES.—Title 10, United States Code, is amended as follows:

(1) Section 1564(a)(2)(B) is amended by striking “the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011” in clauses (ii) and (iii) and inserting “January 7, 2011”.

(2) Section 2216a(e) is amended by striking “on the last day of” and all that follows and inserting “on September 30, 2015.”

(3) Section 2359b(k)(5) is amended by striking “the date that is five years after the date of the enactment of this Act” and inserting “January 7, 2016”.

(4) Section 2649(c) is amended by striking “During the 5-year period beginning on the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011” and inserting “Until January 6, 2016”.

(5) Section 2790(g)(1) is amended by striking “on or after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011” and inserting “after January 6, 2011.”

(6) Sections 3911(b)(2), 6323(a)(2)(B), and 8911(b)(2) are amended by striking “the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011” and inserting “January 7, 2011.”

(7) Section 10217(d)(3) is amended by striking “after the end of the 2-year period beginning on the date of the enactment of this subsection” and inserting “after January 6, 2013”.

(f) OTHER MISCELLANEOUS AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

- (1) Section 113(c)(2) is amended by striking “on” after “Board on”.
- 10 USC  
prec. 131. (2) The table of sections at the beginning of chapter 4 is amended by striking the item relating to section 133b.
- 10 USC 138,  
138c. (3) Paragraph (3) of section 138(c), as added by section 314(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1357), is transferred to appear at the end of section 138(c).
- (4) Section 139a(d)(4) is amended by adding a period at the end.
- (5) Section 139b(a)(6) is amended by striking “propriety” and inserting “proprietary”.
- 10 USC  
prec. 221. (6) The item relating to section 225 at the end of the table of sections at the beginning of chapter 9 is transferred to appear after the item relating to section 224.
- (7) Section 401(d) is amended by striking “Committee on International Relations” and inserting “Committee on Foreign Affairs”.
- (8) Section 843(b)(2)(B)(v) (article 43 of the Uniform Code of Military Justice) is amended by striking “Kidnaping,,” and inserting “Kidnaping”.
- (9) Section 920(g)(7) (article 120 of the Uniform Code of Military Justice) is amended by striking the second period at the end.
- (10) Section 983(b)(1) is amended by striking “or Secretary” and inserting “or the Secretary”.
- (11) Section 1086(b)(1) is amended by striking “clause (2)” and inserting “paragraph (2)”.
- (12) Section 1142(b)(10) is amended by striking “training,,” and inserting “training”.
- (13) Section 1143(a) is amended by inserting after “Coast Guard” the following: “when it is not operating as a service in the Navy”.
- (14) Section 1143a(h) is amended by inserting after “Coast Guard” the second place it appears the following: “when it is not operating as a service in the Navy”.
- (15) Section 1145(e) is amended by inserting before the period at the end the following: “when the Coast Guard is not operating as a service in the Navy”.
- (16) Section 1146(b) is amended by inserting before the period at the end the following: “when the Coast Guard is not operating as a service in the Navy”.
- (17) Section 1149 is amended by inserting after “Coast Guard” the following: “when it is not operating as a service in the Navy”.
- (18) Section 1150(c) is amended by inserting after “Coast Guard” the second place it appears the following: “when it is not operating as a service in the Navy”.
- (19) Section 1401(a) is amended by striking “columns 1, 2, 3, and 4,” in the matter preceding the table and inserting “columns 1, 2, and 3.”
- (20) Section 1599a(a) is amended by striking “National Security Act” and inserting “National Security Agency Act”.
- (21) Section 1781(a) is amended—
- (A) in the first sentence, by striking “Director” and inserting “Office”;
- (B) in the first sentence, by striking “hereinafter”; and

(C) in the second sentence, by striking “office” both places it appears and inserting “Office”.

(22) Section 1790, as added by section 8070 of division A of Public 112-74 (125 Stat. 822), is amended—

(A) by striking the section heading and inserting the following:

**“§ 1790. Military personnel citizenship processing”;**

(B) by striking “AUTHORIZATION OF PAYMENTS.—”;

(C) by striking “title 10, United States Code” and inserting “this title”;

(D) by striking “8 U.S.C. §§ 1439” and inserting “8 U.S.C. 1439”; and

(E) by striking “sections 286(m) and (n) of such Act (8 U.S.C. § 1356(m))” and inserting “subsections (m) and (n) of section 286 of such Act (8 U.S.C. 1356)”.

(23) Section 2006(b)(2) is amended by redesignating the second subparagraph (E) (as added by section 109(b)(2)(B) of Public Law 111-377 (124 Stat. 4120), effective August 1, 2011) as subparagraph (F).

(24) Section 2318(a)(2) is amended by striking “section 1705(b) and (c)” and inserting “subsections (b) and (c) of section 1705”.

(25) Section 2350m(e) is amended by striking “Not later than October 31, 2009, and annually thereafter” and inserting “Not later than October 31 each year”.

(26) Section 2401 is amended by striking “the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives” in subsections (b)(1)(B) and (h)(1) and inserting “the congressional defense committees”.

(27) Section 2438(a)(3) is amended by inserting “the senior” before “official’s”.

(28) Section 2461(d)(2) is amended by striking “that Act” and inserting “such section”.

(29) Section 2533a(k) is amended by striking “FedBizOps.gov” and inserting “FedBizOpps.gov”.

(30) Section 2548 is amended—

(A) in subsection (a)—

(i) by striking “Not later than” and all that follows through “the Secretary” and inserting “The Secretary”; and

(ii) by adding a period at the end of paragraph (3);

(B) in subsection (d)—

(i) in the subsection heading, by inserting “AND” after “PERFORMANCE” the second place it appears; and

(ii) by striking “Beginning with fiscal year 2012, the” and inserting “The”; and

(C) in subsection (e)(1), by striking “, United States Code.”.

(31) Section 2561(f)(2) is amended by striking “Committee on International Relations” and inserting “Committee on Foreign Affairs”.

(32) Section 2601a(a)(1) is amended by inserting after “Coast Guard” the first place it appears the following: “when it is not operating as a service in the Navy”.

(33) Section 2687(f) is amended by striking “at a result” and inserting “as a result”.

(34) Section 2687a is amended—

(A) in subsection (a), by striking “Foreign relations” and inserting “Foreign Relations”; and

(B) in subsection (b)(1)—

(i) by striking the comma after “including”; and

(ii) by striking “The Treaty” and inserting “the Treaty”.

(35) Section 2835 is amended—

(A) in subsection (a), by inserting after “Coast Guard” the following: “when it is not operating as a service in the Navy”; and

(B) in subsection (g)(1), by inserting after “Coast Guard” the following: “when it is not operating as a service in the Navy”.

(36) Section 2836 is amended—

(A) in subsection (a), by inserting after “Coast Guard” the following: “when it is not operating as a service in the Navy”; and

(B) in paragraphs (4)(B) and (11) of subsection (c), by inserting after “Coast Guard” the following: “when it is not operating as a service in the Navy”.

(37) Section 3201(a) is amended by striking “(beginning with fiscal year 1999)”.

(38) Section 4342 is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking “clause” both places it appears and inserting “paragraph”; and

(ii) in paragraph (5), by striking “clauses” and inserting “paragraphs”;

(B) in subsection (d), by striking “clauses” and inserting “paragraphs”; and

(C) in subsection (f), by striking “clauses” and inserting “paragraphs”.

(39) Section 4343 is amended by striking “clauses” and inserting “paragraphs”.

(40) Section 6954 is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking “clause” both places it appears and inserting “paragraph”; and

(ii) in paragraph (5), by striking “clauses” and inserting “paragraphs”; and

(B) in subsection (d), by striking “clauses” and inserting “paragraphs”.

(41) Section 6956(b) is amended by striking “clauses” and inserting “paragraphs”.

(42) Section 9342 is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking “clause” both places it appears and inserting “paragraph”; and

(ii) in paragraph (5), by striking “clauses” and inserting “paragraphs”;



(B) in subsection (d), by striking “clauses” and inserting “paragraphs”; and

(C) in subsection (f), by striking “clauses” and inserting “paragraphs”.

(43) Section 9343 is amended by striking “clauses” and inserting “paragraphs”.

(44) Section 9515(b) is amended by striking “required by” and all the follows through “2008” and inserting “required by section 356 of the National Defense Authorization Act for Fiscal Year 2008”.

(45) Section 10217(c)(3) is amended by striking “consider” and inserting “considered”.

(g) REPEAL OF EXPIRED PROVISIONS.—Title 10, United States Code, is amended as follows:

(1) Section 1108 is amended—

(A) by striking subsections (j) and (k); and

(B) by redesignating subsection (l) as subsection (j).

(2) Section 2325 is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(3) Section 2349a is repealed, and the table of sections at the beginning of subchapter I of chapter 138 is amended by striking the item relating to that section.

10 USC 2341  
prec.

(4) Section 2374b is repealed, and the table of sections at the beginning of chapter 139 is amended by striking the item relating to that section.

10 USC 2351  
prec.

(h) AMENDMENTS TO TITLE 37.—Title 37, United States Code, is amended as follows:

(1) Section 310(c)(1) is amended by striking “section for for” and inserting “section for”.

(2) Section 431, as transferred to chapter 8 of such title by section 631(d)(2) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1460), is redesignated as section 491.

(3) Section 501(a)(5) is amended by striking “a reserve a component” and inserting “a reserve component”.

(i) AMENDMENT TO TITLE 46.—Section 51301(a) of title 46, United States Code, is amended in the heading by striking “IN GENERAL” and inserting “IN GENERAL”.

(j) DUPLICATIVE PROVISION IN ARMED FORCES RETIREMENT HOME ACT OF 1991.—Section 1511(d) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 411(d)) is amended by striking the first paragraph (3), leaving the second paragraph (3) added by section 561 of Public Law 112–81 (125 Stat. 1420).

(k) CROSS REFERENCES AND DATE OF ENACTMENT REFERENCES IN REINSTATEMENT OF TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1293 note), as amended by section 504(b) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1391), is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (A), by striking “1995 (” and inserting “1995 (Public Law 103–337;”; and

(B) in subparagraph (B), by striking “1995” and inserting “1996”;

(2) in subsection (h), by striking “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012” and inserting “December 31, 2011,”; and

(3) in subsection (i)(2), by striking “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012” and inserting “December 31, 2011,”.

50 USC app. 460  
and note.  
Effective date.

(1) CORRECTION OF ERRONEOUS AMENDMENT INSTRUCTIONS.—Effective as of August 10, 2012, and as if included therein as enacted, section 2(c)(3) of Public Law 112-166 (126 Stat. 1284) is amended by striking “Selective Service Act of 1948” and inserting “Military Selective Service Act”.

Applicability.  
10 USC 101 note.

(m) COORDINATION WITH OTHER AMENDMENTS MADE BY THIS ACT.—For purposes of applying amendments made by provisions of this Act other than this section, the amendments made by this section shall be treated as having been enacted immediately before any amendment made by other provisions of this Act.

**SEC. 1077. SENSE OF CONGRESS ON RECOGNIZING AIR MOBILITY COMMAND ON ITS 20TH ANNIVERSARY.**

(a) FINDINGS.—Congress finds the following:

(1) On June 1, 1992, Air Mobility Command was established as the Air Force’s functional command for cargo and passenger delivery, air refueling, and aeromedical evacuation.

(2) As the lead Major Command for all Mobility Air Forces, Air Mobility Command ensures that the Air Force’s core functions of global vigilance, power, and reach are fulfilled.

(3) The ability of the United States to rapidly respond to humanitarian disasters and the outbreak of hostilities anywhere in the world truly defines the United States as a global power.

(4) Mobility Air Forces Airmen are unified by one single purpose: to answer the call of others so they may prevail.

(5) The United States’ hand of friendship to the world many times takes the form of Mobility Air Forces aircraft delivering humanitarian relief. Since its inception, Air Mobility Command has provided forces for 43 humanitarian relief efforts at home and abroad, from New Orleans, Louisiana, to Bam, Iran.

(6) A Mobility Air Forces aircraft departs every 2 minutes, 365 days a year. Since September 11, 2001, Mobility Air Forces aircraft have flown 18.9 million passengers, 6.8 million tons of cargo, and offloaded 2.2 billion pounds of fuel. Many of these flights have assisted combat aircraft protection United States forces from overhead.

(7) The United States keeps its solemn promise to its men and women in uniform with Air Mobility Command, accomplishing 186,940 patient movements since the beginning of Operation Iraqi Freedom.

(8) Mobility Air Forces Airmen reflect the best values of the Nation: delivering hope, saving lives, and fueling the fight.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, on the occasion of the 20th anniversary of the establishment of Air Mobility Command, the people of the United States should—

(1) recognize the critical role that Mobility Air Forces play in the Nation’s defense; and

(2) express appreciation for the leadership of Air Mobility Command and the more than 134,000 active-duty, Air National

Guard, Air Force Reserve, and Department of Defense civilians that make up the command.

**SEC. 1078. DISSEMINATION ABROAD OF INFORMATION ABOUT THE UNITED STATES.**

(a) UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948.—Section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) is amended to read as follows:

“GENERAL AUTHORIZATION

“SEC. 501. (a) The Secretary and the Broadcasting Board of Governors are authorized to use funds appropriated or otherwise made available for public diplomacy information programs to provide for the preparation, dissemination, and use of information intended for foreign audiences abroad about the United States, its people, and its policies, through press, publications, radio, motion pictures, the Internet, and other information media, including social media, and through information centers, instructors, and other direct or indirect means of communication.

“(b)(1) Except as provided in paragraph (2), the Secretary and the Broadcasting Board of Governors may, upon request and reimbursement of the reasonable costs incurred in fulfilling such a request, make available, in the United States, motion pictures, films, video, audio, and other materials disseminated abroad pursuant to this Act, the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.), or the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.). Any reimbursement pursuant to this paragraph shall be credited to the applicable appropriation account of the Department of State or the Broadcasting Board of Governors, as appropriate. The Secretary and the Broadcasting Board of Governors shall issue necessary regulations—

Regulations.

“(A) to establish procedures to maintain such material;

Procedures.

“(B) for reimbursement of the reasonable costs incurred in fulfilling requests for such material; and

“(C) to ensure that the persons seeking release of such material have secured and paid for necessary United States rights and licenses.

“(2) With respect to material disseminated abroad before the effective date of section 1078 of the National Defense Authorization Act for Fiscal Year 2013—

Historic preservation.

“(A) the Secretary and the Broadcasting Board of Governors shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material 12 years after the initial dissemination of the material abroad; and

“(B) the Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release, in accordance with paragraph (4).

Regulations.

“(3) The Archivist may undertake the functions described in paragraph (1) on behalf of and at the request of the Secretary or the Broadcasting Board of Governors.

“(4) The Archivist may charge fees to recover the costs described in paragraphs (1) and (2), in accordance with section 2116(c) of title 44, United States Code. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.

“(c) Nothing in this section may be construed to require the Secretary or the Broadcasting Board of Governors to make material disseminated abroad available in any format other than in the format disseminated abroad.”

22 USC 1461  
note.

(b) **RULE OF CONSTRUCTION.**—Nothing in this section, or in the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), may be construed to affect the allocation of funds appropriated or otherwise made specifically available for public diplomacy or to authorize appropriations for Broadcasting Board of Governors programming other than for foreign audiences abroad.

(c) **FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1986 AND 1987.**—Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) is amended to read as follows:

**“SEC. 208. CLARIFICATION ON DOMESTIC DISTRIBUTION OF PROGRAM MATERIAL.**

“(a) **IN GENERAL.**—No funds authorized to be appropriated to the Department of State or the Broadcasting Board of Governors shall be used to influence public opinion in the United States. This section shall apply only to programs carried out pursuant to the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.). This section shall not prohibit or delay the Department of State or the Broadcasting Board of Governors from providing information about its operations, policies, programs, or program material, or making such available, to the media, public, or Congress, in accordance with other applicable law.

“(b) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit the Department of State or the Broadcasting Board of Governors from engaging in any medium or form of communication, either directly or indirectly, because a United States domestic audience is or may be thereby exposed to program material, or based on a presumption of such exposure. Such material may be made available within the United States and disseminated, when appropriate, pursuant to sections 502 and 1005 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1462 and 1437), except that nothing in this section may be construed to authorize the Department of State or the Broadcasting Board of Governors to disseminate within the United States any program material prepared for dissemination abroad on or before the effective date of section 1078 of the National Defense Authorization Act for Fiscal Year 2013.

“(c) **APPLICATION.**—The provisions of this section shall apply only to the Department of State and the Broadcasting Board of Governors and to no other department or agency of the Federal Government.”

(d) **CONFORMING AMENDMENTS.**—The United States Information and Educational Exchange Act of 1948 is amended—

(1) in section 502 (22 U.S.C. 1462)—

(A) by inserting “and the Broadcasting Board of Governors” after “Secretary”; and

(B) by inserting “or the Broadcasting Board of Governors” after “Department”; and

(2) in section 1005 (22 U.S.C. 1437), by inserting “and the Broadcasting Board of Governors” after “Secretary” each place it appears.

(e) **EFFECTIVE DATE.**—This section shall take effect and apply on the date that is 180 days after the date of the enactment of this section. 22 USC 1437 note.

**SEC. 1079. COORDINATION FOR COMPUTER NETWORK OPERATIONS.**

(a) **BRIEFING.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on the interagency process for coordinating and de-conflicting full-spectrum military cyber operations for the Federal Government. Deadline.

(b) **ELEMENTS.**— The briefing required under subsection (a) shall include a description of each of the following:

(1) The business processes and rules governing the interagency process for coordinating and de-conflicting full-spectrum military cyber operations.

(2) The membership and responsibilities of such interagency process.

(3) The current status of interagency guidance clarifying roles and responsibilities for full-spectrum military cyber operations.

(4) Plans for implementing the planning and guidance from such interagency process.

(c) **BUDGET JUSTIFICATION DOCUMENTS.**—The Secretary of Defense shall submit to the congressional defense committees dedicated budget documentation materials to accompany the budget submissions for fiscal year 2015 and each subsequent fiscal year, including a single Department of Defense-wide budget estimate and detailed budget planning data for full-spectrum military cyberspace operations. Such materials shall be submitted in unclassified form but may include a classified annex. 10 USC 221 note.

**SEC. 1080. SENSE OF CONGRESS REGARDING UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION.**

It is the sense of Congress that—

(1) unauthorized disclosures of classified information can threaten the national security and foreign relations of the United States;

(2) the Department of Defense has taken positive steps toward improving its policies, procedures, and enforcement mechanisms regarding unauthorized disclosures of classified information and should continue to improve upon such policies, procedures, and enforcement mechanisms;

(3) other departments and agencies of the Federal Government should undertake similar efforts, if such departments and agencies have not already done so; and

(4) the Department of Justice should investigate possible violations of Federal law related to unauthorized disclosures of classified information, including disclosures related to military, intelligence, and operational capabilities of the United

States and allies of the United States and, in appropriate cases, individuals responsible for such unauthorized disclosures should be prosecuted to the full extent of the law.

**SEC. 1081. TECHNICAL AMENDMENTS TO REPEAL STATUTORY REFERENCES TO UNITED STATES JOINT FORCES COMMAND.**

Title 10, United States Code, is amended as follows:

10 USC 221 prec.

- (1)(A) Section 232 is repealed.
- (B) The table of sections at the beginning of chapter 9 is amended by striking the item relating to section 232.
- (2) Section 2859(d) is amended—
  - (A) by striking paragraph (2); and
  - (B) by redesignating paragraph (3) as paragraph (2).
- (3) Section 10503(13)(B) is amended—
  - (A) by striking clause (iii); and
  - (B) redesignating clause (iv) as clause (iii).

**SEC. 1082. SENSE OF CONGRESS ON NON-UNITED STATES CITIZENS WHO ARE GRADUATES OF UNITED STATES EDUCATIONAL INSTITUTIONS WITH ADVANCED DEGREES IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.**

It is the sense of Congress—

- (1) that the Department of Defense should make every reasonable and practical effort to increase the number of United States citizens who pursue advanced degrees in science, technology, engineering, and mathematics; and
- (2) to strongly urge the Department of Defense to investigate innovative mechanisms (subject to all appropriate security requirements) to access the pool of talent of non-United States citizens with advanced scientific and technical degrees from United States institutions of higher education, especially in those scientific and technical areas that are most vital to the national defense (such as those identified by the Assistant Secretary of Defense for Research and Engineering and the Armed Forces).

**SEC. 1083. SCIENTIFIC FRAMEWORK FOR RECALCITRANT CANCERS.**

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

42 USC 285a-13.

**“SEC. 417G. SCIENTIFIC FRAMEWORK FOR RECALCITRANT CANCERS.**

“(a) DEVELOPMENT OF SCIENTIFIC FRAMEWORK.—

“(1) IN GENERAL.—For each recalcitrant cancer identified under subsection (b), the Director of the Institute shall develop (in accordance with subsection (c)) a scientific framework for the conduct or support of research on such cancer.

“(2) CONTENTS.—The scientific framework with respect to a recalcitrant cancer shall include the following:

“(A) CURRENT STATUS.—

“(i) REVIEW OF LITERATURE.—A summary of findings from the current literature in the areas of—

“(I) the prevention, diagnosis, and treatment of such cancer;

“(II) the fundamental biologic processes that regulate such cancer (including similarities and differences of such processes from the biological processes that regulate other cancers); and

“(III) the epidemiology of such cancer.

“(ii) SCIENTIFIC ADVANCES.—The identification of relevant emerging scientific areas and promising scientific advances in basic, translational, and clinical science relating to the areas described in subclauses (I) and (II) of clause (i).

“(iii) RESEARCHERS.—A description of the availability of qualified individuals to conduct scientific research in the areas described in clause (i).

“(iv) COORDINATED RESEARCH INITIATIVES.—The identification of the types of initiatives and partnerships for the coordination of intramural and extramural research of the Institute in the areas described in clause (i) with research of the relevant national research institutes, Federal agencies, and non-Federal public and private entities in such areas.

“(v) RESEARCH RESOURCES.—The identification of public and private resources, such as patient registries and tissue banks, that are available to facilitate research relating to each of the areas described in clause (i).

“(B) IDENTIFICATION OF RESEARCH QUESTIONS.—The identification of research questions relating to basic, translational, and clinical science in the areas described in subclauses (I) and (II) of subparagraph (A)(i) that have not been adequately addressed with respect to such recalcitrant cancer.

“(C) RECOMMENDATIONS.—Recommendations for appropriate actions that should be taken to advance research in the areas described in subparagraph (A)(i) and to address the research questions identified in subparagraph (B), as well as for appropriate benchmarks to measure progress on achieving such actions, including the following:

“(i) RESEARCHERS.—Ensuring adequate availability of qualified individuals described in subparagraph (A)(iii).

“(ii) COORDINATED RESEARCH INITIATIVES.—Promoting and developing initiatives and partnerships described in subparagraph (A)(iv).

“(iii) RESEARCH RESOURCES.—Developing additional public and private resources described in subparagraph (A)(v) and strengthening existing resources.

“(3) TIMING.—

“(A) INITIAL DEVELOPMENT AND SUBSEQUENT UPDATE.—Deadlines.  
For each recalcitrant cancer identified under subsection (b)(1), the Director of the Institute shall—

“(i) develop a scientific framework under this subsection not later than 18 months after the date of the enactment of this section; and

“(ii) review and update the scientific framework not later than 5 years after its initial development.

“(B) OTHER UPDATES.—The Director of the Institute may review and update each scientific framework developed under this subsection as necessary.

“(4) PUBLIC NOTICE.—With respect to each scientific framework developed under subsection (a), not later than 30 daysDeadline.

after the date of completion of the framework, the Director of the Institute shall—

“(A) submit such framework to the Committee on Energy and Commerce and Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and Committee on Appropriations of the Senate; and

Web posting.

“(B) make such framework publically available on the Internet website of the Department of Health and Human Services.

“(b) IDENTIFICATION OF RECALCITRANT CANCER.—

“(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Director of the Institute shall identify two or more recalcitrant cancers that each—

“(A) have a 5-year relative survival rate of less than 20 percent; and

“(B) are estimated to cause the death of at least 30,000 individuals in the United States per year.

“(2) ADDITIONAL CANCERS.—The Director of the Institute may, at any time, identify other recalcitrant cancers for purposes of this section. In identifying a recalcitrant cancer pursuant to the previous sentence, the Director may consider additional metrics of progress (such as incidence and mortality rates) against such type of cancer.

“(c) WORKING GROUPS.—For each recalcitrant cancer identified under subsection (b), the Director of the Institute shall convene a working group comprised of representatives of appropriate Federal agencies and other non-Federal entities to provide expertise on, and assist in developing, a scientific framework under subsection (a). The Director of the Institute (or the Director’s designee) shall participate in the meetings of each such working group.

“(d) REPORTING.—

“(1) BIENNIAL REPORTS.—The Director of NIH shall ensure that each biennial report under section 403 includes information on actions undertaken to carry out each scientific framework developed under subsection (a) with respect to a recalcitrant cancer, including the following:

“(A) Information on research grants awarded by the National Institutes of Health for research relating to such cancer.

“(B) An assessment of the progress made in improving outcomes (including relative survival rates) for individuals diagnosed with such cancer.

“(C) An update on activities pertaining to such cancer under the authority of section 413(b)(7).

“(2) ADDITIONAL ONE-TIME REPORT FOR CERTAIN FRAMEWORKS.—For each recalcitrant cancer identified under subsection (b)(1), the Director of the Institute shall, not later than 6 years after the initial development of a scientific framework under subsection (a), submit a report to the Congress on the effectiveness of the framework (including the update required by subsection (a)(3)(A)(ii)) in improving the prevention, detection, diagnosis, and treatment of such cancer.

“(e) RECOMMENDATIONS FOR EXCEPTION FUNDING.—The Director of the Institute shall consider each relevant scientific framework developed under subsection (a) when making recommendations for exception funding for grant applications.



“(f) DEFINITION.—In this section, the term ‘recalcitrant cancer’ means a cancer for which the five-year relative survival rate is below 50 percent.”.

**SEC. 1084. PROTECTION OF VETERANS’ MEMORIALS.**

(a) TRANSPORTATION OF STOLEN MATERIALS.—Section 2314 of title 18, United States Code, is amended—

(1) by striking “or any part thereof—” and inserting the following: “or any part thereof; or”;

(2) by inserting before “Shall be fined under this title” the following:

“Whoever transports, transmits, or transfers in interstate or foreign commerce any veterans’ memorial object, knowing the same to have been stolen, converted or taken by fraud—”;

(3) by inserting after “under this section is greater.” the following: “If the offense involves the transportation, transmission, or transfer in interstate or foreign commerce of veterans’ memorial objects with a value, in the aggregate, of less than \$1,000, the defendant shall be fined under this title or imprisoned not more than one year, or both.”; and

(4) by adding at the end the following:

“For purposes of this section the term ‘veterans’ memorial object’ means a grave marker, headstone, monument, or other object, intended to permanently honor a veteran or mark a veteran’s grave, or any monument that signifies an event of national military historical significance.”.

Definition.

(b) SALE OR RECEIPT OF STOLEN MEMORIALS.—Section 2315 of title 18, United States Code, is amended—

(1) by striking “or any part thereof—” and inserting the following: “or any part thereof; or”; and

(2) by inserting before “Shall be fined under this title” the following:

“Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any veterans’ memorial object which has crossed a State or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken—”;

(3) by inserting after “under this section is greater.” the following: “If the offense involves the receipt, possession, concealment, storage, barter, sale, or disposal of veterans’ memorial objects with a value, in the aggregate, of less than \$1,000, the defendant shall be fined under this title or imprisoned not more than one year, or both.”; and

(4) by adding at the end the following: “For purposes of this section the term ‘veterans’ memorial object’ means a grave marker, headstone, monument, or other object, intended to permanently honor a veteran or mark a veteran’s grave, or any monument that signifies an event of national military historical significance.”.

**SEC. 1085. SENSE OF CONGRESS REGARDING SPECTRUM.**

It is the sense of Congress that—

(1) the United States mobile communications industry is a significant economic engine;

(2) while wireless carriers are continually implementing new and more efficient technologies and techniques to maximize their existing spectrum capacity, there is a pressing need for additional spectrum for mobile broadband services;

(3) as the United States faces the growing demand for spectrum, consideration should be given to both the supply of spectrum for licensed networks and for unlicensed devices;

(4) while such growing demand can be met in part by reallocating spectrum from existing non-governmental uses, the long-term solution must include reallocation and sharing of Federal Government spectrum for private sector use;

(5) recognizing the important uses of spectrum by the Federal Government, including for national security, law enforcement, and other critical Federal uses, existing law ensures that Federal operations are not harmed as a result of a reallocation of spectrum for commercial use, including through the establishment of the Spectrum Relocation Fund to reimburse Federal users for the costs of planning and implementing relocation and sharing arrangements and, with respect to spectrum vacated by the Department of Defense, certification under section 1062(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 768) by the Secretary of Defense, the Secretary of Commerce, and the Chairman of the Joint Chiefs of Staff that replacement spectrum provides comparable technical characteristics to restore essential military capability; and

(6) given the need to determine equitable outcomes for the United States in relation to spectrum use that balance the demand of the private sector for spectrum with national security and other critical Federal missions, all interested parties should be encouraged to continue the collaborative efforts between industry and government stakeholders that have been launched by the National Telecommunications and Information Administration to assess and recommend practical frameworks for the development of relocation, transition, and sharing arrangement and plans for 110 megahertz of Federal spectrum in the 1695–1710 MHz and the 1755–1850 MHz bands.

Dale Long Public  
Safety Officers'  
Benefits  
Improvements  
Act of 2012.  
42 USC 3711.

#### **SEC. 1086. PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM.**

(a) **SHORT TITLE.**—This section may be cited as the “Dale Long Public Safety Officers' Benefits Improvements Act of 2012”.

(b) **BENEFITS FOR CERTAIN NONPROFIT EMERGENCY MEDICAL SERVICE PROVIDERS; MISCELLANEOUS AMENDMENTS.**—

(1) **IN GENERAL.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) in section 901(a) (42 U.S.C. 3791(a))—

(i) in paragraph (26), by striking “and” at the end;

(ii) in paragraph (27), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(28) the term ‘hearing examiner’ includes any medical or claims examiner.”;

(B) in section 1201 (42 U.S.C. 3796)—

(i) in subsection (a), by striking “follows:” and all that follows and inserting the following: “follows (if the payee indicated is living on the date on which the determination is made)—

“(1) if there is no child who survived the public safety officer, to the surviving spouse of the public safety officer;

“(2) if there is at least 1 child who survived the public safety officer and a surviving spouse of the public safety officer, 50 percent to the surviving child (or children, in equal shares) and 50 percent to the surviving spouse;

“(3) if there is no surviving spouse of the public safety officer, to the surviving child (or children, in equal shares);

“(4) if there is no surviving spouse of the public safety officer and no surviving child—

“(A) to the surviving individual (or individuals, in shares per the designation, or, otherwise, in equal shares) designated by the public safety officer to receive benefits under this subsection in the most recently executed designation of beneficiary of the public safety officer on file at the time of death with the public safety agency, organization, or unit; or

“(B) if there is no individual qualifying under subparagraph (A), to the surviving individual (or individuals, in equal shares) designated by the public safety officer to receive benefits under the most recently executed life insurance policy of the public safety officer on file at the time of death with the public safety agency, organization, or unit;

“(5) if there is no individual qualifying under paragraph (1), (2), (3), or (4), to the surviving parent (or parents, in equal shares) of the public safety officer; or

“(6) if there is no individual qualifying under paragraph (1), (2), (3), (4), or (5), to the surviving individual (or individuals, in equal shares) who would qualify under the definition of the term ‘child’ under section 1204 but for age.”;

(ii) in subsection (b)—

(I) by striking “direct result of a catastrophic” and inserting “direct and proximate result of a personal”;

(II) by striking “pay,” and all that follows through “the same” and inserting “pay the same”;

(III) by striking “in any year” and inserting “to the public safety officer (if living on the date on which the determination is made)”;

(IV) by striking “in such year, adjusted” and inserting “with respect to the date on which the catastrophic injury occurred, as adjusted”;

(V) by striking “, to such officer”;

(VI) by striking “the total” and all that follows through “For” and inserting “for”; and

(VII) by striking “That these” and all that follows through the period, and inserting “That the amount payable under this subsection shall be the amount payable as of the date of catastrophic injury of such public safety officer.”;

(iii) in subsection (f)—

(I) in paragraph (1), by striking “, as amended (D.C. Code, sec. 4-622); or” and inserting a semicolon;

(II) in paragraph (2)—

(aa) by striking “. Such beneficiaries shall only receive benefits under such section 8191 that” and inserting “, such that beneficiaries

shall receive only such benefits under such section 8191 as”; and

(bb) by striking the period at the end and inserting “; or”; and

(III) by adding at the end the following:

“(3) payments under the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107-42).”;

(iv) by amending subsection (k) to read as follows:

“(k) As determined by the Bureau, a heart attack, stroke, or vascular rupture suffered by a public safety officer shall be presumed to constitute a personal injury within the meaning of subsection (a), sustained in the line of duty by the officer and directly and proximately resulting in death, if—

“(1) the public safety officer, while on duty—

“(A) engages in a situation involving nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

“(B) participates in a training exercise involving non-routine stressful or strenuous physical activity;

“(2) the heart attack, stroke, or vascular rupture commences—

“(A) while the officer is engaged or participating as described in paragraph (1);

“(B) while the officer remains on that duty after being engaged or participating as described in paragraph (1); or

Deadline.

“(C) not later than 24 hours after the officer is engaged or participating as described in paragraph (1); and

“(3) the heart attack, stroke, or vascular rupture directly and proximately results in the death of the public safety officer, unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.”; and

(v) by adding at the end the following:

Confidentiality.

“(n) The public safety agency, organization, or unit responsible for maintaining on file an executed designation of beneficiary or executed life insurance policy for purposes of subsection (a)(4) shall maintain the confidentiality of the designation or policy in the same manner as the agency, organization, or unit maintains personnel or other similar records of the public safety officer.”;

(C) in section 1202 (42 U.S.C. 3796a)—

(i) by striking “death”, each place it appears except the second place it appears, and inserting “fatal”; and

(ii) in paragraph (1), by striking “or catastrophic injury” the second place it appears and inserting “, disability, or injury”;

(D) in section 1203 (42 U.S.C. 3796a-1)—

(i) in the section heading, by striking “WHO HAVE DIED IN THE LINE OF DUTY” and inserting “WHO HAVE SUSTAINED FATAL OR CATASTROPHIC INJURY IN THE LINE OF DUTY”; and

(ii) by striking “who have died in the line of duty” and inserting “who have sustained fatal or catastrophic injury in the line of duty”;

(E) in section 1204 (42 U.S.C. 3796b)—

(i) in paragraph (1), by striking “consequences of an injury that” and inserting “an injury, the direct and proximate consequences of which”;

(ii) in paragraph (3)—

(I) in the matter preceding clause (i)—

(aa) by inserting “or permanently and totally disabled” after “deceased”; and

(bb) by striking “death” and inserting “fatal or catastrophic injury”; and

(II) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(iii) in paragraph (5)—

(I) by striking “post-mortem” each place it appears and inserting “post-injury”;

(II) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(III) in subparagraph (B), as so redesignated, by striking “death” and inserting “fatal or catastrophic injury”;

(iv) in paragraph (7), by striking “public employee member of a rescue squad or ambulance crew;” and inserting “employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

“(A) is a public agency; or

“(B) is (or is a part of) a nonprofit entity serving the public that—

“(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

“(ii) engages in rescue activities or provides emergency medical services as part of an official emergency response system;”;

(v) in paragraph (9)—

(I) in subparagraph (A), by striking “as a chaplain, or as a member of a rescue squad or ambulance crew;” and inserting “or as a chaplain;”;

(II) in subparagraph (B)(ii), by striking “or” after the semicolon;

(III) in subparagraph (C)(ii), by striking the period and inserting “; or”; and

(IV) by adding at the end the following:

“(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity, is engaging in rescue activity or in the provision of emergency medical services.”;

(F) in section 1205 (42 U.S.C. 3796c), by adding at the end the following:

“(d) Unless expressly provided otherwise, any reference in this part to any provision of law not in this part shall be understood to constitute a general reference under the doctrine of incorporation by reference, and thus to include any subsequent amendments to the provision.”;

(G) in each of subsections (a) and (b) of section 1212 (42 U.S.C. 3796d-1), sections 1213 and 1214 (42 U.S.C. 3796d-2 and 3796d-3), and subsections (b) and (c) of section 1216 (42 U.S.C. 3796d-5), by striking “dependent” each place it appears and inserting “person”;

(H) in section 1212 (42 U.S.C. 3796d-1)—

(i) in subsection (a)—

(I) in paragraph (1), in the matter preceding subparagraph (A), by striking “Subject” and all that follows through “, the” and inserting “The”; and

(II) in paragraph (3), by striking “reduced by” and all that follows through “(B) the amount” and inserting “reduced by the amount”;

(ii) in subsection (c)—

(I) in the subsection heading, by striking “DEPENDENT”; and

(II) by striking “dependent”;

(I) in paragraphs (2) and (3) of section 1213(b) (42 U.S.C. 3796d-2(b)), by striking “dependent’s” each place it appears and inserting “person’s”;

(J) in section 1216 (42 U.S.C. 3796d-5)—

(i) in subsection (a), by striking “each dependent” each place it appears and inserting “a spouse or child”; and

(ii) by striking “dependents” each place it appears and inserting “a person”; and

(K) in section 1217(3)(A) (42 U.S.C. 3796d-6(3)(A)), by striking “described in” and all that follows and inserting “an institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and”.

(2) AMENDMENT RELATED TO EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFICERS INVOLVED IN THE PREVENTION, INVESTIGATION, RESCUE, OR RECOVERY EFFORTS RELATED TO A TERRORIST ATTACK.—Section 611(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (42 U.S.C. 3796c-1(a)) is amended by inserting “or an entity described in section 1204(7)(B) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(7)(B))” after “employed by such agency”.

(3) CONFORMING AMENDMENTS.—The Internal Revenue Code of 1986 is amended—

26 USC 402.

(A) in section 402(l)(4)(C), by inserting before the period at the end the following: “, as in effect immediately before the enactment of the National Defense Authorization Act for Fiscal Year 2013”; and

26 USC 101.

(B) in section 101(h)(1), by inserting after “1968” the following: “, as in effect immediately before the enactment of the National Defense Authorization Act for Fiscal Year 2013”.

(c) AUTHORIZATION OF APPROPRIATIONS; DETERMINATIONS; APPEALS.—The matter under the heading “PUBLIC SAFETY OFFICERS BENEFITS” under the heading “OFFICE OF JUSTICE PROGRAMS” under title II of division B of the Consolidated Appropriations Act, 2008

(Public Law 110–161; 121 Stat. 1912; 42 U.S.C. 3796c–2) is amended—

(1) by striking “decisions” and inserting “determinations”;

(2) by striking “(including those, and any related matters, pending)”;

(3) by striking the period at the end and inserting the following: “: *Provided further*, That, on and after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012, as to each such statute—

“(1) the provisions of section 1001(a)(4) of such title I (42 U.S.C. 3793(a)(4)) shall apply; Applicability.

“(2) payment (consistent with section 611 of the Uniting and Strengthening America By Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (42 U.S.C. 3796c-1)) shall be made only upon a determination by the Bureau that the facts legally warrant the payment; and

“(3) any reference to section 1202 of such title I shall be deemed to be a reference to paragraphs (2) and (3) of such section 1202:

*Provided further*, That, on and after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012, no appeal shall bring any final determination of the Bureau before any court for review unless notice of appeal is filed (within the time specified herein and in the manner prescribed for appeal to United States courts of appeals from United States district courts) not later than 90 days after the date on which the Bureau serves notice of the final determination: *Provided further*, That any regulations promulgated by the Bureau under such part (or any such statute) before, on, or after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012 shall apply to any matter pending on, or filed or accruing after, the effective date specified in the regulations.”.

Effective date.  
Determination.  
Notice.  
Deadline.

Regulations.  
Applicability.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (1), the amendments made by this section shall—

(A) take effect on the date of enactment of this Act; and

(B) apply to any matter pending, before the Bureau of Justice Assistance or otherwise, on the date of enactment of this Act, or filed or accruing after that date.

(2) EXCEPTIONS.—

(A) RESCUE SQUADS AND AMBULANCE CREWS.—For a member of a rescue squad or ambulance crew (as defined in section 1204(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this section), the amendments made by this Act shall apply to injuries sustained on or after June 1, 2009.

(B) HEART ATTACKS, STROKES, AND VASCULAR RUPTURES.—Section 1201(k) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this section, shall apply to heart attacks, strokes, and vascular ruptures sustained on or after December 15, 2003.

Applicability.  
42 USC 3791  
note.

#### SEC. 1087. REMOVAL OF ACTION.

Section 1442 of title 28, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) Solely for purposes of determining the propriety of removal under subsection (a), a law enforcement officer, who is the defendant in a criminal prosecution, shall be deemed to have been acting under the color of his office if the officer—

“(1) protected an individual in the presence of the officer from a crime of violence;

“(2) provided immediate assistance to an individual who suffered, or who was threatened with, bodily harm; or

“(3) prevented the escape of any individual who the officer reasonably believed to have committed, or was about to commit, in the presence of the officer, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury.

Definitions.

“(d) In this section, the following definitions apply:

“(1) The terms ‘civil action’ and ‘criminal prosecution’ include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.

“(2) The term ‘crime of violence’ has the meaning given that term in section 16 of title 18.

“(3) The term ‘law enforcement officer’ means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5 and any special agent in the Diplomatic Security Service of the Department of State.

“(4) The term ‘serious bodily injury’ has the meaning given that term in section 1365 of title 18.

“(5) The term ‘State’ includes the District of Columbia, United States territories and insular possessions, and Indian country (as defined in section 1151 of title 18).

“(6) The term ‘State court’ includes the Superior Court of the District of Columbia, a court of a United States territory or insular possession, and a tribal court.”.

#### **SEC. 1088. TRANSPORT FOR FEMALE GENITAL MUTILATION.**

Section 116 of title 18, United States Code, is amended by adding at the end the following:

Penalty.

“(d) Whoever knowingly transports from the United States and its territories a person in foreign commerce for the purpose of conduct with regard to that person that would be a violation of subsection (a) if the conduct occurred within the United States, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.”.

#### **SEC. 1089. AMENDMENTS TO LAW ENFORCEMENT OFFICER SAFETY PROVISIONS OF TITLE 18.**

Chapter 44 of title 18, United States Code, is amended—

(1) in section 926B—

(A) in subsection (c)(1), by inserting “or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)” after “arrest”;

(B) in subsection (d), by striking “as a law enforcement officer” and inserting “that identifies the employee as a police officer or law enforcement officer of the agency”; and



(C) in subsection (f), by inserting “or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)” after “arrest”; and

(2) in section 926C—

(A) in subsection (c)(2), by inserting “or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)” after “arrest”; and

(B) in subsection (d)—

(i) in paragraph (1), by striking “that indicates” and inserting “that identifies the person as having been employed as a police officer or law enforcement officer and indicates”; and

(ii) in paragraph (2)(A), by inserting “that identifies the person as having been employed as a police officer or law enforcement officer” after “officer”.

**SEC. 1090. REAUTHORIZATION OF SALE OF AIRCRAFT AND PARTS FOR WILDFIRE SUPPRESSION PURPOSES.**

Section 2 of the Wildfire Suppression Aircraft Transfer Act of 1996 (10 U.S.C. 2576 note) is amended—

(1) in subsection (a), by striking “during the period beginning on October 1, 1996, and ending on September 30, 2005” and inserting “during a period specified in subsection (g)”;

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection (g):

“(g) PERIODS FOR EXERCISE OF AUTHORITY.—The periods specified in this subsection are the following:

“(1) The period beginning on October 1, 1996, and ending on September 30, 2005.

“(2) The period beginning on October 1, 2012, and ending on September 30, 2017.”.

**SEC. 1091. TRANSFER OF EXCESS AIRCRAFT TO OTHER DEPARTMENTS OF THE FEDERAL GOVERNMENT.**

10 USC 2576  
note.

(a) **TRANSFER.**—The Secretary of Defense may transfer excess aircraft specified in subsection (b) to the Secretary of Agriculture and the Secretary of Homeland Security for use by the Forest Service and the United States Coast Guard. The transfer of any excess aircraft under this subsection shall be without reimbursement.

(b) **AIRCRAFT.**—The aircraft transferred under subsection (a) are aircraft of the Department of Defense that are—

(1) identified by the Forest Service or the United States Coast Guard as a suitable platform to carry out their respective missions;

(2) excess to the needs of the Department of Defense, as determined by the Secretary of Defense;

(3) in the case of aircraft to be transferred to the Secretary of Agriculture, acceptable for use by the Forest Service, as determined by the Secretary of Agriculture; and

(4) in the case of aircraft to be transferred to the Secretary of Homeland Security, acceptable for use by the United States Coast Guard, as determined by the Secretary of Homeland Security.

(c) **LIMITATION ON NUMBER.**—

(1) **LIMITATION.**—Except as provided in paragraph (2), the number of aircraft that may be transferred under subsection (a) to each of the Secretary of Agriculture and the Secretary of Homeland Security may not exceed seven aircraft for each agency.

(2) **TERMINATION OF LIMITATION AFTER OFFICIAL NOTICE OF INTENT TO ACCEPT OR DECLINE SEVEN AIRCRAFT.**—The limitation in paragraph (1) on the number of aircraft transferrable under subsection (a) shall cease upon official notice to the Secretary of Defense, from the Secretary of Agriculture, and the Secretary of Homeland Security that the Secretary's respective department will decline or accept seven aircraft.

(d) **ORDER OF TRANSFERS.**—

(1) **RIGHTS OF REFUSAL.**—In implementing the transfers authorized by subsection (a), the Secretary of Defense shall afford the Secretary of Agriculture the right of first refusal and the Secretary of Homeland Security the second right of refusal in the transfer to each department by the Secretary of Defense of up to seven excess aircraft specified in subsection (b) before the transfer of such excess aircraft is offered to any other department or agency of the Federal Government.

(2) **EXPIRATION OF RIGHT OF FIRST REFUSAL.**—The right of first refusal afforded the Secretary of Agriculture by paragraph (1) shall expire upon official notice of the Secretary to the Secretary of Defense under subsection (c)(2).

(e) **CONDITIONS OF CERTAIN TRANSFERS.**—Excess aircraft transferred to the Secretary of Agriculture under subsection (a)—

(1) may be used only for wildfire suppression purposes; and

(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts or for other purposes approved by the Secretary of Agriculture in writing in advance.

(f) **ADDITIONAL LIMITATION.**—Excess aircraft transferred under subsection (a) may not be sold by the Secretary of Agriculture or the Secretary of Homeland Security after transfer.

(g) **COSTS AFTER TRANSFER.**—Any costs of operation, maintenance, sustainment, and disposal of excess aircraft transferred under subsection (a) after the date of transfer shall be borne by the Secretary of Agriculture and the Secretary of Homeland Security, as applicable.

## **TITLE XI—CIVILIAN PERSONNEL MATTERS**

- Sec. 1101. One-year extension of authority to waive annual limitation on premium pay and aggregate limitation on pay for Federal civilian employees working overseas.
- Sec. 1102. Expansion of experimental personnel program for scientific and technical personnel at the Defense Advanced Research Projects Agency.
- Sec. 1103. Extension of authority to fill shortage category positions for certain Federal acquisition positions for civilian agencies.
- Sec. 1104. One-year extension of discretionary authority to grant allowances, benefits, and gratuities to personnel on official duty in a combat zone.
- Sec. 1105. Policy on senior mentors.
- Sec. 1106. Authority to pay for the transport of family household pets for Federal employees during certain evacuation operations.
- Sec. 1107. Interagency personnel rotations.

**SEC. 1101. ONE-YEAR EXTENSION OF AUTHORITY TO WAIVE ANNUAL LIMITATION ON PREMIUM PAY AND AGGREGATE LIMITATION ON PAY FOR FEDERAL CIVILIAN EMPLOYEES WORKING OVERSEAS.**

Effective January 1, 2013, section 1101(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4615), as most recently amended by section 1104 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1612), is further amended by striking “through 2012” and inserting “through 2013”.

Effective date.

**SEC. 1102. EXPANSION OF EXPERIMENTAL PERSONNEL PROGRAM FOR SCIENTIFIC AND TECHNICAL PERSONNEL AT THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.**

(a) **EXPANSION.**—Section 1101(b)(1)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note) is amended by striking “40” and inserting “60”.

(b) **CONSTRUCTION.**—The amendment made by subsection (a) shall not be construed as affecting any applicable authorization or delimitation of the numbers of personnel that may be employed at the Defense Advanced Research Projects Agency.

5 USC 3104 note.

**SEC. 1103. EXTENSION OF AUTHORITY TO FILL SHORTAGE CATEGORY POSITIONS FOR CERTAIN FEDERAL ACQUISITION POSITIONS FOR CIVILIAN AGENCIES.**

Section 1703(j)(2) of title 41, United States Code, is amended by striking “September 30, 2012” and inserting “September 30, 2017”.

**SEC. 1104. ONE-YEAR EXTENSION OF DISCRETIONARY AUTHORITY TO GRANT ALLOWANCES, BENEFITS, AND GRATUITIES TO PERSONNEL ON OFFICIAL DUTY IN A COMBAT ZONE.**

Paragraph (2) of section 1603(a) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 443), as added by section 1102 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4616) and amended by section 1112 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1616), is further amended by striking “2013” and inserting “2014”.

**SEC. 1105. POLICY ON SENIOR MENTORS.**

5 USC 9903 note.

(a) **IN GENERAL.**—The Secretary of Defense shall provide written notice to the congressional defense committees at least 60 days before implementing any change in the policy regarding senior mentors issued on or about April 1, 2010.

Notice.  
Time period.

(b) **APPLICABILITY.**—Changes implemented before the date of the enactment of this Act shall not be affected by this section.

**SEC. 1106. AUTHORITY TO PAY FOR THE TRANSPORT OF FAMILY HOUSEHOLD PETS FOR FEDERAL EMPLOYEES DURING CERTAIN EVACUATION OPERATIONS.**

Section 5725 of title 5, United States Code, is amended—

(1) in subsection (a), in the matter following paragraph (2), by striking “and personal effects,” and inserting “, personal effects, and family household pets,”; and

(2) by adding at the end the following:

“(c)(1) The expenses authorized under subsection (a) shall, with respect to the transport of family household pets, include the expenses for the shipment of and the payment of any quarantine costs for such pets.

“(2) Any payment or reimbursement under this section in connection with the transport of family household pets shall be subject to terms and conditions which—

“(A) the head of the agency shall by regulation prescribe; and

“(B) shall, to the extent practicable, be the same as would apply under regulations prescribed under section 476(b)(1)(H)(iii) of title 37 in connection with the transport of family household pets of members of the uniformed services, including regulations relating to the types, size, and number of pets for which such payment or reimbursement may be provided.”.

5 USC prec. 101  
note.

#### **SEC. 1107. INTERAGENCY PERSONNEL ROTATIONS.**

(a) FINDING AND PURPOSE.—

(1) FINDING.—Congress finds that the national security and homeland security challenges of the 21st century require that executive branch personnel use a whole-of-Government approach in order for the United States Government to operate in the most effective and efficient manner.

(2) PURPOSE.—The purpose of this section is to increase the efficiency and effectiveness of the Government by fostering greater interagency experience among executive branch personnel on national security and homeland security matters involving more than 1 agency.

(b) COMMITTEE ON NATIONAL SECURITY PERSONNEL.—

(1) ESTABLISHMENT.—There is established a Committee on National Security Personnel within the Executive Office of the President.

(2) MEMBERSHIP.—The members of the Committee shall include—

(A) designees of the Director of the Office of Management and Budget, the Director of the Office of Personnel Management, the Assistant to the President for National Security Affairs, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security (1 member to be designated by each); and

(B) such other members as the President shall designate.

(c) PROGRAM ESTABLISHED.—

(1) Not later than 270 days after the date of the enactment of this Act, the Committee on National Security Personnel, in consultation with representatives of such other agencies as the Committee determines to be appropriate, shall develop and issue a National Security Human Capital Strategy providing policies, processes, and procedures for a program for the interagency rotation of personnel among positions within National Security Interagency Communities of Interest.

(2) The strategy required by paragraph (1) shall, at a minimum—

(A) identify specific Interagency Communities of Interest for the purpose of carrying out the program;

Deadline.  
Policies.  
Processes.  
Procedures.

(B) designate agencies to be included or excluded from the program;

(C) define categories of positions to be covered by the program;

(D) establish processes by which the heads of relevant agencies may identify—

(i) positions in Interagency Communities of Interest that are available for rotation under the program; and

(ii) individual employees who are available to participate in rotational assignments under the program; and

(E) promulgate procedures for the program, including—

(i) any minimum or maximum periods of service for participation in the program;

(ii) any training and education requirements associated with participation in the program;

(iii) any prerequisites or requirements for participation in the program; and

(iv) appropriate performance measures, reporting requirements, and other accountability devices for the evaluation of the program.

(d) PROGRAM REQUIREMENTS.—The policies, processes, and procedures established pursuant to subsection (c) shall, at a minimum, provide that—

(1) during each of the first 4 fiscal years after the fiscal year in which this Act is enacted—

(A) the interagency rotation program shall be carried out in at least 2 Interagency Communities of Interest, of which 1 shall be an Interagency Community of Interest for emergency management and 1 shall be an Interagency Community of Interest for stabilization and reconstruction; and

(B) not fewer than 20 employees in the executive branch of the Government shall be assigned to participate in the interagency personnel rotation program;

(2) an employee's participation in the interagency rotation program shall require the consent of the head of the agency and shall be voluntary on the part of the employee;

(3) employees selected to perform interagency rotational service are selected in a fully open and competitive manner that is consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, unless the Interagency Community of Interest position is otherwise exempt under another provision of law;

(4) an employee performing service in a position in another agency pursuant to the program established under this section shall be entitled to return, within a reasonable period of time after the end of the period of service, to the position held by the employee, or a corresponding or higher position, in his or her employing agency;

(5) an employee performing interagency rotational service shall have all the rights that would be available to the employee if the employee were detailed or assigned under a provision of law other than this section from the agency employing the employee to the agency in which the position in which the employee is serving is located; and

(6) an employee participating in the program shall receive performance evaluations from officials in his or her employing agency that are based on input from the supervisors of the employee during his or her service in the program that are based primarily on the contribution of the employee to the work of the agency in which the employee performed such service, and these performance evaluations shall be provided the same weight in the receipt of promotions and other rewards by the employee from the employing agency as performance evaluations for service in the employing agency.

(e) SELECTION OF INDIVIDUALS TO FILL SENIOR POSITIONS.—The head of each agency participating in the program established pursuant to subsection (c) shall ensure that, in selecting individuals to fill senior positions within an Interagency Community of Interest, the agency gives a strong preference to individuals who have performed interagency rotational service within the Interagency Community of Interest pursuant to such program.

(f) INTERAGENCY COMMUNITY OF INTEREST DEFINED.—As used in this section, the term “National Security Interagency Community of Interest” or “Interagency Community of Interest” means the positions in the executive branch of the Government that, as determined by the Committee on National Security Personnel—

(1) as a group are positions within multiple agencies of the executive branch of the Government; and

(2) have significant responsibility for the same substantive, functional, or regional subject area related to national security or homeland security that requires integration of the positions and activities in that area across multiple agencies to ensure that the executive branch of the Government operates as a single, cohesive enterprise to maximize mission success and minimize cost.

(g) REPORT ON PERFORMANCE MEASURES.—Not later than the end of the 2nd fiscal year after the fiscal year in which this Act is enacted, the Committee on National Security Personnel shall assess the performance measures described in subsection (c)(2)(E)(iv) and issue a report to Congress on the assessment of those performance measures.

Deadline.

(h) GAO REVIEW.—Not later than the end of the 2nd fiscal year after the fiscal year in which this Act is enacted, the Comptroller General of the United States shall submit to Congress a report assessing the implementation and effectiveness of the interagency rotation program established pursuant to this section. The report required by this section shall address, at a minimum—

(1) the extent to which the requirements of this section have been implemented by the Committee on National Security Personnel and by national security agencies;

(2) the extent to which national security agencies have participated in the program established pursuant to this section, including whether the heads of such agencies have—

(A) identified positions within the agencies that are National Security Interagency Communities of Interest and had employees from other agencies serve in rotational assignments in such positions; and

(B) identified employees who are eligible for rotational assignments in National Security Interagency Communities of Interest and had such employees serve in rotational assignments in other agencies;

(3) the extent to which employees serving in rotational assignments under the program established pursuant to this section have benefitted from such assignments, including an assessment of—

(A) the period of service;

(B) the duties performed by the employees during such service;

(C) the value of the training and experience gained by participating employees through such service; and

(D) the positions (including grade level) held by employees before and after completing interagency rotational service under this section; and

(4) the extent to which interagency rotational service under this section has improved or is expected to improve interagency integration and coordination within National Security Interagency Communities of Interest.

(i) EXCLUSION.—This section shall not apply to any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

## TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

### Subtitle A—Assistance and Training

- Sec. 1201. Modification and extension of authorities relating to program to build the capacity of foreign military forces.
- Sec. 1202. Extension of authority for non-reciprocal exchanges of defense personnel between the United States and foreign countries.
- Sec. 1203. Authority to build the capacity of certain counterterrorism forces in Yemen and East Africa.
- Sec. 1204. Limitation on activities under State Partnership Program pending compliance with certain program-related requirements.

### Subtitle B—Matters Relating to Iraq, Afghanistan, and Pakistan

- Sec. 1211. Authority to support operations and activities of the Office of Security Cooperation in Iraq.
- Sec. 1212. Report on insider attacks in Afghanistan and their effect on the United States transition strategy for Afghanistan.
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- Sec. 1218. One-year extension of authority to use funds for reintegration activities in Afghanistan.
- Sec. 1219. One-year extension and modification of authority for program to develop and carry out infrastructure projects in Afghanistan.
- Sec. 1220. Report on updates and modifications to campaign plan for Afghanistan.
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Sec. 1247. Imposition of sanctions with respect to foreign financial institutions that facilitate financial transactions on behalf of specially designated nationals.

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Sec. 1283. Sense of Congress on efforts to remove or apprehend Joseph Kony from the battlefield and end the atrocities of the Lord's Resistance Army.



- Sec. 1284. Imposition of sanctions with respect to support for the rebel group known as M23.
- Sec. 1285. Pilot program on repair, overhaul, and refurbishment of defense articles for sale or transfer to eligible foreign countries and entities.
- Sec. 1286. Sense of Congress on the situation in the Senkaku Islands.

Subtitle G—Reports

- Sec. 1291. Review and reports on Department of Defense efforts to build the capacity of and partner with foreign security forces.
- Sec. 1292. Additional report on military and security developments involving the Democratic People's Republic of Korea.
- Sec. 1293. Report on host nation support for overseas United States military installations and United States Armed Forces deployed in country.
- Sec. 1294. Report on military activities to deny or significantly degrade the use of air power against civilian and opposition groups in Syria.
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## Subtitle A—Assistance and Training

### SEC. 1201. MODIFICATION AND EXTENSION OF AUTHORITIES RELATING TO PROGRAM TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.

#### (a) INCLUSION OF SMALL-SCALE MILITARY CONSTRUCTION ACTIVITIES AMONG AUTHORIZED ELEMENTS.—

(1) IN GENERAL.—Subsection (b)(1) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3457), as amended by section 1206(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2418), is further amended by striking “equipment, supplies, and training” and inserting “equipment, supplies, training, and small-scale military construction activities”.

(2) LIMITATION ON AVAILABILITY OF FUNDS.—Subsection (c) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006, as most recently amended by section 1204(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1621), is further amended by adding at the end the following new paragraph:

“(6) LIMITATION ON AVAILABILITY OF FUNDS FOR SMALL-SCALE MILITARY CONSTRUCTION ACTIVITIES.—Of amounts available under this subsection for the authority in subsection (a) for a fiscal year—

“(A) not more than \$750,000 may be obligated or expended for small-scale military construction activities under a program authorized under subsection (a); and

“(B) not more than \$25,000,000 may be obligated or expended for small-scale military construction activities under all programs authorized under subsection (a).”.

(b) MODIFICATION OF NOTICE.—Subsection (e)(2) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006, as amended by section 1206(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007, is further amended by adding at the end the following new subparagraph:

“(D) Detailed information (including the amount and purpose) on the assistance provided the country during the three preceding fiscal years under each of the following programs, accounts, or activities:

“(i) A program under this section.

“(ii) The Foreign Military Financing program under the Arms Export Control Act.

“(iii) Peacekeeping Operations.

“(iv) The International Narcotics Control and Law Enforcement (INCLE) program under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

“(v) Nonproliferation, Anti-Terrorism, Demining, and Related Programs (NADR).

“(vi) Counterdrug activities authorized by section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) and section 1033 of the National Defense Authorization Act for Fiscal Year 1998.”.

(c) EXTENSION.—

(1) IN GENERAL.—Subsection (g) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006, as most recently amended by section 1204(c) of the National Defense Authorization Act for Fiscal Year 2012 (125 Stat. 1622), is further amended—

(A) by striking “September 30, 2013” and inserting “September 30, 2014”; and

(B) by striking “fiscal years 2006 through 2013” and inserting “fiscal years 2006 through 2014”.

(2) TEMPORARY LIMITATION ON AMOUNT FOR CAPACITY FOR PARTICIPATION IN OR SUPPORT OF MILITARY AND STABILITY OPERATIONS.—Subsection (c)(5) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006, as most recently amended by section 1204(a) of the National Defense Authorization Act for Fiscal Year 2012, is further amended by striking “fiscal years 2102 and 2013” and inserting “fiscal years 2012, 2013, and 2014”.

Applicability.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to any country in which activities are initiated under section 1206 of the National Defense Authorization Act for Fiscal Year 2006 on or after that date.

**SEC. 1202. EXTENSION OF AUTHORITY FOR NON-RECIPROCAL EXCHANGES OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES.**

Section 1207(f) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2514; 10 U.S.C. 168 note) is amended by striking “September 30, 2012” and inserting “September 30, 2016”.

**SEC. 1203. AUTHORITY TO BUILD THE CAPACITY OF CERTAIN COUNTERTERRORISM FORCES IN YEMEN AND EAST AFRICA.**

(a) AUTHORITY.—The Secretary of Defense may, with the concurrence of the Secretary of State, provide assistance as follows:

(1) To enhance the ability of the Yemen Ministry of Interior Counter Terrorism Forces to conduct counterterrorism operations against al Qaeda in the Arabian Peninsula and its affiliates.

(2) To enhance the capacity of the national military forces, security agencies serving a similar defense function, other counterterrorism forces, and border security forces of Djibouti, Ethiopia, and Kenya to conduct counterterrorism operations against al Qaeda, al Qaeda affiliates, and al Shabaab.

(3) To enhance the capacity of national military forces participating in the African Union Mission in Somalia to conduct counterterrorism operations against al Qaeda, al Qaeda affiliates, and al Shabaab.

(b) TYPES OF ASSISTANCE.—

(1) AUTHORIZED ELEMENTS.—Assistance under subsection (a) may include the provision of equipment, supplies, training, and minor military construction.

(2) REQUIRED ELEMENTS.—Assistance under subsection (a) shall be provided in a manner that promotes—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority in the country receiving such assistance.

(3) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of assistance described in this subsection that is otherwise prohibited by any other provision of law.

(4) LIMITATIONS ON MINOR MILITARY CONSTRUCTION.—The total amount that may be obligated and expended on minor military construction under subsection (a) in any fiscal year may not exceed amounts as follows:

(A) In the case of minor military construction under paragraph (1) of subsection (a), \$10,000,000.

(B) In the case of minor military construction under paragraphs (2) and (3) of subsection (a), \$10,000,000.

(c) FUNDING.—

(1) IN GENERAL.—Of the amount authorized to be appropriated for a fiscal year for the Department of Defense for operation and maintenance—

(A) not more than \$75,000,000 may be used to provide assistance under paragraph (1) of subsection (a); and

(B) not more than \$75,000,000 may be used to provide assistance under paragraphs (2) and (3) of subsection (a).

(2) AVAILABILITY OF FUNDS FOR ASSISTANCE ACROSS FISCAL YEARS.—Amounts available under this subsection for the authority in subsection (a) for a fiscal year may be used for assistance under that authority that begins in such fiscal year but ends in the next fiscal year.

(d) NOTICE TO CONGRESS.—

(1) IN GENERAL.—Not later than 30 days before providing assistance under subsection (a), the Secretary of Defense shall submit to the committees of Congress specified in paragraph (2) a notice setting forth the assistance to be provided, including the types of such assistance, the budget for such assistance, and the completion date for the provision of such assistance.

Deadline.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(e) EXPIRATION.—Except as provided in subsection (c)(2), the authority provided under subsection (a) may not be exercised after the earlier of—

- (1) the date on which the Global Security Contingency Fund achieves full operational capability; or
- (2) September 30, 2014.

**SEC. 1204. LIMITATION ON ACTIVITIES UNDER STATE PARTNERSHIP PROGRAM PENDING COMPLIANCE WITH CERTAIN PROGRAM-RELATED REQUIREMENTS.**

Deadline.  
32 USC 107 note.

(a) LIMITATION.—If both requirements specified in subsection (b) are not met as of February 28, 2013, no activities may be carried out under the State Partnership Program after that date until both requirements are met.

(b) REQUIREMENTS.—The requirements specified in this subsection are the following:

Regulations.

(1) The requirement for the Secretary of Defense to submit to the appropriate congressional committees the final regulations required by subsection (a) of section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2517; 32 U.S.C. 107 note).

Certification.

(2) A requirement for the Secretary of Defense to certify to the appropriate congressional committees that appropriate modifications have been made, and appropriate controls have been instituted, to ensure the compliance of the Program with section 1341 of title 31, United States Code (commonly referred to as the “Anti-Deficiency Act”), in the future.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” has the meaning given that term in subsection (d) of section 1210 of the National Defense Authorization Act for Fiscal Year 2010.

## Subtitle B—Matters Relating to Iraq, Afghanistan, and Pakistan

**SEC. 1211. AUTHORITY TO SUPPORT OPERATIONS AND ACTIVITIES OF THE OFFICE OF SECURITY COOPERATION IN IRAQ.**

10 USC 113 note.

(a) LIMITATION ON AMOUNT.—Subsection (c) of section 1215 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1631) is amended by inserting at the end before the period the following: “and in fiscal year 2013 may not exceed \$508,000,000”.

(b) SOURCE OF FUNDS.—Subsection (d) of such section is amended—

(1) by inserting “or fiscal year 2013” after “fiscal year 2012”; and

(2) by striking “that fiscal year” and inserting “fiscal year 2012 or 2013, as the case may be,”.

(c) ADDITIONAL AUTHORITY FOR THE ACTIVITIES OF THE OFFICE OF SECURITY COOPERATION IN IRAQ.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

“(f) ADDITIONAL AUTHORITY FOR ACTIVITIES OF OSCI.—During fiscal year 2013, the Secretary of Defense, with the concurrence of the Secretary of State, may authorize the Office of Security Cooperation in Iraq to conduct non-operational training activities in support of Iraqi Ministry of Defense and Counter Terrorism

Service personnel in an institutional environment to address capability gaps, integrate processes relating to intelligence, air sovereignty, combined arms, logistics and maintenance, and to manage and integrate defense-related institutions.”.

(d) REPORT.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on the activities of the Office of Security Cooperation in Iraq.

(2) MATTERS TO BE INCLUDED.—The report shall include the following:

(A) A description, in unclassified form (but with a classified annex if appropriate), of any capability gaps in the security forces of Iraq, including capability gaps relating to intelligence matters, protection of Iraq airspace, and logistics and maintenance.

(B) A description of the extent, if any, to which the programs of the Office of Security Cooperation in Iraq, in conjunction with other United States programs such as the Foreign Military Financing program, the Foreign Military Sales program, and joint training exercises, will address the capability gaps described in subparagraph (A) if the Government of Iraq requests assistance in addressing such capability gaps.

(C) A detailed discussion of the current manpower, budget, and authorities of the Office of Security Cooperation in Iraq.

(D) A detailed plan for the transition of the costs of the activities of the Office of Security Cooperation in Iraq to Foreign Military Sales case funding by September 30, 2014, and a detailed description of the planned manpower, budget, and authorities of the Office to implement such a plan.

(E) A description of existing authorities available to be used to cover the costs of training the Iraqi Security Forces, including a list of specific training activities and number of associated personnel that the Secretary of Defense determines cannot be conducted under any existing authority not provided by this section.

(F) A description of those measures of effectiveness that will be used to evaluate the activities of the Office of Security Cooperation in Iraq and a discussion of the process that will use those measures of effectiveness to make determinations if specific activities of the Office should be expanded, altered, or terminated.

(3) UPDATE REQUIRED.—Not later than September 30, 2013, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees an update of the report required by paragraph (1), including a description of any changes to any specific element or process described in subparagraphs (A) through (F) of paragraph (2).

Deadline.  
Consultation.

(4) DEFINITION.—In this subsection, the term “appropriate congressional committees” means—

(A) the congressional defense committees; and

(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

**SEC. 1212. REPORT ON INSIDER ATTACKS IN AFGHANISTAN AND THEIR EFFECT ON THE UNITED STATES TRANSITION STRATEGY FOR AFGHANISTAN.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) to the maximum extent possible and consistent with the commander's professional judgment and the requirements of the mission, the United States military should conduct local force protection for its troops on bases where such troops are garrisoned or housed in Afghanistan;

(2) the increase in attacks and associated threats by Afghanistan National Security Forces personnel, Afghanistan National Security Forces impersonators, and private security contractors against United States, Afghanistan, and coalition military and civilian personnel raises concerns about the force protection for United States troops in Afghanistan and the procedures for screening, vetting, and monitoring Afghanistan National Security Forces personnel and Afghan Public Protection Force personnel;

(3) the Department of Defense and the Government of Afghanistan are making efforts to address the threat of such attacks and associated threats, but continued leadership will be required; and

(4) the North Atlantic Treaty Organization/International Security Assistance Force and the Government of Afghanistan should establish a program to continue to enhance vetting of Afghanistan National Security Forces and Afghan Public Protection Force recruits, to monitor the Afghanistan National Security Forces and the Afghan Public Protection Force personnel, and to re-assess Afghanistan National Security Forces and Afghan Public Protection Force personnel as required.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State and the Commander of North Atlantic Treaty Organization/International Security Assistance Force forces in Afghanistan, submit to Congress a report on the attacks and associated threats by Afghanistan National Security Forces personnel, Afghanistan National Security Forces impersonators, Afghan Public Protection Force personnel, Afghan Public Protection Force impersonators, and private security contractors against United States, Afghanistan, and coalition military and civilian personnel ("insider attacks") in Afghanistan, and the effect of these attacks on the overall transition strategy in Afghanistan.

(c) ELEMENTS.—The report required by subsection (b) shall include the following:

(1) A description of the nature and proximate causes of the attacks described in subsection (b), including the following:

(A) An estimate of the number of such attacks on United States, Afghanistan, and coalition military personnel since January 1, 2007.

(B) An estimate of the number of United States, Afghanistan, and coalition personnel killed or wounded in such attacks.

(C) The circumstances or conditions that may have influenced such attacks.

(D) An assessment of the threat posed by infiltration, and a best assessment of the extent of infiltration by insurgents into the Afghanistan National Security Forces and the Afghan Public Protection Force.

(E) A description of trends in the prevalence of such attacks, including where such attacks occur, the political and ethnic affiliation of attackers, and the targets of attackers.

(2) A description of the restrictions and other actions taken by the United States and North Atlantic Treaty Organization/International Security Assistance Force forces to protect military and civilian personnel from future insider attacks, including measures in predeployment training.

(3) A description of the actions taken by the Government of Afghanistan to prevent and respond to insider attacks, including improved vetting practices.

(4) A description of the insider threat-related factors that will influence the size and scope of the post-2014 training mission for the Afghanistan National Security Forces.

(5) An assessment of the impact of the insider attacks in Afghanistan in 2012 on the overall transition strategy in Afghanistan and its prospects for success, including an assessment how such insider attacks impact—

(A) partner operations between North Atlantic Treaty Organization/International Security Assistance Force forces and Afghanistan National Security Forces;

(B) training programs for the Afghanistan National Security Forces, including proposed training plans to be executed during the post-2014 training mission for the Afghanistan National Security Forces;

(C) United States Special Forces training of the Afghan Local Police and its integration into the Afghanistan National Security Forces; and

(D) the willingness of North Atlantic Treaty Organization/International Security Assistance Force allies to maintain forces in Afghanistan or commit to the post-2014 training mission for the Afghanistan National Security Forces.

(6) An assessment of the impact that a reduction in training and partnering would have on the independent capabilities of the Afghanistan National Security Forces, and whether the training of the Afghanistan National Security Forces should remain a key component of the United States and North Atlantic Treaty Organization strategy in Afghanistan.

(d) ADDITIONAL REPORTS.—The Secretary of Defense shall submit to the congressional defense committees a semi-annual update to the report required under subsection (b) through December 31, 2014. The additional reports required by this subsection may be submitted in the report required by section 1230 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 385), as most recently amended by section 1218(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1632).

(e) UNCLASSIFIED EXECUTIVE SUMMARY.—The report submitted under subsection (b) and the semi-annual update to the report

submitted under subsection (d) shall include an executive summary of the contents of the report in unclassified form.

**SEC. 1213. UNITED STATES MILITARY SUPPORT IN AFGHANISTAN.**

(a) **NOTIFICATION.**—The Secretary of Defense shall notify the congressional defense committees of any decision of the President to change force levels of United States Armed Forces deployed in Afghanistan.

Deadline.  
President.  
Assessment.

(b) **SUBMITTAL REQUIRED.**—Not later than 30 days after a decision by the President to change the force levels of United States Armed Forces deployed in Afghanistan, the Chairman of the Joint Chiefs of Staff shall, through the Secretary of Defense, submit to the congressional defense committees a detailed assessment of the risk to the United States mission and interests in Afghanistan as the change in levels is implemented.

(c) **ELEMENTS.**—The risk assessment under subsection (b) on a change in force levels of United States Armed Forces in Afghanistan shall include the following:

(1) A description of the current security situation in Afghanistan.

(2) A description of any anticipated changes to United States military operations and objectives in Afghanistan associated with such change in force levels.

(3) An identification and assessment of any changes in United States military capabilities, including manpower, logistics, intelligence, and mobility support, in Afghanistan associated with such change in force levels.

(4) An identification and assessment of the risk associated with any changes in United States mission, military capabilities, operations, and objectives in Afghanistan associated with such change in force levels.

(5) An identification and assessment of any capability gaps within the Afghanistan security forces that will impact their ability to conduct operations following such change in force levels.

(6) An identification and assessment of the risk associated with the transition of combat responsibilities to the Afghanistan security forces following such change in force levels.

(7) An assessment of the impact of such change in force levels on coalition military contributions to the mission in Afghanistan.

(8) A description of the assumptions to be in force regarding the security situation in Afghanistan following such change in force levels.

(9) Such other matters regarding such change in force levels as the Chairman considers appropriate.

(d) **TERMINATION.**—The requirement to notify the congressional defense committees under subsection (a) shall terminate on December 31, 2014.

**SEC. 1214. MODIFICATION OF REPORT ON PROGRESS TOWARD SECURITY AND STABILITY IN AFGHANISTAN.**

(a) **IN GENERAL.**—Section 1230 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 385), as most recently amended by section 1218(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1632), is further amended—



(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following:

“(e) ADDITIONAL MATTERS TO BE INCLUDED ON AFGHANISTAN NATIONAL SECURITY FORCES.—In reporting on performance indicators and measures of progress required under subsection (d)(2)(D), the report required under subsection (a) shall assess the following:

“(1) For overall Afghanistan National Security Forces (ANSF):

“(A) A description of the professionalization of the Afghan National Army (ANA) and Afghan National Police (ANP), including literacy, training benchmarks, and vetting outcomes.

“(B) An assessment of the ANA and the ANP interaction with the Afghan civilian population and respect for human rights.

“(C) An outline of United States contributions for the current fiscal year and one-year projected fiscal year and pledges for contributions by other countries.

“(D) The percentage of officer corps and noncommissioned officer corps personnel as compared to end-strength requirements.

“(2) For logistics:

“(A) An assessment of the ANA and ANP logistics system, including a discussion of critical supply shortfalls and challenges associated with filling supply requests.

“(B) A description of the logistical capacity of the ANA and ANP and how operations are sustained in the areas in which the ANA and ANP are transitioned and in areas in which the ANA and the ANP are in pre-transition stages.

“(3) For transition:

“(A) An assessment, by province, of the security situation and capability of ANSF in those areas that have been transitioned to an Afghan security lead, to include a description of the transition stages for each such province and readiness ratings for the ANSF in each such province.

“(B) An assessment, by province, of the security situation and capability of ANSF in pre-transition areas, to include readiness ratings.

“(C) A description of how security force assistance teams and security force assistance brigades will be integrated into ANSF units.

“(4) For preparation for the 2014 elections: The steps taken by the United States, ISAF, and the Government of Afghanistan to carry out the following:

“(A) Identify and train a sufficient number of the ANSF, to include female members of the ANSF.

“(B) Provide for the security of the elections, including security of polling places, election workers, election materials, and such other locations and personnel as may be necessary to safely carry out the elections, including participation of women.

“(C) Assist with ensuring that election workers and materials can be safely and securely transported in Afghanistan as may be required.

“(5) For partnership and assistance activities:

“(A) A discussion of ongoing partnership activities in Afghanistan, including partnership activities as part of major operations and efforts, and including metrics used to measure the quantity of ongoing partnership activities and changes to how partnership activities are conducted that affect significant numbers of United States Armed Forces, ISAF, or Afghan units and the reasons for any such change.

“(B) A discussion of any transition from partnership activities conducted by United States Armed Forces or other international units with Afghan forces to the use of security force assistance teams or security force assistance brigades, including the reasons for such transition, advantages or drawbacks of such transition, and other information which may be pertinent.

“(C) The number of security force assistance teams and security force assistance brigades in Afghanistan, including the number of such teams and brigades provided by other members of ISAF, the number of such teams and brigades that are assisting each component of ANSF, and any unmet requirements for such teams and brigades.”.

Applicability.

(b) **EFFECTIVE DATE.**—The amendments made this section apply with respect to any report required to be submitted under section 1230 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 385) on or after the date of the enactment of this Act.

**SEC. 1215. INDEPENDENT ASSESSMENT OF THE AFGHAN NATIONAL SECURITY FORCES.**

(a) **INDEPENDENT ASSESSMENT REQUIRED.**—The Secretary of Defense shall provide for the conduct of an independent assessment of the strength, force structure, force posture, and capabilities required to make the Afghan National Security Forces (ANSF) capable of providing security for their own country so as to prevent Afghanistan from ever again becoming a safe haven for terrorists that threaten Afghanistan, the region, and the world.

(b) **CONDUCT OF ASSESSMENT.**—The assessment required by subsection (a) may, at the election of the Secretary, be conducted by—

(1) a Federally-funded research and development center (FFRDC); or

(2) an independent, non-governmental institute described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code that has recognized credentials and expertise in national security and military affairs appropriate for the assessment.

(c) **ELEMENTS.**—The assessment required by subsection (a) shall include, but not be limited to, the following:

(1) An assessment of the likely internal and regional security environment for Afghanistan over the next decade, including challenges and threats to the security and sovereignty of Afghanistan from state and non-state actors.

(2) An assessment of the strength, force structure, force posture, and capabilities required to make the Afghan National Security Forces capable of providing security for their own country so as to prevent Afghanistan from ever again becoming

a safe haven for terrorists that threaten Afghanistan, the region, and the world.

(3) An assessment of any capability gaps in the Afghan National Security Forces that are likely to persist after 2014 and that will require continued support from the United States and its allies.

(4) An assessment whether current proposals for the resourcing of the Afghan National Security Forces after 2014 are adequate to establish and maintain long-term security for the Afghanistan people, and implications of the under-resourcing of the Afghan National Security Forces for United States national security interests.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the entity selected for the conduct of the assessment required by subsection (a) shall provide to the Secretary and the congressional defense committees a report containing its findings as a result of the assessment. The report shall be submitted in unclassified form, but may include a classified annex.

(e) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 2013 by section 301 and available for operation and maintenance for Defense-wide activities as specified in the funding table in section 4301, up to \$1,000,000 shall be made available for the assessment required by subsection (a).

(f) AFGHAN NATIONAL SECURITY FORCES.—For purposes of this section, the Afghan National Security Forces shall include all forces under the authority of the Afghan Ministry of Defense and Afghan Ministry of Interior, including the Afghan National Army, the Afghan National Police, the Afghan Border Police, the Afghan National Civil Order Police, and the Afghan Local Police.

**SEC. 1216. EXTENSION AND MODIFICATION OF LOGISTICAL SUPPORT FOR COALITION FORCES SUPPORTING CERTAIN UNITED STATES MILITARY OPERATIONS.**

(a) EXTENSION.—Section 1234 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 394), as most recently amended by section 1211 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1629), is further amended by striking “fiscal year 2012” each place it appears and inserting “fiscal year 2013”.

(b) REPEAL OF AUTHORITY FOR USE OF FUNDS IN CONNECTION WITH IRAQ.—

(1) IN GENERAL.—Subsection (a) of such section 1234, as so amended, is further amended by striking “Iraq and”.

(2) CONFORMING AMENDMENT.—The heading of such section 1234 is amended by striking “**IRAQ AND**”.

**SEC. 1217. REPORT ON AFGHANISTAN PEACE AND REINTEGRATION PROGRAM.**

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the appropriate committees of Congress a report on the Afghanistan Peace and Reintegration Program (APRP).

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the goals and objectives of the Afghanistan Peace and Reintegration Program.

(2) A description of the structure of the Program at the national and sub-national levels in Afghanistan, including the number and types of vocational training and other education programs.

(3) A description of the activities of the Program as of the date of the report.

(4) A description and assessment of the procedures for vetting individuals seeking to participate in the Program, including an assessment of the extent to which biometric identification systems are used and the role of provincial peace councils in such procedures.

(5) The amount of funding provided by the United States, and by the international community, to support the Program, and the amount of funds so provided that have been distributed as of the date of the report.

(6) An assessment of the individuals who have been re-integrated into the Program, set forth in terms as follows:

(A) By geographic distribution by province.

(B) By number of each of low-level insurgent fighters, mid-level commanders, and senior commanders.

(C) By number confirmed to have been part of the insurgency.

(D) By number who are currently members of the Afghan Local Police.

(E) By number who are participating in or have completed vocational training or other educational programs as part of the Program.

(7) A description and assessment of the procedures for monitoring the individuals participating in the Program.

(8) A description and assessment of the role of women and minority populations in the implementation of the Program.

(9) An assessment of the effectiveness of the activities of the Program described under paragraph (3) in achieving the goals and objectives of the Program.

(10) Such recommendations as the Secretary of Defense considers appropriate for improving the implementation, oversight, and effectiveness of the Program.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

**SEC. 1218. ONE-YEAR EXTENSION OF AUTHORITY TO USE FUNDS FOR REINTEGRATION ACTIVITIES IN AFGHANISTAN.**

Section 1216 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4392), as amended by section 1216 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1632), is further amended—

(1) in subsection (a)—

(A) by striking “\$50,000,000” and inserting “\$35,000,000”; and

(B) by striking “in each of fiscal years 2011 and 2012” and inserting “for fiscal year 2013”; and  
(2) in subsection (e)—

(A) by striking “utilize funds” and inserting “obligate funds”; and

(B) by striking “December 31, 2012” and inserting “December 31, 2013”.

**SEC. 1219. ONE-YEAR EXTENSION AND MODIFICATION OF AUTHORITY FOR PROGRAM TO DEVELOP AND CARRY OUT INFRASTRUCTURE PROJECTS IN AFGHANISTAN.**

Section 1217(f) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4393), as amended by section 1217(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1632), is further amended—

22 USC 7513  
note.

(1) by striking paragraph (1) and inserting the following new paragraph (1):

“(1) IN GENERAL.—Subject to paragraph (2), to carry out the program authorized under subsection (a), the Secretary of Defense may use amounts as follows:

“(A) Up to \$400,000,000 made available to the Department of Defense for operation and maintenance for fiscal year 2012.

“(B) Up to \$350,000,000 made available to the Department of Defense for operation and maintenance for fiscal year 2013.”;

(2) in paragraph (2)—

(A) by striking “85 percent” and inserting “50 percent”;

(B) by inserting “for a fiscal year after fiscal year 2011” after “in paragraph (1)”; and

(C) by striking “fiscal year 2012.” and inserting “such fiscal year, including for each project to be initiated during such fiscal year the following:

“(A) An estimate of the financial and other requirements necessary to sustain such project on an annual basis after the completion of such project.

Estimate.

“(B) An assessment whether the Government of Afghanistan is committed to and has the capacity to maintain and use such project after its completion.

Assessment.

“(C) A description of any arrangements for the sustainment of such project following its completion if the Government of Afghanistan lacks the capacity (in either financial or human resources) to maintain such project.”; and

(3) in paragraph (3), by adding at the end the following new subparagraph:

“(C) In the case of funds for fiscal year 2013, until September 30, 2014.”.

**SEC. 1220. REPORT ON UPDATES AND MODIFICATIONS TO CAMPAIGN PLAN FOR AFGHANISTAN.**

(a) REPORT REQUIRED.—Not later than 180 days after the date on which any substantial update or modification is made to the campaign plan for Afghanistan (including the supporting and implementing documents for such plan), the Comptroller General of

the United States shall submit to the congressional defense committees a report on the updated or modified plan, including an assessment of the updated or modified plan.

(b) **EXCEPTION.**—The requirement to submit a report under subsection (a) on any substantial update or modification to the campaign plan for Afghanistan shall not apply if the Comptroller General—

Determination.

(1) determines that a report submitted to Congress by the Comptroller General before the date of the enactment of this Act substantially meets the requirement to submit the report under subsection (a); and

Notification.

(2) notifies the congressional defense committees in writing of the determination under paragraph (1).

(c) **TERMINATION.**—The requirement to submit a report under subsection (a) on any substantial update or modification to the campaign plan for Afghanistan shall terminate on September 30, 2014.

(d) **REPEAL OF SUPERSEDED REQUIREMENTS.**—Section 1226 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2525) is repealed.

**SEC. 1221. COMMANDERS' EMERGENCY RESPONSE PROGRAM IN AFGHANISTAN.**

(a) **ONE-YEAR EXTENSION.**—

(1) **IN GENERAL.**—Section 1201 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1619) is amended by striking “fiscal year 2012” each place it appears and inserting “fiscal year 2013”.

(2) **CONFORMING AMENDMENT.**—The heading of subsection (a) of such section is amended by striking “FISCAL YEAR 2012” and inserting “FISCAL YEAR 2013”.

(b) **AMOUNT OF FUNDS AVAILABLE DURING FISCAL YEAR 2013.**—Subsection (a) of such section is further amended by striking “\$400,000,000” and inserting “\$200,000,000”.

**SEC. 1222. AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF AFGHANISTAN.**

(a) **NONEXCESS ARTICLES AND RELATED SERVICES.**—The Secretary of Defense may, with the concurrence of the Secretary of State, transfer nonexcess defense articles from the stocks of the Department of Defense, without reimbursement from the Government of Afghanistan, and provide defense services in connection with the transfer of such defense articles, to the military and security forces of Afghanistan to support the efforts of those forces to restore and maintain peace and security in that country.

(b) **LIMITATIONS.**—

(1) **VALUE.**—The aggregate replacement value of all defense articles transferred and defense services provided in connection with such defense articles under subsection (a) in any fiscal year may not exceed \$250,000,000.

(2) **SOURCE OF TRANSFERRED ARTICLES.**—The authority under subsection (a) may only be used for defense articles that—

(A) were present in Afghanistan as of the date of the enactment of this Act;

(B) immediately before transfer were in use to support operations in Afghanistan; and

(C) are no longer required by United States forces in Afghanistan.

(c) APPLICABLE LAW.—Any defense articles transferred or defense services provided under the authority of subsection (a) shall be subject to the authorities and limitations applicable to excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), other than the authorities and limitations in subsections (b)(1)(B), (e), (f), and (g) of such section.

(d) REPORT REQUIRED BEFORE EXERCISE OF AUTHORITY.—

(1) IN GENERAL.—The Secretary of Defense may not exercise the authority under subsection (a) until 15 days after the Secretary submits to the appropriate committees of Congress a report on the equipment and other property of the Department of Defense in Afghanistan.

(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

(A) A description of the process for inventorying equipment and property, including defense articles, in Afghanistan owned by the Department of Defense, including equipment and property owned by the Department and under the control of contractors in Afghanistan.

(B) An estimate of the types and quantities of equipment and property of the Department of Defense, including defense articles, anticipated to be withdrawn from Afghanistan in connection with the drawdown of United States military forces from Afghanistan between the date of the enactment of this Act and December 31, 2014, including equipment and property owned by the Department and under the control of contractors in Afghanistan.

(e) NOTICE ON EXERCISE OF AUTHORITY.—

(1) IN GENERAL.—The Secretary of Defense may not transfer defense articles or provide defense services under subsection (a) until 15 days after the date on which the Secretary of Defense, with the concurrence of the Secretary of State, submits to the appropriate committees of Congress notice of the proposed transfer of defense articles and provision of defense services.

Time period.

(2) ELEMENTS.—A notice under paragraph (1) shall include the following:

(A) A description of the amount and types of defense articles to be transferred and defense services to be provided.

(B) A statement describing the current value of the defense articles to be transferred and the estimated replacement value of such articles.

(C) An identification of the element of the military or security force that is the proposed recipient of the defense articles to be transferred and defense service to be provided.

(D) An identification of the military department from which the defense articles to be transferred are to be drawn.

(E) An assessment of the impact, if any, of the transfer of defense articles on the readiness of units from which the defense articles are to be transferred, and the plan, if any, for mitigating such impact or reimbursing the military department of such units for such defense articles.

(F) An assessment of the ability of the Government of Afghanistan to sustain the costs associated with receiving, possessing, and using the defense articles to be transferred.

(G) A determination and certification by the Secretary of Defense, with the concurrence of the Secretary of State, that—

(i) the proposed transfer of the defense articles to be transferred and the provision of defense services to be provided in connection with such transfer is in the national interest of the United States; and

(ii) such defense articles are required by the military and security forces of Afghanistan to build their capacity to restore and maintain peace and security in that country.

(f) QUARTERLY REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the first transfer of defense articles and provision of defense services under the authority in subsection (a), and at the end of each calendar quarter, if any, thereafter through March 31, 2015, in which the authority in subsection (a) is exercised, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the implementation of the authority in subsection (a). Each report shall include the replacement value of the defense articles transferred pursuant to subsection (a), both in the aggregate and by military department, and defense services provided to the Government of Afghanistan, during the 90-day period ending on the date of such report.

(2) INCLUSION IN OTHER REPORT.—A report required under paragraph (1) may be included in the report required under section 9204 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 122 Stat. 2410) or any follow on report to such other report.

(g) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(2) DEFENSE ARTICLES.—The term “defense articles” has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

(3) DEFENSE SERVICES.—The term “defense services” has the meaning given the term in section 644(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(f)).

(4) MILITARY AND SECURITY FORCES.—The term “military and security forces” means national armies, national air forces, national navies, national guard forces, police forces, and border security forces, but does not include nongovernmental or irregular forces (such as private militias).

(h) EXPIRATION.—The authority provided in subsection (a) may not be exercised after December 31, 2014.

(i) EXCESS DEFENSE ARTICLES.—



(1) **ADDITIONAL AUTHORITY.**—The authority provided by subsection (a) is in addition to the authority provided by section 516 of the Foreign Assistance Act of 1961.

(2) **EXEMPTIONS.**—

(A) During fiscal years 2013 and 2014, the value of excess defense articles transferred from the stocks of the Department of Defense in Afghanistan pursuant to section 516 of the Foreign Assistance Act of 1961 shall not be counted against the limitation on the aggregate value of excess defense articles transferred contained in subsection (g) of such section.

(B) During fiscal years 2013 and 2014, any excess defense articles specified in subparagraph (A) shall not be subject to the authorities and limitations applicable to excess defense articles under section 516 of the Foreign Assistance Act of 1961 contained in subsections (b)(1)(B) and (e) of such section.

**SEC. 1223. REPORT ON EFFORTS TO PROMOTE THE SECURITY OF AFGHAN WOMEN AND GIRLS DURING THE SECURITY TRANSITION PROCESS.**

(a) **REPORT.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the appropriate congressional committees a report on efforts by the United States Government to promote the security of Afghan women and girls during the security transition process.

(2) **ELEMENTS.**—The report required under paragraph (1) shall include the following elements:

(A) A discussion of efforts to monitor changes in women's security conditions in areas undergoing transition, including the following:

(i) A description of the roles and responsibilities of the offices within the International Security Assistance Force, the United States Embassy, and the NATO Training Mission–Afghanistan that have lead responsibility for gender issues.

(ii) A description of the indicators against which sex-disaggregated data is collected and what, if any, additional indicators may enhance efforts to measure the security of women and girls during the transition process.

(iii) A discussion of how these indicators are or may be incorporated into ongoing efforts to assess overall security conditions during the transition period.

(iv) Recommendations, if any, on how assessments of women's security can be more fully integrated into current procedures used to determine an area's readiness to proceed through the transition process.

(B) A discussion of efforts that may increase gender awareness and responsiveness among Afghan National Army (ANA) and Afghan National Police (ANP) personnel, including the following:

(i) A description of the efforts, if any, to work with Afghan and coalition partners to promote training curricula and programming that address the human

rights and treatment of women and girls and that assess the quality and impact of such training.

(ii) A description of the efforts, if any, to work with ANA and ANP leaders to develop enforcement and accountability mechanisms for ANA and ANP personnel who violate codes of conduct related to the human rights of women and girls.

(iii) A description of the efforts, if any, to work with Afghan and coalition partners to promote the implementation of the above tools and develop uniform methods and standards for training and enforcement.

(iv) Recommendations, if any, for enhancing efforts to promote the objectives described in clauses (i) through (iii).

(C) A discussion of efforts to increase the number of female members of the ANA and ANP, including the following:

(i) A description of the efforts, if any, to assist ANA and ANP leaders in developing realistic and achievable objectives for the recruitment and retention of women to the ANA and ANP by the end of the security transition period in 2014.

(ii) A description of the efforts, if any, to assist ANA and ANP leaders and coalition partners in addressing physical and cultural challenges to the recruitment and retention of female ANA and ANP personnel.

(iii) A description of the efforts, if any, to assist ANA and ANP leaders in increasing awareness of how women members of the security forces may improve the overall effectiveness of the ANA and ANP.

(iv) A description of the efforts, if any, to assist ANA and ANP leaders in developing a plan for maintaining and increasing the recruitment and retention of women in the ANA and ANP following the completion of the security transition.

(v) Recommendations, if any, for enhancing efforts to promote the objectives described in clauses (i) through (iv).

(3) UPDATES.—The Secretary of Defense shall include in each report on progress toward security and stability in Afghanistan that is submitted to Congress under sections 1230 and 1231 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 385, 390) updated information on efforts by the United States Government to promote the security of Afghan women and girls consistent with the requirements of this section.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

**SEC. 1224. SENSE OF CONGRESS COMMENDING THE ENDURING STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE UNITED STATES AND AFGHANISTAN.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Afghanistan have been allies in the conflict against al Qaeda and its affiliates for over a decade, with the shared goal of ensuring that Afghanistan is never again a sanctuary for al Qaeda.

(2) The United States and Afghanistan are committed to the framework agreed to at the North Atlantic Treaty Organization (NATO) Summit in Lisbon in 2010, and reaffirmed at the NATO Summit in Chicago in 2012, for the transition from coalition forces to the Afghan National Security Forces of lead responsibility for security throughout Afghanistan by the end of 2014.

(3) In June 2011, President Barack Obama said, “What we can do, and will do, is build a partnership with the Afghan people that endures—one that ensures that we will be able to continue targeting terrorists and supporting a sovereign Afghan government”.

(4) In November 2011, a traditional loya jirga in Kabul declared that “strategic cooperation with the United States of America, which is a strategic ally of the people and government of Afghanistan, is considered important in order to ensure political, economic, and military security” and also stated, “Signing a strategic cooperation document with the United States conforms with the national interest of Afghanistan and is of significant importance”.

(5) On May 2, 2012, President Obama and President Hamid Karzai signed the Enduring Strategic Partnership Agreement Between the United States of America and the Islamic Republic of Afghanistan.

(6) At the signing of the Enduring Strategic Partnership Agreement, President Obama said, “Today we’re agreeing to be long-term partners in combating terrorism, and training Afghan security forces, strengthening democratic institutions and supporting development, and protecting human rights of all Afghans. With this agreement, the Afghan people, and the world, should know that Afghanistan has a friend and a partner in the United States”.

(7) At a May 20, 2012, bilateral meeting with President Karzai at the NATO Summit in Chicago, President Obama said that the Enduring Strategic Partnership Agreement “reflects a future in which two sovereign nations—the United States and Afghanistan—are operating as partners, to the benefit of our countries’ citizens, but also for the benefit of peace and security and stability in the region and around the world”.

(8) President Karzai said at the May 20, 2012, bilateral meeting with President Obama, “Mr. President, the partnership that we signed a few weeks ago in Kabul has turned a new page in our relations. And the new page is a page of two sovereign countries working together for the mutual interests—peace and security and in all other areas”.

(9) On May 26, 2012, the Wolesi Jirga, the lower house of the Afghan parliament, approved the Agreement by a vote of 191–7 with 2 abstentions.

(10) On June 3, 2012, the Meshrano Jirga, the upper house of the Afghan parliament, approved the Agreement by a vote of 67–13.

(11) On July 8, 2012, at the Tokyo Conference on Afghanistan, the international community and the Government of Afghanistan reaffirmed their partnership in the economic growth and development of Afghanistan through a process of mutual commitments and accountability.

(12) On July 4, 2012, the Enduring Strategic Partnership Agreement entered into force.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the members of the United States Armed Forces, intelligence community, and diplomatic and development community of the United States are to be commended for their dedicated efforts and sacrifices in support of military and stability operations in Afghanistan that have helped strengthen security in Afghanistan, laid the foundation for transition to a long-term partnership between the United States and a sovereign Afghanistan, and supported the Government and people of Afghanistan as they continue to build their capacity to effectively and justly govern;

(2) the United States negotiating team for the Enduring Strategic Partnership Agreement, including the United States Embassy personnel in Kabul under the leadership of Ambassador Ryan Crocker, is to be commended for its committed diplomatic efforts;

(3) the Governments of the United States and Afghanistan are to be commended for concluding the Enduring Strategic Partnership Agreement;

(4) Congress supports the objectives and principles of the Enduring Strategic Partnership Agreement, including protecting and promoting shared democratic values, advancing long-term security, reinforcing regional security and cooperation, fostering social and economic development, upholding the rights of women and minorities, and strengthening institutions and governance in Afghanistan;

(5) it is essential that the Government and people of Afghanistan fulfill Afghanistan's international commitments as agreed at the Tokyo Conference of July 2012, the Bonn Conference of December 2011, the Kabul Conference of July 2011, and other venues to combat corruption, protect the equal rights of all citizens of Afghanistan and enforce the rule of law, hold free and fair elections in 2014, and build inclusive and effective institutions of democratic governance;

(6) a key national security interest of the United States is to maintain a long-term political, economic, and military relationship with Afghanistan, including a limited presence of United States Armed Forces for the purpose of training, advising, and supporting Afghan National Security Forces and cooperating on shared counterterrorism objectives;

(7) the negotiation and conclusion of a Bilateral Security Agreement, as called for in the Enduring Strategic Partnership Agreement, will provide a fundamental framework for the long-term security relationship between the United States and Afghanistan; and

(8) Congress has a critical role in continuing to provide the support and assistance necessary to achieve the goals of the Enduring Strategic Partnership Agreement.

**SEC. 1225. CONSULTATIONS WITH CONGRESS ON A BILATERAL SECURITY AGREEMENT WITH AFGHANISTAN.**

22 USC 7511  
note.

(a) **CONSULTATIONS REQUIRED.**—Commencing not later than 30 days after the date of the enactment of this Act, the President shall consult periodically with the appropriate committees of Congress on the status of the negotiations on a bilateral security agreement between the United States of America and the Islamic Republic of Afghanistan. Such consultations shall include a briefing summarizing the purpose, objectives, and key issues relating to the agreement.

(b) **AVAILABILITY OF AGREEMENT TEXT.**—Before entering into any bilateral security agreement with Afghanistan, the President shall make available to the appropriate committees of Congress the text of such agreement.

(c) **TERMINATION OF CONSULTATIONS.**—The requirements of this section shall terminate on the date on which the United States and Afghanistan enter into a bilateral security agreement or the President notifies Congress that negotiations on such an agreement have been terminated.

(d) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

- (1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and
- (2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

**SEC. 1226. COMPLETION OF TRANSITION OF UNITED STATES COMBAT AND MILITARY AND SECURITY OPERATIONS TO THE GOVERNMENT OF AFGHANISTAN.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—  
(1) the President should, in coordination with the Government of Afghanistan, North Atlantic Treaty Organization (NATO) member countries, and other allies in Afghanistan, seek to—

(A) undertake all appropriate activities to accomplish the President’s stated goal of transitioning the lead responsibility for security to the Government of Afghanistan by mid-summer 2013;

(B) as part of accomplishing this transition of the lead responsibility for security to the Government of Afghanistan, draw down United States troops to a level sufficient to meet this goal;

(C) continue to draw down United States troop levels through the end of 2014; and

(D) end all regular combat operations by United States troops by not later than December 31, 2014, and take all possible steps to end such operations at the earliest date consistent with a safe and orderly draw down of United States troops in Afghanistan; and

(2) the recommendations of the commanders of the International Security Assistance Force on the overall strategy for Afghanistan, including the pace of the draw down, should be given serious consideration.

(b) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to recommend or support any limitation or prohibition on any authority of the President—

(1) to modify the military strategy, tactics, and operations of United States Armed Forces as such Armed Forces redeploy from Afghanistan;

(2) to authorize United States forces in Afghanistan to defend themselves whenever they may be threatened;

(3) to attack al-Qaeda forces wherever such forces are located;

(4) to provide financial support and equipment to the Government of Afghanistan for the training and supply of Afghanistan military and security forces; or

(5) to gather, provide, and share intelligence with United States allies operating in Afghanistan and Pakistan.

**SEC. 1227. EXTENSION AND MODIFICATION OF AUTHORITY FOR REIMBURSEMENT OF CERTAIN COALITION NATIONS FOR SUPPORT PROVIDED TO UNITED STATES MILITARY OPERATIONS.**

(a) **EXTENSION OF AUTHORITY.**—Subsection (a) of section 1233 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 393), as most recently amended by section 1213 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1630), is further amended by striking “for fiscal year 2012” and inserting “for fiscal year 2013”.

(b) **LIMITATION ON AMOUNTS AVAILABLE.**—Subsection (d) of such section 1233, as so amended, is further amended—

(1) in paragraph (1)—

(A) by striking “during fiscal year 2012 may not exceed \$1,690,000,000” and inserting “during fiscal year 2013 may not exceed \$1,650,000,000”; and

(B) by adding at the end the following new sentence: “Of the aggregate amount specified in the preceding sentence, the total amount of reimbursements made under subsection (a) and support provided under subsection (b) to Pakistan during fiscal year 2013 may not exceed \$1,200,000,000.”; and

(2) by adding at the end the following new paragraph:

“(3) **PROHIBITION ON REIMBURSEMENT OF PAKISTAN FOR SUPPORT DURING PERIODS CLOSED TO TRANSSHIPMENT.**—Effective as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013, funds (including funds from a prior fiscal year that remain available for obligation) may not be used for reimbursements under the authority in subsection (a) for Pakistan for claims of support provided during any period when the ground lines of supply through Pakistan to Afghanistan were closed to the transshipment of equipment and supplies in support of United States military operations in Afghanistan.”.

(c) **SUPPORTED OPERATIONS.**—Such section 1233 is further amended in subsections (a)(1) and (b) by striking “Operation Iraqi Freedom or”.

(d) **LIMITATION ON REIMBURSEMENT OF PAKISTAN IN FISCAL YEAR 2013 PENDING CERTIFICATION ON PAKISTAN.**—

(1) IN GENERAL.—Effective as of the date of the enactment of this Act, no amounts authorized to be appropriated by this Act, and no amounts authorized to be appropriated for fiscal years before fiscal year 2013 that remain available for obligation, may be used for reimbursements of Pakistan under the authority in subsection (a) of section 1233 of the National Defense Authorization Act for Fiscal Year 2008, as amended by this section, until the Secretary of Defense certifies to the congressional defense committees each of the following:

Effective date.

(A) That Pakistan is maintaining security along the Ground Lines of Communications (GLOCs) through Pakistan to Afghanistan for the transshipment of equipment and supplies in support of United States military operations in Afghanistan and the retrograde of United States equipment out of Afghanistan.

(B) That Pakistan is taking demonstrable steps to—

(i) support counterterrorism operations against al Qaeda, Tehrik-i-Taliban Pakistan, and other militant extremists groups such as the Haqqani Network and the Quetta Shura Taliban located in Pakistan;

(ii) disrupt the conduct of cross-border attacks against United States, coalition, and Afghanistan security forces located in Afghanistan by such groups (including the Haqqani Network and the Quetta Shura Taliban) from bases in Pakistan; and

(iii) counter the threat of improvised explosive devices, including efforts to attack improvised explosive device networks, monitor known precursors used in improvised explosive devices, and systematically address the misuse of explosive materials (including calcium ammonium nitrate) and accessories and their supply to legitimate end-users in a manner that impedes the flow of improvised explosive devices and improvised explosive device components into Afghanistan.

(2) WAIVER AUTHORITY.—The Secretary may waive the limitation in paragraph (1) if the Secretary certifies to the congressional defense committees in writing that the waiver is in the national security interests of the United States and includes with such certification a justification for the waiver.

(3) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the congressional defense committees a report on the provision of reimbursements and support to Pakistan under this section and the amendments made by this section. The report shall include the following:

(A) A description of the process for reimbursing or providing support to Pakistan under section 1233 of the National Defense Authorization Act for Fiscal Year 2008, as so amended, including the process by which claims are proposed and adjudicated.

(B) Any conditions or caveats that the Government of Pakistan has placed on the use of the ground lines of supply through Pakistan in support of United States forces in Afghanistan or for the retrograde of United States equipment out of Afghanistan.

(C) An estimate of the costs for fiscal years 2011 through 2013 associated with the transshipment of equipment and supplies in support of United States forces in Afghanistan through—

- (i) supply routes in Pakistan; and
- (ii) supply routes along the Northern Distribution Network.

**SEC. 1228. EXTENSION AND MODIFICATION OF PAKISTAN COUNTER-INSURGENCY FUND.**

(a) **EXTENSION.**—Section 1224(h) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2521), as most recently amended by section 1220(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1633), is further amended by striking “September 30, 2012” each place it appears and inserting “September 30, 2013”.

(b) **EXTENSION OF LIMITATION ON FUNDS PENDING REPORT.**—Section 1220(b)(1)(A) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1633) is amended by striking “fiscal year 2012” and inserting “fiscal year 2013”.

(c) **LIMITATION ON USE OF FUNDS.**—

Consultation.  
Certification.

(1) **LIMITATION.**—None of the funds authorized to be appropriated by this Act or otherwise made available for the Pakistan Counterinsurgency Fund may be used to provide assistance to the Government of Pakistan until the Secretary of Defense, in consultation with the Secretary of State, certifies to the appropriate congressional committees that—

(A) the Government of Pakistan is demonstrating a continuing commitment to and is making significant efforts toward the implementation of a strategy to counter improvised explosive devices (IEDs), including—

- (i) attacking IED networks;
- (ii) monitoring known precursors used in IEDs; and
- (iii) developing a strict protocol for the manufacture of explosive materials, including calcium ammonium nitrate, and accessories and their supply to legitimate end users; and

Shakil Afridi.

(B) the Government of Pakistan is cooperating with United States counterterrorism efforts, including by not detaining, prosecuting, or imprisoning citizens of Pakistan as a result of their cooperation with such efforts, including Dr. Shakil Afridi.

Consultation.

(2) **WAIVER.**—The Secretary of Defense, in consultation with the Secretary of State, may waive the requirements of paragraph (1) if the Secretary of Defense determines it is in the national security interest of the United States to do so.

(3) **DEFINITION.**—In this subsection, the term “appropriate congressional committees” means—

- (A) the congressional defense committees; and
- (B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.



## Subtitle C—Matters Relating to Iran

### SEC. 1231. REPORT ON UNITED STATES CAPABILITIES IN RELATION TO CHINA, NORTH KOREA, AND IRAN.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, and not later than March 31, 2014, the Chairman of the Joint Chiefs of Staff, in consultation with the commanders of the relevant geographical and functional combatant commands, shall submit to the congressional defense committees a report on United States capabilities in relation to the People's Republic of China, the Democratic People's Republic of Korea, and the Republic of Iran.

(b) ELEMENTS.—The report required by subsection (a) shall include the following elements:

(1) Any critical gaps in intelligence that limit the ability of the United States Armed Forces to counter challenges or threats emanating from each of the foreign countries described in subsection (a).

(2) Any gaps in the capabilities, capacity, and authorities of the United States Armed Forces to counter challenges or threats to United States personnel and United States interests in the respective regions of the foreign countries described in subsection (a).

(3) Any other matters the Chairman of the Joint Chiefs of Staff considers to be relevant.

(c) INFORMATION TO BE CONSIDERED.—In preparing the report required by subsection (a), the Chairman of the Joint Chiefs of Staff should consider the information contained in the most recent reports required by the following:

(1) Section 1236 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1641).

(2) Section 1245 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2542).

(3) Section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 781; 10 U.S.C. 113 note).

### SEC. 1232. REPORT ON MILITARY CAPABILITIES OF GULF COOPERATION COUNCIL MEMBERS.

(a) REPORT.—The Secretary of Defense, in consultation with the Secretary of State, shall evaluate the military capabilities of members of the Cooperation Council for the Arab States of the Gulf (in this section referred to as the “Gulf Cooperation Council”) and submit to the appropriate congressional committees a report on the findings of such evaluation.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

(1) An assessment of the military capabilities of Gulf Cooperation Council members to defend collectively against Iran and contribute to international counter-terrorism and counter-piracy efforts.

(2) An assessment of gaps in the military capabilities of Gulf Cooperation Council members to defend collectively against Iran and a detailed description of military capabilities necessary to address those gaps.

(3) An evaluation of United States military capabilities and posture in the region and an analysis of the capacity of the United States Armed Forces to augment the military capabilities of Gulf Cooperation Council members.

(4) A description of the United States Government’s ongoing efforts to foster regional cooperation through ongoing bilateral and multilateral strategic security dialogues.

(5) A summary of Gulf Cooperation Council operational and training requests to the United States Government and the associated actions taken by the United States Government.

(c) **SUBMISSION TO CONGRESS.**—The report required under subsection (a) shall be submitted to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act.

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives.

#### **SEC. 1233. SENSE OF CONGRESS WITH RESPECT TO IRAN.**

It is the sense of Congress that the United States should be prepared to take all necessary measures, including military action if required, to prevent Iran from threatening the United States, its allies, or Iran’s neighbors with a nuclear weapon.

#### **SEC. 1234. RULE OF CONSTRUCTION.**

Nothing in this Act shall be construed as authorizing the use of force against Iran.

### **Subtitle D—Iran Sanctions**

#### **SEC. 1241. SHORT TITLE.**

This subtitle may be cited as the “Iran Freedom and Counter-Proliferation Act of 2012”.

#### **SEC. 1242. DEFINITIONS.**

(a) **IN GENERAL.**—In this subtitle:

(1) **AGRICULTURAL COMMODITY.**—The term “agricultural commodity” has the meaning given that term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the committees specified in section 14(2) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note); and

(B) the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(3) **COAL.**—The term “coal” means metallurgical coal, coking coal, or fuel coke.

(4) **CORRESPONDENT ACCOUNT; PAYABLE-THROUGH ACCOUNT.**—The terms “correspondent account” and “payable-

22 USC 8784  
note.

Iran Freedom  
and Counter-  
Proliferation Act  
of 2012.  
President.  
22 USC 8801  
note.  
22 USC 8801.

through account” have the meanings given those terms in section 5318A of title 31, United States Code.

(5) FOREIGN FINANCIAL INSTITUTION.—The term “foreign financial institution” has the meaning of that term as determined by the Secretary of the Treasury pursuant to section 104(i) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(i)).

(6) GOOD.—The term “good” has the meaning given that term in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)).

(7) IRANIAN FINANCIAL INSTITUTION.—The term “Iranian financial institution” has the meaning given that term in section 104A(d) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513b(d)).

(8) IRANIAN PERSON.—The term “Iranian person” means—

(A) an individual who is a citizen or national of Iran; and

(B) an entity organized under the laws of Iran or otherwise subject to the jurisdiction of the Government of Iran.

(9) KNOWINGLY.—The term “knowingly”, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(10) MEDICAL DEVICE.—The term “medical device” has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(11) MEDICINE.—The term “medicine” has the meaning given the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(12) SHIPPING.—The term “shipping” refers to the transportation of goods by a vessel and related activities.

(13) UNITED STATES PERSON.—The term “United States person” has the meaning given that term in section 101 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8511).

(14) VESSEL.—The term “vessel” has the meaning given that term in section 3 of title 1, United States Code.

(b) DETERMINATIONS OF SIGNIFICANCE.—For purposes of this subtitle, in determining if financial transactions or financial services are significant, the President may consider the totality of the facts and circumstances, including factors similar to the factors set forth in section 561.404 of title 31, Code of Federal Regulations (or any corresponding similar regulation or ruling).

**SEC. 1243. SENSE OF CONGRESS RELATING TO VIOLATIONS OF HUMAN RIGHTS BY IRAN.** 22 USC 8802.

(a) FINDING.—Congress finds that the interests of the United States and international peace are threatened by the ongoing and destabilizing actions of the Government of Iran, including its massive, systematic, and extraordinary violations of the human rights of its own citizens.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should—

(1) deny the Government of Iran the ability to continue to oppress the people of Iran and to use violence and executions against pro-democracy protestors and regime opponents;

(2) fully and publicly support efforts made by the people of Iran to promote the establishment of basic freedoms that build the foundation for the emergence of a freely elected, open, and democratic political system;

(3) help the people of Iran produce, access, and share information freely and safely via the Internet and through other media; and

(4) defeat all attempts by the Government of Iran to jam or otherwise obstruct international satellite broadcast signals.

22 USC 8803.

**SEC. 1244. IMPOSITION OF SANCTIONS WITH RESPECT TO THE ENERGY, SHIPPING, AND SHIPBUILDING SECTORS OF IRAN.**

(a) FINDINGS.—Congress makes the following findings:

(1) Iran’s energy, shipping, and shipbuilding sectors and Iran’s ports are facilitating the Government of Iran’s nuclear proliferation activities by providing revenue to support proliferation activities.

(2) The United Nations Security Council and the United States Government have expressed concern about the proliferation risks presented by the Iranian nuclear program.

(3) The Director General of the International Atomic Energy Agency (in this section referred to as the “IAEA”) has in successive reports (GOV/2012/37 and GOV/2011/65) identified possible military dimensions of Iran’s nuclear program.

(4) The Government of Iran continues to defy the requirements and obligations contained in relevant IAEA Board of Governors and United Nations Security Council resolutions, including by continuing and expanding uranium enrichment activities in Iran, as reported in IAEA Report GOV/2012/37.

(5) United Nations Security Council Resolution 1929 (2010) recognizes the “potential connection between Iran’s revenues derived from its energy sector and the funding of Iran’s proliferation sensitive nuclear activities”.

(6) The National Iranian Tanker Company is the main carrier for the Iranian Revolutionary Guard Corps-designated National Iranian Oil Company and a key element in the petroleum supply chain responsible for generating energy revenues that support the illicit nuclear proliferation activities of the Government of Iran.

(b) DESIGNATION OF PORTS AND ENTITIES IN THE ENERGY, SHIPPING, AND SHIPBUILDING SECTORS OF IRAN AS ENTITIES OF PROLIFERATION CONCERN.—Entities that operate ports in Iran and entities in the energy, shipping, and shipbuilding sectors of Iran, including the National Iranian Oil Company, the National Iranian Tanker Company, the Islamic Republic of Iran Shipping Lines, and their affiliates, play an important role in Iran’s nuclear proliferation efforts and all such entities are hereby designated as entities of proliferation concern.

(c) BLOCKING OF PROPERTY OF ENTITIES IN ENERGY, SHIPPING, AND SHIPBUILDING SECTORS.—

(1) BLOCKING OF PROPERTY.—

Effective date.  
Time period.

(A) IN GENERAL.—On and after the date that is 180 days after the date of the enactment of this Act, the President shall block and prohibit all transactions in all property and interests in property of any person described in paragraph (2) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) EXCEPTION.—The requirement to block and prohibit all transactions in all property and interests in property under subparagraph (A) shall not include the authority to impose sanctions on the importation of goods.

(2) PERSONS DESCRIBED.—A person is described in this paragraph if the President determines that the person, on or after the date that is 180 days after the date of the enactment of this Act—

Determination.

(A) is part of the energy, shipping, or shipbuilding sectors of Iran;

(B) operates a port in Iran; or

(C) knowingly provides significant financial, material, technological, or other support to, or goods or services in support of any activity or transaction on behalf of or for the benefit of—

(i) a person determined under subparagraph (A) to be a part of the energy, shipping, or shipbuilding sectors of Iran;

(ii) a person determined under subparagraph (B) to operate a port in Iran; or

(iii) an Iranian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (other than an Iranian financial institution described in paragraph (3)).

(3) IRANIAN FINANCIAL INSTITUTIONS DESCRIBED.—An Iranian financial institution described in this paragraph is an Iranian financial institution that has not been designated for the imposition of sanctions in connection with—

(A) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(B) Iran's support for international terrorism; or

(C) Iran's abuses of human rights.

(d) ADDITIONAL SANCTIONS WITH RESPECT TO THE ENERGY, SHIPPING, AND SHIPBUILDING SECTORS OF IRAN.—

(1) SALE, SUPPLY, OR TRANSFER OF CERTAIN GOODS AND SERVICES.—

(A) IN GENERAL.—Except as provided in this section, the President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note) with respect to a person if the President determines that the person knowingly, on or after the date that is 180 days after the date of the enactment of this Act, sells, supplies, or transfers to or from Iran goods or services described in paragraph (3).

Determination.

(B) EXCEPTION.—The requirement to impose sanctions under subparagraph (A) shall not include the authority to impose sanctions relating to the importation of goods

Effective date. Time period.	<p>under paragraph (8)(A) or (12) of section 6(a) of the Iran Sanctions Act of 1996, and any sanction relating to the importation of goods shall not count for purposes of the requirement to impose sanctions under subparagraph (A).</p> <p>(2) FACILITATION OF CERTAIN TRANSACTIONS.—Except as provided in this section, the President shall prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines knowingly, on or after the date that is 180 days after the date of the enactment of this Act, conducts or facilitates a significant financial transaction for the sale, supply, or transfer to or from Iran of goods or services described in paragraph (3).</p> <p>(3) GOODS AND SERVICES DESCRIBED.—Goods or services described in this paragraph are significant goods or services used in connection with the energy, shipping, or shipbuilding sectors of Iran, including the National Iranian Oil Company, the National Iranian Tanker Company, and the Islamic Republic of Iran Shipping Lines.</p> <p>(e) HUMANITARIAN EXCEPTION.—The President may not impose sanctions under this section with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.</p>
Determination.	<p>(f) EXCEPTION FOR AFGHANISTAN RECONSTRUCTION.—The President may provide for an exception from the imposition of sanctions under this section for reconstruction assistance or economic development for Afghanistan—</p> <p>(1) to the extent that the President determines that such an exception is in the national interest of the United States; and</p>
Notification. Deadline.	<p>(2) if the President submits to the appropriate congressional committees a notification of and justification for the exception not later than 15 days before issuing the exception.</p> <p>(g) APPLICABILITY OF SANCTIONS TO PETROLEUM AND PETROLEUM PRODUCTS.—</p>
	<p>(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply with respect to the purchase of petroleum or petroleum products from Iran only if, at the time of the purchase, a determination of the President under section 1245(d)(4)(B) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(4)(B)) that the price and supply of petroleum and petroleum products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran is in effect.</p> <p>(2) EXCEPTION FOR CERTAIN COUNTRIES.—</p> <p>(A) EXPORTATION.—This section shall not apply with respect to the exportation of petroleum or petroleum products from Iran to a country to which the exception under section 1245(d)(4)(D)(i) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(4)(D)(i)) applies at the time of the exportation of the petroleum or petroleum products.</p> <p>(B) FINANCIAL TRANSACTIONS.—</p>

(i) IN GENERAL.—This section shall not apply with respect to a financial transaction described in clause (ii) conducted or facilitated by a foreign financial institution if, at the time of the transaction, the exception under section 1245(d)(4)(D)(i) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(4)(D)(i)) applies to the country with primary jurisdiction over the foreign financial institution.

(ii) FINANCIAL TRANSACTIONS DESCRIBED.—A financial transaction conducted or facilitated by a foreign financial institution is described in this clause if—

(I) the financial transaction is only for trade in goods or services—

(aa) not otherwise subject to sanctions under the law of the United States; and

(bb) between the country with primary jurisdiction over the foreign financial institution and Iran; and

(II) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(h) APPLICABILITY OF SANCTIONS TO NATURAL GAS.—

(1) SALE, SUPPLY, OR TRANSFER.—Except as provided in paragraph (2), this section shall not apply to the sale, supply, or transfer to or from Iran of natural gas.

(2) FINANCIAL TRANSACTIONS.—This section shall apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or transfer to or from Iran of natural gas unless—

(A) the financial transaction is only for trade in goods or services—

(i) not otherwise subject to sanctions under the law of the United States; and

(ii) between the country with primary jurisdiction over the foreign financial institution and Iran; and

(B) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(i) WAIVER.—

(1) IN GENERAL.—The President may waive the imposition of sanctions under this section for a period of not more than 180 days, and may renew that waiver for additional periods of not more than 180 days, if the President—

Time periods.

(A) determines that such a waiver is vital to the national security of the United States; and

Determination.

(B) submits to the appropriate congressional committees a report providing a justification for the waiver.

Reports.

(2) FORM OF REPORT.—Each report submitted under paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 1245. IMPOSITION OF SANCTIONS WITH RESPECT TO THE SALE, SUPPLY, OR TRANSFER OF CERTAIN MATERIALS TO OR FROM IRAN.**

22 USC 8804.

(a) SALE, SUPPLY, OR TRANSFER OF CERTAIN MATERIALS.—

(1) IN GENERAL.—The President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) with respect to a person if the President determines that the person knowingly, on or after the date that is 180 days after the date of the enactment of this Act, sells, supplies, or transfers, directly or indirectly, to or from Iran—

(A) a precious metal;

(B) a material described in subsection (d) determined pursuant to subsection (e)(1) to be used by Iran as described in that subsection;

(C) any other material described in subsection (d) if—  
(i) the material is—

(I) to be used in connection with the energy, shipping, or shipbuilding sectors of Iran or any sector of the economy of Iran determined pursuant to subsection (e)(2) to be controlled directly or indirectly by Iran’s Revolutionary Guard Corps;

(II) sold, supplied, or transferred to or from an Iranian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (other than an Iranian financial institution described in subsection (b)); or

(III) determined pursuant to subsection (e)(3) to be used in connection with the nuclear, military, or ballistic missile programs of Iran; or

(ii) the material is resold, retransferred, or otherwise supplied—

(I) to an end-user in a sector described in subclause (I) of clause (i);

(II) to a person described in subclause (II) of that clause; or

(III) for a program described in subclause (III) of that clause.

(2) EXCEPTION.—The requirement to impose sanctions under paragraph (1) shall not include the authority to impose sanctions relating to the importation of goods under paragraph (8)(A) or (12) of section 6(a) of the Iran Sanctions Act of 1996, and any sanction relating to the importation of goods shall not count for purposes of the requirement to impose sanctions under paragraph (1).

(b) IRANIAN FINANCIAL INSTITUTIONS DESCRIBED.—An Iranian financial institution described in this subsection is an Iranian financial institution that has not been designated for the imposition of sanctions in connection with—

(1) Iran’s proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(2) Iran’s support for international terrorism; or

(3) Iran’s abuses of human rights.

(c) FACILITATION OF CERTAIN TRANSACTIONS.—The President shall prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines knowingly, on or after the date that is 180 days after the date of the enactment of this Act,



conducts or facilitates a significant financial transaction for the sale, supply, or transfer to or from Iran of materials the sale, supply, or transfer of which would subject a person to sanctions under subsection (a).

(d) **MATERIALS DESCRIBED.**—Materials described in this subsection are graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes.

(e) **DETERMINATION WITH RESPECT TO USE OF MATERIALS.**—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the appropriate congressional committees and publish in the Federal Register a report that contains the determination of the President with respect to—

Deadlines.  
Federal Register,  
publication.  
Reports.

(1) whether Iran is—

(A) using any of the materials described in subsection (d) as a medium for barter, swap, or any other exchange or transaction; or

(B) listing any of such materials as assets of the Government of Iran for purposes of the national balance sheet of Iran;

(2) which sectors of the economy of Iran are controlled directly or indirectly by Iran’s Revolutionary Guard Corps; and

(3) which of the materials described in subsection (d) are used in connection with the nuclear, military, or ballistic missile programs of Iran.

(f) **EXCEPTION FOR PERSONS EXERCISING DUE DILIGENCE.**—The President may not impose sanctions under subsection (a) or (c) with respect to a person if the President determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not sell, supply, or transfer to or from Iran materials the sale, supply, or transfer of which would subject a person to sanctions under subsection (a) or conduct or facilitate a financial transaction for such a sale, supply, or transfer.

Determination.

(g) **WAIVER.**—

(1) **IN GENERAL.**—The President may waive the imposition of sanctions under this section for a period of not more than 180 days, and may renew that waiver for additional periods of not more than 180 days, if the President—

Time periods.

(A) determines that such a waiver is vital to the national security of the United States; and

Determination.

(B) submits to the appropriate congressional committees a report providing a justification for the waiver.

Reports.

(2) **FORM OF REPORT.**—Each report submitted under paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

(h) **NATIONAL BALANCE SHEET OF IRAN DEFINED.**—For purposes of this section, the term “national balance sheet of Iran” refers to the ratio of the assets of the Government of Iran to the liabilities of that Government.

**SEC. 1246. IMPOSITION OF SANCTIONS WITH RESPECT TO THE PROVISION OF UNDERWRITING SERVICES OR INSURANCE OR REINSURANCE FOR ACTIVITIES OR PERSONS WITH RESPECT TO WHICH SANCTIONS HAVE BEEN IMPOSED.**

22 USC 8805.

(a) **IMPOSITION OF SANCTIONS.**—

Determination.  
Effective date.  
Time period.

(1) IN GENERAL.—Except as provided in this section, the President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) with respect to a person if the President determines that the person knowingly, on or after the date that is 180 days after the date of the enactment of this Act, provides underwriting services or insurance or reinsurance—

(A) for any activity with respect to Iran for which sanctions have been imposed under this subtitle, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the Iran Sanctions Act of 1996, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.), the Iran Threat Reduction and Syria Human Rights Act of 2012 (22 U.S.C. 8701 et seq.), the Iran, North Korea, and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note), or any other provision of law relating to the imposition of sanctions with respect to Iran;

(B) to or for any person—

(i) with respect to, or for the benefit of any activity in the energy, shipping, or shipbuilding sectors of Iran for which sanctions are imposed under this subtitle;

(ii) for the sale, supply, or transfer to or from Iran of materials described in section 1245(d) for which sanctions are imposed under this subtitle; or

(iii) designated for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) in connection with—

(I) Iran’s proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction; or

(II) Iran’s support for international terrorism;

or

(C) to or for any Iranian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (other than an Iranian financial institution described in subsection (b)).

(2) EXCEPTION.—The requirement to impose sanctions under paragraph (1) shall not include the authority to impose sanctions relating to the importation of goods under paragraph (8)(A) or (12) of section 6(a) of the Iran Sanctions Act of 1996, and any sanction relating to the importation of goods shall not count for purposes of the requirement to impose sanctions under paragraph (1).

(b) IRANIAN FINANCIAL INSTITUTIONS DESCRIBED.—An Iranian financial institution described in this subsection is an Iranian financial institution that has not been designated for the imposition of sanctions in connection with—

(1) Iran’s proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(2) Iran’s support for international terrorism; or

(3) Iran’s abuses of human rights.

(c) HUMANITARIAN EXCEPTION.—The President may not impose sanctions under subsection (a) for the provision of underwriting

services or insurance or reinsurance for a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.

(d) **EXCEPTION FOR UNDERWRITERS AND INSURANCE PROVIDERS EXERCISING DUE DILIGENCE.**—The President may not impose sanctions under subparagraph (A) or (C) or clause (i) or (ii) of subparagraph (B) of subsection (a)(1) with respect to a person that provides underwriting services or insurance or reinsurance if the President determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not underwrite or enter into a contract to provide insurance or reinsurance for an activity described in subparagraph (A) of that subsection or to or for any person described in subparagraph (C) or clause (i) or (ii) of subparagraph (B) of that subsection.

Determination.

(e) **WAIVER.**—

(1) **IN GENERAL.**—The President may waive the imposition of sanctions under subsection (a) for a period of not more than 180 days, and may renew that waiver for additional periods of not more than 180 days, if the President—

Time periods.

(A) determines that such a waiver is vital to the national security of the United States; and

Determination.

(B) submits to the appropriate congressional committees a report providing a justification for the waiver.

Reports.

(2) **FORM OF REPORT.**—Each report submitted under paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 1247. IMPOSITION OF SANCTIONS WITH RESPECT TO FOREIGN FINANCIAL INSTITUTIONS THAT FACILITATE FINANCIAL TRANSACTIONS ON BEHALF OF SPECIALLY DESIGNATED NATIONALS.**

22 USC 8806.

(a) **IN GENERAL.**—Except as provided in this section, the President shall prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines has, on or after the date that is 180 days after the date of the enactment of this Act, knowingly facilitated a significant financial transaction on behalf of any Iranian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (other than an Iranian financial institution described in subsection (b)).

Determination.  
Effective date.  
Time period.

(b) **IRANIAN FINANCIAL INSTITUTIONS DESCRIBED.**—An Iranian financial institution described in this subsection is an Iranian financial institution that has not been designated for the imposition of sanctions in connection with—

(1) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(2) Iran's support for international terrorism; or

(3) Iran's abuses of human rights.

(c) **HUMANITARIAN EXCEPTION.**—The President may not impose sanctions under subsection (a) with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.

## (d) APPLICABILITY OF SANCTIONS TO PETROLEUM AND PETROLEUM PRODUCTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall apply with respect to a financial transaction for the purchase of petroleum or petroleum products from Iran only if, at the time of the transaction, a determination of the President under section 1245(d)(4)(B) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(4)(B)) that the price and supply of petroleum and petroleum products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran is in effect.

## (2) EXCEPTION FOR CERTAIN COUNTRIES.—

(A) IN GENERAL.—Subsection (a) shall not apply with respect to a financial transaction described in subparagraph (B) conducted or facilitated by a foreign financial institution if, at the time of the transaction, the exception under section 1245(d)(4)(D)(i) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(4)(D)(i)) applies to the country with primary jurisdiction over the foreign financial institution.

(B) FINANCIAL TRANSACTIONS DESCRIBED.—A financial transaction conducted or facilitated by a foreign financial institution is described in this subparagraph if—

(i) the financial transaction is only for trade in goods or services—

(I) not otherwise subject to sanctions under the law of the United States; and

(II) between the country with primary jurisdiction over the foreign financial institution and Iran; and

(ii) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(e) APPLICABILITY OF SANCTIONS TO NATURAL GAS.—Subsection (a) shall apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or transfer to or from Iran of natural gas unless—

(1) the financial transaction is only for trade in goods or services—

(A) not otherwise subject to sanctions under the law of the United States; and

(B) between the country with primary jurisdiction over the foreign financial institution and Iran; and

(2) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

## (f) WAIVER.—

(1) IN GENERAL.—The President may waive the imposition of sanctions under subsection (a) for a period of not more than 180 days, and may renew that waiver for additional periods of not more than 180 days, if the President—

(A) determines that such a waiver is vital to the national security of the United States; and

Time periods.

Determination.

(B) submits to the appropriate congressional committees a report providing a justification for the waiver. Reports.

(2) FORM OF REPORT.—Each report submitted under paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 1248. IMPOSITIONS OF SANCTIONS WITH RESPECT TO THE ISLAMIC REPUBLIC OF IRAN BROADCASTING.** 22 USC 8807.

(a) FINDINGS.—Congress makes the following findings:

(1) The Islamic Republic of Iran Broadcasting has contributed to the infringement of individuals’ human rights by broadcasting forced televised confession and show trials.

(2) In March 2012, the European Council imposed sanctions on the President of the Islamic Republic of Iran Broadcasting, Ezzatollah Zargami, for broadcasting forced confessions of detainees and a series of “show trials” in August 2009 and December 2011 that constituted a clear violation of international law with respect to the right to a fair trial and due process.

(b) IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—The President shall, after the date of the enactment of this Act—

(A) impose sanctions described in section 105(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8514(c)) with respect to the Islamic Republic of Iran Broadcasting and the President of the Islamic Republic of Iran Broadcasting, Ezzatollah Zargami; and Ezzatollah Zargami.

(B) include the Islamic Republic of Iran Broadcasting and the President of the Islamic Republic of Iran Broadcasting, Ezzatollah Zargami, on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury.

(2) EXCEPTION.—The requirement to impose sanctions under paragraph (1)(A) shall not include the authority to impose sanctions on the importation of goods.

(3) APPLICATION OF CERTAIN PROVISIONS.—Sections 105(d) and 401(b) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8514(d) and 8551(b)) shall apply with respect to sanctions imposed under paragraph (1)(A) to the same extent that such sections apply with respect to the imposition of sanctions under section 105(a) of that Act (22 U.S.C. 8514(a)).

**SEC. 1249. IMPOSITION OF SANCTIONS WITH RESPECT TO PERSONS ENGAGED IN THE DIVERSION OF GOODS INTENDED FOR THE PEOPLE OF IRAN.**

(a) IN GENERAL.—Title I of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8511 et seq.) is amended by inserting after section 105B the following:

**“SEC. 105C. IMPOSITION OF SANCTIONS WITH RESPECT TO PERSONS ENGAGED IN THE DIVERSION OF GOODS INTENDED FOR THE PEOPLE OF IRAN.** 22 USC 8514c.

“(a) IMPOSITION OF SANCTIONS.—

“(1) IN GENERAL.—The President shall impose sanctions described in section 105(c) with respect to each person on the list required by subsection (b).

“(2) EXCEPTION.—The requirement to impose sanctions under paragraph (1) shall not include the authority to impose sanctions on the importation of goods.

“(b) LIST OF PERSONS WHO ENGAGE IN DIVERSION.—

Determination.  
Effective date.

“(1) IN GENERAL.—As relevant information becomes available, the President shall submit to the appropriate congressional committees a list of persons that the President determines have, on or after the date of the enactment of the Iran Freedom and Counter-Proliferation Act of 2012, engaged in corruption or other activities relating to—

“(A) the diversion of goods, including agricultural commodities, food, medicine, and medical devices, intended for the people of Iran; or

“(B) the misappropriation of proceeds from the sale or resale of such goods.

“(2) FORM OF REPORT; PUBLIC AVAILABILITY.—

“(A) FORM.—The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

Web posting.

“(B) PUBLIC AVAILABILITY.—The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

“(c) GOOD DEFINED.—In this section, the term ‘good’ has the meaning given that term in section 1242(a) of the Iran Freedom and Counter-Proliferation Act of 2012.”.

(b) WAIVER.—Section 401(b)(1) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(b)(1)) is amended—

(1) by striking “or 105B(a)” and inserting “105B(a), or 105C(a)”; and

(2) by striking “or 105B(b)” and inserting “105B(b), or 105C(b)”.

(c) CLERICAL AMENDMENT.—The table of contents for the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 is amended by inserting after the item relating to section 105B the following:

“Sec. 105C. Imposition of sanctions with respect to persons engaged in the diversion of goods intended for the people of Iran.”.

**SEC. 1250. WAIVER REQUIREMENT RELATED TO EXCEPTIONAL CIRCUMSTANCES PREVENTING SIGNIFICANT REDUCTIONS IN CRUDE OIL PURCHASES.**

Section 1245(d)(5)(B) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)(5)(B)) is amended—

(1) in clause (i), by striking “; and” and inserting a semicolon;

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following new clause:

“(ii) certifying that the country with primary jurisdiction over the foreign financial institution otherwise subject to the sanctions faced exceptional circumstances that prevented the country from being able

to reduce significantly its purchases of petroleum and petroleum products from Iran; and”.

**SEC. 1251. STATUTE OF LIMITATIONS FOR CIVIL ACTIONS REGARDING TERRORIST ACTS.**

(a) **IN GENERAL.**—Section 2335 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “4 years” and inserting “10 years”; and

(2) in subsection (b), by striking “4-year period” and inserting “10-year period”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any civil action arising under section 2333 of title 18, United States Code, that is pending on, or commenced on or after, the date of the enactment of this Act.

Applicability.  
18 USC 2335  
note.

(c) **SPECIAL RULE RELATING TO CERTAIN ACTS OF INTERNATIONAL TERRORISM.**—Notwithstanding section 2335 of title 18, United States Code, as amended by subsection (a), a civil action under section 2333 of such title resulting from an act of international terrorism that occurred on or after September 11, 2001, and before the date that is 4 years before the date of the enactment of this Act, may be maintained if the civil action is commenced during the 6-year period beginning on such date of enactment.

Time period.  
18 USC 2335  
note.

**SEC. 1252. REPORT ON USE OF CERTAIN IRANIAN SEAPORTS BY FOREIGN VESSELS AND USE OF FOREIGN AIRPORTS BY SANCTIONED IRANIAN AIR CARRIERS.**

22 USC 8808.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, and annually thereafter through 2016, the President shall submit to the appropriate congressional committees a report that contains—

(1) a list of large or otherwise significant vessels that have entered seaports in Iran controlled by the Tidewater Middle East Company during the period specified in subsection (b) and the owners and operators of those vessels; and

(2) a list of all airports at which aircraft owned or controlled by an Iranian air carrier on which sanctions have been imposed by the United States have landed during the period specified in subsection (b).

(b) **PERIOD SPECIFIED.**—The period specified in this subsection is—

(1) in the case of the first report submitted under subsection (a), the 180-day period preceding the submission of the report; and

(2) in the case of any subsequent report submitted under that subsection, the year preceding the submission of the report.

(c) **FORM OF REPORT.**—Each report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 1253. IMPLEMENTATION; PENALTIES.**

22 USC 8809.

(a) **IMPLEMENTATION.**—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this subtitle.

(b) **PENALTIES.**—The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S. C. 1705) shall apply to a person that violates,

Applicability.

attempts to violate, conspires to violate, or causes a violation of this subtitle or regulations prescribed under this subtitle to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act.

(c) APPLICATION OF CERTAIN PROVISIONS OF IRAN SANCTIONS ACT OF 1996.—The following provisions of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) shall apply with respect to the imposition of sanctions under sections 1244(d), 1245(a), and 1246(a) to the same extent that such provisions apply with respect to the imposition of sanctions under section 5(a) of the Iran Sanctions Act of 1996, and, as appropriate, instead of sections 1244(i), 1245(g), and 1246(e) of this Act:

- (1) Paragraphs (1)(A), (2)(A), and (2)(B)(i) of section 4(c).
- (2) Subsections (c), (d), and (f) of section 5.
- (3) Section 8.
- (4) Section 11.
- (5) Section 12.
- (6) Section 13(b).

22 USC 8810.

**SEC. 1254. APPLICABILITY TO CERTAIN NATURAL GAS PROJECTS.**

Nothing in this subtitle or the amendments made by this subtitle shall apply with respect to any activity relating to a project described in subsection (a) of section 603 of the Iran Threat Reduction and Syria Human Rights Act of 2012 (22 U.S.C. 8783) to which the exception under that section applies at the time of the activity.

22 USC 8811.

**SEC. 1255. RULE OF CONSTRUCTION.**

Nothing in this subtitle or the amendments made by this subtitle shall be construed to limit sanctions imposed with respect to Iran under any other provision of law or to limit the authority of the President to impose additional sanctions with respect to Iran.

## Subtitle E—Satellites and Related Items

**SEC. 1261. REMOVAL OF SATELLITES AND RELATED ITEMS FROM THE UNITED STATES MUNITIONS LIST.**

(a) REPEAL.—

(1) IN GENERAL.—Section 1513 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2174; 22 U.S.C. 2778 note) is amended by striking subsection (a).

(2) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking “(1) Subsection (a)” and all that follows through “(2) The amendments” and inserting “The amendments”.

President.

(b) ADDITIONAL DETERMINATION AND REPORT.—Accompanying but separate from the submission to Congress of the first notification after the date of the enactment of this Act under section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)) relating to the removal of satellites and related items from the United States Munitions List, the President shall also submit to Congress—

(1) a determination by the President that the removal of such satellites and items from the United States Munitions List is in the national security interests of the United States; and



(2) a report identifying and analyzing any differences between—

(A) the recommendations and draft regulations for controlling the export, re-export, and transfer of such satellites and related items that were submitted in the report to Congress required by section 1248 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2546); and

(B) the final regulations under which the export, re-export, and transfer of such satellites and related items would continue to be controlled.

(c) PROHIBITION.—

(1) IN GENERAL.—Subject to paragraph (3), no satellites or related items that are made subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of subsection (a) of this section, whether or not enumerated on the Commerce Control List—

(A) may be exported, re-exported, or transferred, directly or indirectly, to—

(i) any government of a country described in paragraph (2); or

(ii) any entity or person in or acting for or on behalf of such government, entity, or person; or

(B) may be launched in a country described in paragraph (2) or as part of a launch vehicle owned, operated, or manufactured by the government of such country or any entity or person in or acting for or on behalf of such government, entity, or person.

(2) COUNTRIES DESCRIBED.—The countries referred to in paragraph (1) are the following:

(A) The People's Republic of China.

(B) North Korea.

(C) Any country that is a state sponsor of terrorism.

(3) WAIVER.—The President may waive the prohibition in paragraph (1) on a case-by-case basis if not later than 30 days before doing so the President—

President.  
Deadline.

(A) determines that it is in the national interest of the United States to do so; and

Determination.

(B) notifies the appropriate congressional committees of such determination.

Notification.

(d) PRESUMPTION OF DENIAL.—Any license or other authorization to export satellites and related items to a country with respect to which the United States maintains a comprehensive arms embargo shall be subject to a presumption of denial.

(e) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Director of National Intelligence, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on efforts of state sponsors of terrorism, other foreign countries, or entities to illicitly acquire satellites and related items.

Consultation.

(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

22 USC 2778  
note.

**SEC. 1262. REPORT ON LICENSES AND OTHER AUTHORIZATIONS TO  
EXPORT CERTAIN SATELLITES AND RELATED ITEMS.**

President.

(a) IN GENERAL.—Not later than 60 days after the end of each calendar year through 2020, the President shall submit to the committees of Congress specified in subsection (b) a report summarizing all licenses and other authorizations to export satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a).

(b) COMMITTEES OF CONGRESS SPECIFIED.—The committees of Congress specified in this subsection are—

(1) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives.

22 USC 2778  
note.

**SEC. 1263. REPORT ON COUNTRY EXEMPTIONS FOR LICENSING OF  
EXPORTS OF CERTAIN SATELLITES AND RELATED ITEMS.**

Consultation.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Attorney General, the Secretary of Homeland Security, and the heads of other Federal departments and agencies as appropriate, shall submit to the appropriate congressional committees a report that contains an assessment of the extent to which the terms and conditions of exemptions for foreign countries to the licensing requirements and other authorizations to export satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a) contain strong safeguards.

(b) MATTERS TO BE INCLUDED.—The report required by subsection (a) shall include a description of the extent to which the terms and conditions of exemptions described in subsection (a), including other relevant laws, regulations, and practices, support law enforcement efforts to detect, prevent, and prosecute criminal, administrative, and other violations of any provision of the Export Administration Regulations (15 CFR part 730 et seq.), including efforts on the part of state sponsors of terrorism, organizations determined by the Secretary of State to have provided support for international terrorism, or other foreign countries, to acquire illicitly satellites and related items from the United States.

22 USC 2778  
note.

**SEC. 1264. END-USE MONITORING OF CERTAIN SATELLITES AND  
RELATED ITEMS.**

President.

(a) IN GENERAL.—In order to ensure accountability with respect to the export of satellites and related items that become subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a), the President shall provide for the end-use monitoring of such satellites and related items.

Consultation.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the heads of other Federal departments and agencies as appropriate, shall submit to Congress a report describing the actions taken to implement this section, including identification of resource

shortfalls or other constraints on effective end-use monitoring of satellites and related items described in subsection (a).

**SEC. 1265. INTERAGENCY REVIEW OF MODIFICATIONS TO CATEGORY XV OF THE UNITED STATES MUNITIONS LIST.** 22 USC 2778 note.

(a) **IN GENERAL.**—Subject to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)), the President shall ensure that the Secretary of State, the Secretary of Defense, the Secretary of Commerce and, as appropriate, the Director of National Intelligence and the heads of other appropriate Federal departments and agencies, will review any removal or addition of an item to Category XV of the United States Munitions List (relating to spacecraft systems and associated equipment). President.

(b) **EFFECTIVE DATE.**—The requirement of subsection (a) shall apply with respect to any item described in subsection (a) that is proposed to be removed or added to Category XV of the United States Munitions List on or after the date of the enactment of this Act. Applicability.

**SEC. 1266. RULES OF CONSTRUCTION.**

(a) **IN GENERAL.**—Subtitle B of title XV of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2173; 22 U.S.C. 2778 note) shall continue to apply to satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a). 22 USC 2778 note. Applicability.

(b) **ADDITIONAL RULE.**—Nothing in this subtitle or any amendment made by this subtitle shall be construed as removing or limiting the authorities of the President under subsection (a) or (b) of section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2175; 22 U.S.C. 2778 note) with respect to defense articles and defense services that remain subject to the jurisdiction of the International Traffic in Arms Regulations.

**SEC. 1267. DEFINITIONS.**

22 USC 2778 note.

In this subtitle:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) **STATE SPONSOR OF TERRORISM.**—The term “state sponsor of terrorism” means any country the government of which the Secretary of State has determined has repeatedly provided support for international terrorism pursuant to—

(A) section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405) (as continued in effect under the International Emergency Economic Powers Act);

(B) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371);

(C) section 40 of the Arms Export Control Act (22 U.S.C. 2780); or

(D) any other provision of law.

(3) UNITED STATES MUNITIONS LIST.—The term “United States Munitions List” means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

## **Subtitle F—Other Matters**

### **SEC. 1271. ADDITIONAL ELEMENTS IN ANNUAL REPORT ON MILITARY AND SECURITY DEVELOPMENTS INVOLVING THE PEOPLE’S REPUBLIC OF CHINA.**

Section 1202(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 113 note) is amended—

(1) by amending paragraph (9) to read as follows:

“(9) Developments in China’s asymmetric capabilities, including its strategy and efforts to develop and deploy cyberwarfare and electronic warfare capabilities, details on the number of malicious cyber incidents originating from China against Department of Defense infrastructure, and associated activities originating or suspected of originating from China.”;

(2) by redesignating paragraphs (10), (11), and (12) as paragraphs (15), (16), and (17) respectively;

(3) by inserting after paragraph (9) the following new paragraphs:

“(10) The strategy and capabilities of Chinese space and counterspace programs, including trends, global and regional activities, the involvement of military and civilian organizations, including state-owned enterprises, academic institutions, and commercial entities, and efforts to develop, acquire, or gain access to advanced technologies that would enhance Chinese military capabilities.

“(11) Developments in China’s nuclear program, including the size and state of China’s stockpile, its nuclear strategy and associated doctrines, its civil and military production capacities, and projections of its future arsenals.

“(12) A description of China’s anti-access and area denial capabilities.

“(13) A description of China’s command, control, communications, computers, intelligence, surveillance, and reconnaissance modernization program and its applications for China’s precision guided weapons.

“(14) A description of the roles and activities of the People’s Liberation Army Navy and those of China’s paramilitary and maritime law enforcement vessels, including their response to United States naval activities.”; and

(4) by adding after paragraph (17), as redesignated by paragraph (2) of this section, the following new paragraphs:

“(18) A description of Chinese military-to-military relationships with other countries, including the size and activity of military attache offices around the world and military education programs conducted in China for other countries or in other countries for the Chinese.

“(19) A description of any significant sale or transfer of military hardware, expertise, and technology to or from the People’s Republic of China, including a forecast of possible future sales and transfers, a description of the implications of those sales and transfers for the security of the United

States and its partners and allies in Asia, and a description of any significant assistance to and from any selling state with military-related research and development programs in China.”.

**SEC. 1272. NATO SPECIAL OPERATIONS HEADQUARTERS.**

(a) **IN GENERAL.**—Subsection (a) of section 1244 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2541), as amended by section 1242 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4405), is further amended—

(1) by striking “fiscal year 2011” and inserting “each of fiscal years 2013, 2014, and 2015”;

(2) by striking “section 301(1)” and inserting “section 301”; and

(3) by inserting “for such fiscal year” after “\$50,000,000”.

(b) **ANNUAL REPORT.**—Such section, as so amended, is further amended by adding at the end the following:

22 USC 1928  
note.

“(d) **ANNUAL REPORT.**—Not later than March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report regarding support for the NSHQ. Each report shall include the following:

“(1) The total amount of funding provided by the United States and other NATO nations to the NSHQ for operating costs of the NSHQ.

“(2) A description of the activities carried out with such funding, including—

“(A) the amount of funding allocated for each such activity;

“(B) the extent to which other NATO nations participate in each such activity;

“(C) the extent to which each such activity is designed to meet the purposes set forth in paragraphs (1) through (5) of subsection (b); and

“(D) an assessment of the extent to which each such activity will promote the mission of the NSHQ.

“(3) Other contributions, financial or in kind, provided by the United States and other NATO nations in support of the NSHQ.

“(4) Any other matters that the Secretary of Defense considers appropriate.”.

**SEC. 1273. SUSTAINABILITY REQUIREMENTS FOR CERTAIN CAPITAL PROJECTS IN CONNECTION WITH OVERSEAS CONTINGENCY OPERATIONS.**

22 USC 2421f.

(a) **LIMITATION.**—

(1) **IN GENERAL.**—Commencing 60 days after the date of the enactment of this Act—

Effective date.  
Consultation.  
Assessment.

(A) amounts authorized to be appropriated for the Department of Defense may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of Defense, in consultation with the United States commander of military operations in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project;

(B) amounts authorized to be appropriated for the Department of State may not be obligated or expended for a capital project described in subsection (b) unless the

Secretary of State, in consultation with the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project; and

(C) amounts authorized to be appropriated for the United States Agency for International Development may not be obligated or expended for a capital project described in subsection (b) unless the Administrator of the United States Agency for International Development, in consultation with the Mission Director and the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project.

(2) ELEMENTS.—Each assessment on a capital project under this subsection shall include, but not be limited to, the following:

(A) An estimate of the total cost of the completed project to the United States.

(B) An estimate of the financial and other requirements necessary for the host government to sustain the project on an annual basis after completion of the project.

(C) An assessment whether the host government has the capacity (in both financial and human resources) to maintain and use the project after completion.

(D) A description of any arrangements for the sustainment of the project following its completion if the host government lacks the capacity (in financial or human resources) to maintain the project.

(E) An assessment whether the host government has requested or expressed its need for the project, and an explanation of the decision to proceed with the project absent such request or need.

(F) An assessment by the Secretary of Defense, where applicable, of the effect of the project on the military mission of the United States in the country concerned.

(b) COVERED CAPITAL PROJECTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a capital project described in this subsection is any capital project overseas for an overseas contingency operation for the benefit of a host country and funded by the Department of Defense, the Department of State, or the United States Agency for International Development, as applicable, if the capital project—

(A) in the case of a project that directly supports building the capacity of indigenous security forces in the host country, has an estimated value in excess of \$10,000,000;

(B) in the case of any project not covered by subparagraph (A) that is to be funded by the Department of State or the United States Agency for International Development, has an estimated value in excess of \$5,000,000; or

(C) in the case of any other project, has an estimated value in excess of \$2,000,000.

(2) EXCLUSION.—A capital project described in this subsection does not include any project for military construction (as that term is defined in section 114(b) of title 10, United

States Code) or a military family housing project under section 2821 of such title.

(c) **WAIVER.**—The Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development, as applicable, may waive the limitation in subsection (a) in order to initiate a capital project if such Secretary or the Administrator, as the case may be, determines that the project is in the national security, diplomatic, or humanitarian interests of the United States. In the first report submitted under subsection (d) after any waiver under this subsection, such Secretary or the Administrator shall include a detailed justification of such waiver. Not later than 90 days after issuing a waiver under this subsection, such Secretary or the Administrator shall submit to the appropriate committees of Congress the assessment described in subsection (a) with respect to the capital project concerned. Determination.

(d) **SEMI-ANNUAL REPORTS.**—

(1) **IN GENERAL.**—Not later than 30 days after the end of any fiscal-year half-year in which the Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development conducts an assessment under subsection (a), such Secretary or the Administrator, as the case may be, shall submit to the appropriate committees of Congress a report setting forth each assessment so conducted during such fiscal-year half-year, including the elements of each capital project so assessed specified in subsection (a)(2).

(2) **ADDITIONAL ELEMENTS.**—In addition to the matters provided for in paragraph (1), each report under that paragraph shall include the following:

(A) For each capital project covered by such report, an evaluation (other than by amount of funds expended) of the effectiveness of such project, including, at a minimum, the following:

- (i) The stated goals of the project.
- (ii) The actions taken to assess and verify whether the project has met the stated goals of the project or is on track to meet such goals when completed.
- (iii) The current and anticipated levels of involvement of local governments, communities, and individuals in the project.

(B) For each country or region in which a capital project covered by such report is being carried out, an assessment of the current and anticipated risks of corruption or fraud in connection with such project.

(3) **FORM.**—Each report shall be submitted in unclassified form, but may include a classified annex.

(e) **DEFINITIONS.**—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term “capital project” has the meaning given that term in section 308 of the Aid, Trade, and Competitiveness Act of 1992 (22 U.S.C. 2421e).

(3) The term “overseas contingency operation” means a military operation outside the United States and its territories and possessions that is a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code).

10 USC 2350a  
note.

**SEC. 1274. ADMINISTRATION OF THE AMERICAN, BRITISH, CANADIAN, AND AUSTRALIAN ARMIES' PROGRAM.**

(a) **AUTHORITY.**—As part of the participation by the United States in the land-force program known as the American, British, Canadian, and Australian Armies' Program (in this section referred to as the “Program”), the Secretary of Defense may, with the concurrence of the Secretary of State, enter into agreements with the other participating countries in accordance with this section, and the Program shall be managed pursuant to a joint agreement among the participating countries.

(b) **PARTICIPATING COUNTRIES.**—In addition to the United States, the countries participating in the Program are the following:

- (1) Australia.
- (2) Canada.
- (3) New Zealand.
- (4) The United Kingdom.

(c) **CONTRIBUTIONS BY PARTICIPANTS.**—

(1) **IN GENERAL.**—An agreement under subsection (a) shall provide that each participating country shall contribute to the Program—

(A) its equitable share of the full cost for the Program, including the full cost of overhead and administrative costs related to the Program; and

(B) any amount allocated to it in accordance with the agreement for the cost for monetary claims asserted against any participating country as a result of participation in the Program.

(2) **ADDITIONAL AUTHORIZED CONTRIBUTION.**—Such an agreement shall also provide that each participating country (including the United States) may provide its contribution for its equitable share under the agreement in funds, in personal property, or in services required for the Program (or in any combination thereof).

(3) **FUNDING FOR UNITED STATES CONTRIBUTION.**—Any contribution by the United States to the Program that is provided in funds shall be made from funds available to the Department of Defense for operation and maintenance.

(4) **TREATMENT OF CONTRIBUTIONS RECEIVED FROM OTHER COUNTRIES.**—Any contribution received by the United States from another participating country to meet that country's share of the costs of the Program shall be credited to appropriations available to the Department of Defense, as determined by the Secretary of Defense. The amount of a contribution credited to an appropriation account in connection with the Program shall be available only for payment of the share of the Program expenses allocated to the participating country making the contribution. Amounts so credited shall be available for the following purposes:



(A) Payments to contractors and other suppliers (including the Department of Defense and participating countries acting as suppliers) for necessary goods and services of the Program.

(B) Payments for any damages and costs resulting from the performance or cancellation of any contract or other obligation in support of the Program.

(C) Payments for any monetary claim against a participating country as a result of the participation of that country in the Program.

(D) Payments or reimbursements of other Program expenses, including overhead and administrative costs for any administrative office for the Program.

(E) Refunds to other participating countries.

(5) COSTS OF OPERATION OF OFFICES ESTABLISHED FOR PROGRAM.—Costs for the operation of any office established to carry out the Program shall be borne jointly by the participating countries as provided for in an agreement referred to in subsection (a).

(d) AUTHORITY TO CONTRACT FOR PROGRAM ACTIVITIES.—As part of the participation by the United States in the Program, the Secretary of Defense may enter into contracts or incur other obligations on behalf of the other participating countries for activities under the Program. Any payment for such a contract or other obligation under this subsection may be paid only from contributions credited to an appropriation under subsection (c)(4).

(e) DISPOSAL OF PROPERTY.—As part of the participation by the United States in the Program, the Secretary of Defense may, with respect to any property that is jointly acquired by the countries participating in the Program, agree to the disposal of the property without regard to any law of the United States that is otherwise applicable to the disposal of property owned by the United States. Such disposal may include the transfer of the interest of the United States in the property to one or more of the other participating countries or the sale of the property. Reimbursement for the value of the property disposed of (including the value of the interest of the United States in the property) shall be made in accordance with an agreement under subsection (a).

(f) REPORTS.—Not later than 60 days before the expiration date of any agreement under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities, costs, and accomplishments of the Program during the five-year period ending on the date of such report.

(g) SUNSET.—Any agreement entered into by the United States with another country under subsection (a), and United States participation in the joint agreement described in that subsection, shall expire not later than five years after the date of the enactment of this Act.

**SEC. 1275. UNITED STATES PARTICIPATION IN HEADQUARTERS EUROCORPS.** 10 USC 113 note.

(a) PARTICIPATION AUTHORIZED.—The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the Armed Forces as members of the staff of Headquarters Eurocorps for the purpose of supporting the North

Atlantic Treaty Organization (NATO) activities of the NATO Rapid Deployable Corps Eurocorps.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) REQUIREMENT.—The participation of members of the Armed Forces as members of the staff of Headquarters Eurocorps shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and Headquarters Eurocorps.

(2) COST-SHARING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support Headquarters Eurocorps, the memoranda of understanding under paragraph (1) shall provide details of any cost-sharing arrangement or other funding arrangement.

Reports. (c) LIMITATION ON NUMBER OF MEMBERS PARTICIPATING AS STAFF.—Not more than two members of the Armed Forces may participate as members of the staff of Headquarters Eurocorps, until the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the following:

Certification. (1) A certification by the Secretary of Defense that the participation of more than two members of the Armed Forces in Headquarters Eurocorps is in the national interests of the United States.

(2) A description of the benefits of the participation of the additional members proposed by the Secretary.

(3) A description of the plans for the participation of the additional members proposed by the Secretary, including the grades and posts to be filled.

(4) A description of the costs associated with the participation of the additional members proposed by the Secretary.

(d) NOTICE ON PARTICIPATION OF NUMBER OF MEMBERS ABOVE CERTAIN CEILING.—Not more than 10 members of the Armed Forces may participate as members of the staff of Headquarters Eurocorps unless the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a notice that the number of members so participating will exceed 10 members.

(e) AVAILABILITY OF APPROPRIATED FUNDS.—

(1) AVAILABILITY.—Funds appropriated to the Department of Defense for operation and maintenance are available as follows:

(A) To pay the United States' share of the operating expenses of Headquarters Eurocorps.

(B) To pay the costs of the participation of members of the Armed Forces participating as members of the staff of Headquarters Eurocorps, including the costs of expenses of such participants.

(2) LIMITATION.—No funds may be used under this section to fund the pay or salaries of members of the Armed Forces who participate as members of the staff of the Headquarters, North Atlantic Treaty Organization (NATO) Rapid Deployable Corps under this section.

(f) HEADQUARTERS EUROCORPS DEFINED.—In this section, the term “Headquarters Eurocorps” refers to the multinational military headquarters, established on October 1, 1993, which is one of the

High Readiness Forces (Land) associated with the Allied Rapid Reaction Corps of NATO.

**SEC. 1276. DEPARTMENT OF DEFENSE PARTICIPATION IN EUROPEAN PROGRAM ON MULTILATERAL EXCHANGE OF AIR TRANSPORTATION AND AIR REFUELING SERVICES.**

10 USC 2350c  
note.

(a) PARTICIPATION AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of the United States in the Air Transport, Air-to-Air Refueling and other Exchanges of Services program (in this section referred to as the “ATARES program”) of the Movement Coordination Centre Europe.

(2) SCOPE OF PARTICIPATION.—Participation in the ATARES program under paragraph (1) shall be limited to the reciprocal exchange or transfer of air transportation and air refueling services on a reimbursable basis or by replacement-in-kind or the exchange of air transportation or air refueling services of an equal value.

(3) LIMITATIONS.—The United States’ balance of executed flight hours, whether as credits or debits, in participation in the ATARES program under paragraph (1) may not exceed 500 hours. The United States’ balance of executed flight hours for air refueling in the ATARES program under paragraph (1) may not exceed 200 hours.

(b) WRITTEN ARRANGEMENT OR AGREEMENT.—

(1) ARRANGEMENT OR AGREEMENT REQUIRED.—The participation of the United States in the ATARES program under subsection (a) shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the Movement Coordination Centre Europe.

(2) FUNDING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support the ATARES program, the written arrangement or agreement under paragraph (1) shall specify the details of any equitable cost sharing or other funding arrangement.

(3) OTHER ELEMENTS.—Any written arrangement or agreement entered into under paragraph (1) shall require that any accrued credits and liabilities resulting from an unequal exchange or transfer of air transportation or air refueling services shall be liquidated, not less than once every five years, through the ATARES program.

(c) IMPLEMENTATION.—In carrying out any written arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

(1) pay the United States’ equitable share of the operating expenses of the Movement Coordination Centre Europe and the ATARES consortium from funds available to the Department of Defense for operation and maintenance; and

(2) assign members of the Armed Forces or Department of Defense civilian personnel, from among members and personnel within billets authorized for the United States European Command, to duty at the Movement Coordination Centre Europe as necessary to fulfill the United States’ obligations under that arrangement or agreement.

(d) **CREDITING OF RECEIPTS.**—Any amount received by the United States in carrying out a written arrangement or agreement entered into under subsection (b) shall be credited, as elected by the Secretary of Defense, to the following:

(1) The appropriation, fund, or account used in incurring the obligation for which such amount is received.

(2) An appropriation, fund, or account currently available for the purposes for which such obligation was made.

(e) **ANNUAL SECRETARY OF DEFENSE REPORTS.**—Not later than 30 days after the end of each fiscal year in which the authority provided by this section is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on United States participation in the ATARES program during such fiscal year. Each report shall include the following:

(1) The United States balance of executed flight hours at the end of the fiscal year covered by such report.

(2) The types of services exchanged or transferred during the fiscal year covered by such report.

(3) A description of any United States costs under the written arrangement or agreement under subsection (b)(1) in connection with the use of Department of Defense facilities, equipment, or funds to support the ATARES program under that subsection as provided by subsection (b)(2).

(4) A description of the United States' equitable share of the operating expenses of the Movement Coordination Centre Europe and the ATARES consortium paid under subsection (c)(1).

(5) A description of any amounts received by the United States in carrying out a written arrangement or agreement entered into under subsection (b).

(f) **COMPTROLLER GENERAL OF UNITED STATES REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the ATARES program. The report shall set forth the assessment of the Comptroller General of the program, including the types of services available under the program, whether the program is achieving its intended purposes, and, on the basis of actual cost data from the performance of the program, the cost-effectiveness of the program.

(g) **EXPIRATION.**—The authority provided by this section to participate in the ATARES program shall expire five years after the date on which the Secretary of Defense first enters into a written arrangement or agreement under subsection (b). The Secretary shall publish notice of such date on a public website of the Department of Defense.

Publication.  
Web posting.

**SEC. 1277. PROHIBITION ON USE OF FUNDS TO ENTER INTO CONTRACTS OR AGREEMENTS WITH ROSOBORONEXPORT.**

(a) **PROHIBITION.**—None of the funds authorized to be appropriated by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, to make a grant to, or to provide a loan or loan guarantee to Rosoboronexport.

Determination.

(b) **NATIONAL SECURITY WAIVER AUTHORITY.**—The Secretary of Defense may waive the applicability of subsection (a) if the Secretary determines that such a waiver is in the national security interests of the United States.

**SEC. 1278. SENSE OF CONGRESS ON IRON DOME SHORT-RANGE ROCKET DEFENSE SYSTEM.**

Congress—

(1) reaffirms its commitment to the security of our ally and strategic partner, Israel;

(2) fully supports Israel's right to defend itself against acts of terrorism;

(3) sympathizes with the families of Israelis who have come under the indiscriminate rocket fire from Hamas-controlled Gaza;

(4) recognizes the exceptional success of the Iron Dome short-range rocket defense system in defending the population of Israel;

(5) desires to help ensure that Israel has the means to defend itself against terrorist attacks, including through the procurement of additional Iron Dome batteries and interceptors; and

(6) urges the Department of Defense and the Department of State to explore with their Israeli counterparts and alert Congress of any requirements the Israeli Defense Force may have for additional Iron Dome batteries, interceptors, or other equipment depleted during the recent conflict with Hamas-controlled Gaza.

**SEC. 1279. BILATERAL DEFENSE TRADE RELATIONSHIP WITH INDIA.**

(a) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in coordination with the Secretary of State, submit to the appropriate committees of Congress a report on the prospects for expanding defense trade between the United States and India within the context of their bilateral defense relationship.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) An assessment of the policies of the United States for enhancing cooperation and coordination between the Government of the United States and the Government of India on matters of shared security interests.

(B) A description of the policies of the United States for expanding defense trade with India.

(C) An assessment of the opportunities and challenges for expanding security ties between the United States and India, including those opportunities and challenges associated with defense trade relations.

(D) The findings and conclusions of the comprehensive policy review required by subsection (b).

(b) COMPREHENSIVE POLICY REVIEW.—The Secretary of Defense shall, in coordination with the Secretary of State, conduct a comprehensive policy review—

(1) to examine the feasibility of engaging in co-production and co-development defense projects with India; and

(2) to consider potential areas of cooperation to engage in co-production and co-development defense projects with India that are aligned with United States national security objectives.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

**SEC. 1280. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.**

(a) **TECHNICAL AMENDMENT.**—Section 604(a)(1) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469(a)(1)) is amended by inserting “(referred to in this section as the ‘Commission’)” before the period at the end.

(b) **DUTIES AND RESPONSIBILITIES.**—Section 604(c) of such Act is amended to read as follows:

“(c) **DUTIES AND RESPONSIBILITIES.**—The Commission shall appraise United States Government activities intended to understand, inform, and influence foreign publics. The activities described in this subsection shall be referred to in this section as ‘public diplomacy activities’.”

(c) **REPORTS.**—Section 604(d) of such Act is amended to read as follows:

“(d) **REPORTS.**—

“(1) **COMPREHENSIVE ANNUAL REPORT.**—

“(A) **IN GENERAL.**—Not less frequently than annually, the Commission shall submit a comprehensive report on public diplomacy and international broadcasting activities to Congress, the President, and the Secretary of State. This report shall include—

“(i) a detailed list of all public diplomacy activities funded by the United States Government;

“(ii) a description of—

“(I) the purpose, means, and geographic scope of each activity;

“(II) when each activity was started;

“(III) the amount of Federal funding expended on each activity;

“(IV) any significant outside sources of funding; and

“(V) the Federal department or agency to which the activity belongs;

“(iii) the international broadcasting activities under the direction of the Broadcasting Board of Governors;

“(iv) an assessment of potentially duplicative public diplomacy and international broadcasting activities; and

“(v) for any activities determined to be ineffective or results not demonstrated under subparagraph (B), recommendations on existing effective or moderately effective public diplomacy activities that could be augmented to carry out the objectives of the ineffective activities.

“(B) **EFFECTIVENESS ASSESSMENT.**—In evaluating the public diplomacy and international broadcasting activities described in subparagraph (A), the Commission shall conduct an assessment that considers the public diplomacy target impact, the achieved impact, and the cost of public diplomacy activities and international broadcasting. The

assessment shall include, if practicable, an appropriate metric such as ‘cost-per-audience’ or ‘cost-per-student’ for each activity. Upon the completion of the assessment, the Commission shall assign a rating of—

“(i) ‘effective’ for activities that—

“(I) set appropriate goals and achieve all or most of the desired results;

“(II) are well-managed; and

“(III) are cost efficient;

“(ii) ‘moderately effective’ for activities that—

“(I) set appropriate goals and achieve some desired results;

“(II) are generally well-managed; and

“(III) need to improve their cost efficiency, including reducing overhead;

“(iii) ‘ineffective’ for activities that—

“(I) lack appropriate goals or fail to achieve stated goals or desired results;

“(II) are not well-managed; or

“(III) are not cost efficient, such as through insufficient use of available resources to achieve stated goals or desired results, or have excessive overhead; and

“(iv) ‘results not demonstrated’ for activities that—

“(I) do not have acceptable performance public diplomacy metrics for measuring results; or

“(II) are unable or failed to collect data to determine if they are effective.

“(2) OTHER REPORTS.—

“(A) IN GENERAL.—The Commission shall submit other reports, including working papers, to Congress, the President, and the Secretary of State at least semi-annually on other activities and policies related to United States public diplomacy.

“(B) AVAILABILITY.—The Commission shall make the reports submitted pursuant to subparagraph (A) publicly available on the website of the Commission to develop a better understanding of, and support for, public diplomacy activities.

Public  
information.  
Web posting.

“(3) ACCESS TO INFORMATION.—The Secretary of State shall ensure that the Commission has access to all appropriate information to carry out its duties and responsibilities under this subsection.”.

(d) REAUTHORIZATION.—

(1) IN GENERAL.—Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6553) is amended by striking “October 1, 2010” and inserting “October 1, 2015”.

(2) RETROACTIVITY OF EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2010.

22 USC 6553  
note.

(e) FUNDING.—There is authorized to be appropriated such sums as may be necessary for the United States Advisory Commission on Public Diplomacy to carry out section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469), as amended by this section.

**SEC. 1281. SENSE OF CONGRESS ON SALE OF AIRCRAFT TO TAIWAN.**

It is the sense of Congress that—

(1) the Taiwan Relations Act (Public Law 96-8) codified the basis for commercial, cultural, and other relations between the people of the United States and the people of Taiwan;

(2) the Taiwan Relations Act states that “the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability”, and that “both the President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment on the needs of Taiwan, in accordance with procedures established by law”;

(3) the United States, in accordance with the Taiwan Relations Act, should continue to make available to Taiwan such defense articles and services as may be necessary for Taiwan to maintain a sufficient self-defense capability;

(4) notwithstanding the upgrade of Taiwan’s F-16 A/B aircraft, Taiwan will experience a growing shortfall in fighter aircraft, particularly as its F-5 aircraft are retired from service; and

(5) the President should take steps to address Taiwan’s shortfall in fighter aircraft, whether through the sale of F-16 C/D aircraft or other aircraft of similar capability, as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

22 USC 5951  
note.

**SEC. 1282. BRIEFINGS ON DIALOGUE BETWEEN THE UNITED STATES  
AND THE RUSSIAN FEDERATION ON NUCLEAR ARMS, MIS-  
SILE DEFENSE SYSTEMS, AND LONG-RANGE CONVEN-  
TIONAL STRIKE SYSTEMS.**

Deadline.  
President.

(a) **BRIEFINGS.**—Not later than 60 days after the date of the enactment of this Act, and not less than twice each year thereafter, the President, or the President’s designee, shall brief the Committee on Foreign Relations and the Committee on Armed Services of the Senate on the dialogue between the United States and the Russian Federation on issues related to limits or controls on nuclear arms, missile defense systems, or long-range conventional strike systems.

(b) **SENSE OF CONGRESS ON CERTAIN AGREEMENTS.**—It is the sense of Congress that any agreement between the United States and the Russian Federation related to nuclear arms, missile defense systems, or long-range conventional strike systems obligating the United States to reduce or limit the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to be inconsistent with or to interfere with the practices, precedents, or oversight of the House of Representatives.



**SEC. 1283. SENSE OF CONGRESS ON EFFORTS TO REMOVE OR APPREHEND JOSEPH KONY FROM THE BATTLEFIELD AND END THE ATROCITIES OF THE LORD’S RESISTANCE ARMY.**

Consistent with the Lord’s Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 (Public Law 111–172), it is the sense of the Congress that—

(1) the ongoing United States advise and assist operation to support the regional governments in Africa in their ongoing efforts to remove or apprehend Joseph Kony and his top commanders from the battlefield and end atrocities perpetuated by his Lord’s Resistance Army should continue as appropriate to achieve the goals of the operation;

(2) the Secretary of Defense should provide intelligence, surveillance, and reconnaissance assets, as authorized to be appropriated by other provisions of this Act, to support the ongoing efforts of United States Special Operations Forces to advise and assist regional partners as they conduct operations against the Lord’s Resistance Army in Central Africa;

(3) United States and regional African forces should increase their operational coordination on efforts to remove or apprehend Joseph Kony from the battlefield and end the atrocities of the Lord’s Resistance Army; and

(4) the regional governments should recommit themselves to the Regional Cooperation Initiative for the Elimination of the Lord’s Resistance Army authorized by the African Union.

**SEC. 1284. IMPOSITION OF SANCTIONS WITH RESPECT TO SUPPORT FOR THE REBEL GROUP KNOWN AS M23.**

**(a) BLOCKING OF ASSETS.—**

(1) **IN GENERAL.**—The Secretary of the Treasury shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or Executive Order 13413 (74 Fed. Reg. 64105; relating to blocking property of certain persons contributing to the conflict in the Democratic Republic of the Congo), block and prohibit all transactions in all property and interests in property of a person described in subsection (c) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

**(2) EXCEPTION.—**

(A) **IN GENERAL.**—The requirement to block and prohibit all transactions in all property and interests in property under paragraph (1) shall not include the authority to impose sanctions on the importation of goods.

(B) **GOOD DEFINED.**—In this paragraph, the term “good” has the meaning given that term in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)).

(b) **VISA BAN.**—The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who is a person described in subsection (c).

(c) **PERSONS DESCRIBED.**—A person described in this subsection is a person that the President determines provides, on or after the date of the enactment of this Act, significant financial, material, or technological support to M23.

President.  
Congo.  
50 USC 1701  
note.

President.  
Determination.

(d) **WAIVER.**—The President may waive the application of this section with respect to a person if the President determines and reports to the appropriate congressional committees that the waiver is in the national interest of the United States.

Determination.  
Reports.

(e) **TERMINATION OF SANCTIONS.**—Sanctions imposed under this section may terminate 15 days after the date on which the President determines and reports to the appropriate congressional committees that the person covered by such determination has terminated the provision of significant financial, material, and technological support to M23.

Determination.  
Reports.

(f) **TERMINATION OF SECTION.**—This section shall terminate on the date that is 15 days after the date on which the President determines and reports to the appropriate congressional committees that M23 is no longer a significant threat to peace and security in the Democratic Republic of the Congo.

(g) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Financial Services, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives.

(2) **M23.**—The term “M23” refers to the rebel group known as M23 operating in the Democratic Republic of the Congo that derives its name from the March 23, 2009, agreement between the Government of the Democratic Republic of the Congo and the National Congress for the Defense of the People (or any successor group).

(3) **UNITED STATES PERSON.**—The term “United States person” means—

(A) an individual who is a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States.

22 USC 2753  
note.

**SEC. 1285. PILOT PROGRAM ON REPAIR, OVERHAUL, AND REFURBISHMENT OF DEFENSE ARTICLES FOR SALE OR TRANSFER TO ELIGIBLE FOREIGN COUNTRIES AND ENTITIES.**

(a) **PILOT PROGRAM AUTHORIZED.**—The Secretary of Defense may carry out a pilot program to repair, overhaul, or refurbish in-stock defense articles in anticipation of the sale or transfer of such defense articles to eligible foreign countries or international organizations under law.

(b) **FUND FOR SUPPORT OF PROGRAM AUTHORIZED.**—The Secretary of Defense may establish and administer a fund to be known as the “Special Defense Repair Fund” (in this section referred to as the “Fund”) to support the program authorized by subsection (a).

(c) **CREDITS TO FUND.**—

(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), the following shall be credited to the Fund:

(A) Such amounts, not to exceed \$50,000,000, from amounts authorized to be appropriated for overseas contingency operations for fiscal year 2013 as the Secretary of

Defense considers appropriate, and reprogrammed under a reprogramming authority provided by another provision of this Act or by other law.

(B) Notwithstanding section 114(c) of title 10, United States Code, any collection from the sale or transfer of defense articles from Department of Defense stocks repaired, overhauled, or refurbished with amounts from the Fund that are not intended to be replaced which sale or transfer is made pursuant to section 21(a)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(a)(1)(A)), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or another provision of law.

(C) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), any cash payment from the sale or transfer of defense articles from Department of Defense stocks repaired, overhauled, or refurbished with amounts from the Fund that are intended to be replaced.

(2) LIMITATION ON AMOUNTS CREDITABLE FROM SALE OR TRANSFER OF ARTICLES.—

(A) CREDITS IN CONNECTION WITH ARTICLES NOT TO BE REPLACED.—The amount credited to the Fund under paragraph (1)(B) in connection with a collection from the sale or transfer of defense articles may not exceed the cost incurred by the Department of Defense in repairing, overhauling, or refurbishing such defense articles under the program authorized by subsection (a).

(B) CREDITS IN CONNECTION WITH ARTICLES TO BE REPLACED.—The amount credited to the Fund under paragraph (1)(C) in connection with a sale or transfer of defense articles may not exceed the amounts from the Fund used to repair, overhaul, or refurbish such defense articles.

(3) LIMITATION ON SIZE OF FUND.—The total amount in the Fund at any time may not exceed \$50,000,000.

(4) TREATMENT OF AMOUNTS CREDITED.—Amounts credited to the Fund under this subsection shall be merged with amounts in the Fund, and shall remain available until expended.

(5) AUTHORIZATION TO PURCHASE SERVICES FROM DOD WORKING CAPITAL FUND ACTIVITIES.—The Fund shall be considered an authorized customer of Department of Defense Working Capital Fund activities. Prices of goods and services sold by Working Capital Fund activities to the Fund shall reflect Foreign Military Sales pricing guidelines, as promulgated by the Department of Defense Financial Management Regulation, and other applicable guidelines.

(d) NONAVAILABILITY OF AMOUNTS IN FUND FOR STORAGE, MAINTENANCE, AND RELATED COSTS.—Following the repair, overhaul, or refurbishment of defense articles under the program authorized by subsection (a), amounts in the Fund may not be used to pay costs of storage and maintenance of such defense articles or any other costs associated with the preservation or preparation for sale or transfer of such defense articles.

(e) SALES OR TRANSFERS OF DEFENSE ARTICLES.—

(1) IN GENERAL.—Any sale or transfer of defense articles repaired, overhauled, or refurbished under the program authorized by subsection (a) shall be in accordance with—

(A) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(B) the Foreign Assistance Act of 1961; or

(C) another provision of law authorizing such sale or transfer.

(2) SECRETARY OF STATE CONCURRENCE REQUIRED FOR CERTAIN SALES OR TRANSFERS TO FOREIGN COUNTRIES.—If the sale or transfer of defense articles occurs in accordance with a provision of law referred to in paragraph (1)(C) that does not otherwise require the concurrence of the Secretary of State for the sale or transfer, the sale or transfer may be made only with the concurrence of the Secretary of State.

(f) TRANSFERS OF AMOUNTS.—

(1) TRANSFER TO OTHER DEPARTMENT OF DEFENSE ACCOUNTS.—Amounts in the Fund may be transferred to any Department of Defense account for use in carrying out the program authorized by subsection (a). Any amount so transferred shall be merged with amounts in the account to which transferred, and shall be available for the same purposes and the same time period as amounts in the account to which transferred.

(2) TRANSFER FROM OTHER DEPARTMENT OF DEFENSE ACCOUNTS.—Upon a determination by the Secretary of Defense with respect to an amount transferred under paragraph (1) that all or part of such transfer is not necessary for the purposes transferred, such amount may be transferred back to the Fund. Any amount so transferred shall be merged with amounts in the Fund, and shall remain available until expended.

(g) CERTAIN EXCESS PROCEEDS TO BE CREDITED TO SPECIAL DEFENSE ACQUISITION FUND.—Any collection from the sale or transfer of defense articles that are not intended to be replaced in excess of the amount creditable to the Fund under subsection (c)(2)(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.).

(h) MATERIEL EFFICIENCIES AND DUPLICATION.—In administering the program authorized by subsection (a), the Secretary of Defense shall ensure to the maximum extent possible that purchases made utilizing the Fund utilize existing Defense Logistics Agency contracts. The Secretary shall also ensure that none of the activities carried out under the program authorized by subsection (a) are duplicative in nature to those performed by other military departments or Defense Agencies.

(i) CONDUCT BY PUBLIC OR PRIVATE SECTOR FACILITIES OR ENTITIES.—The repair, overhaul, and refurbishment of defense articles under the program authorized by subsection (a) may be conducted by a facility or entity in the public sector or the private sector, consistent with the requirements of chapter 146 of title 10, United States Code.

(j) REPORTS.—

(1) ANNUAL REPORT.—Not later than 45 days after the end of each fiscal year through the date of expiration specified in subsection (l), the Secretary of Defense shall submit to the appropriate congressional committees a report on the authorities under this section during such fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

(A) The types and quantities of defense articles repaired, overhauled, or refurbished under the program authorized by subsection (a).

(B) The value of the repair, overhaul, or refurbishment performed under the program.

(C) The amount of operation and maintenance funds credited to the Fund under subsection (c)(1)(A).

(D) The amount of any collections from the sale or transfer of defense articles repaired, overhauled, or refurbished under the program that was credited to the Fund under subsection (c)(1)(B).

(E) The amount of any cash payments from the sale or transfer of defense articles repaired, overhauled, or refurbished under the program that was credited to the Fund under subsection (c)(1)(C).

(2) ASSESSMENT REPORT.—Not later than February 1, 2015, the Secretary of Defense shall submit to the appropriate congressional committees a report on the operation of the authorities in this section. The report shall include an assessment of the effectiveness of the authorities in meeting the objectives of the program authorized by subsection (a). At a minimum, the assessment shall address the following:

(A) Cost efficiencies generated by utilization of the Fund.

(B) Time efficiencies gained in the delivery of defense articles under the program.

(C) An explanation of all amounts transferred to and from the Fund pursuant to subsection (f).

(D) A detailed account of excess proceeds credited to the Special Defense Acquisition Fund pursuant to section (g).

(E) A list of defense articles, by quantity and type, repaired under the program and an identification of the foreign countries or international organizations to which the repaired defense articles were sold or transferred.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means—

(A) the congressional defense committees; and

(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(k) DEFENSE ARTICLE DEFINED.—In this section, the term “defense article” has the meaning given that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)).

(l) EXPIRATION OF AUTHORITY.—The authority to carry out the program authorized by subsection (a), and to use amounts in the Fund in support of the program, shall expire on September 30, 2015.

#### SEC. 1286. SENSE OF CONGRESS ON THE SITUATION IN THE SENKAKU ISLANDS.

It is the sense of Congress that—

(1) the East China Sea is a vital part of the maritime commons of Asia, including critical sea lanes of communication and commerce that benefit all nations of the Asia-Pacific region;

(2) the peaceful settlement of territorial and jurisdictional disputes in the East China Sea requires the exercise of self-restraint by all parties in the conduct of activities that would complicate or escalate disputes and destabilize the region, and differences should be handled in a constructive manner consistent with universally recognized principles of customary international law;

(3) while the United States takes no position on the ultimate sovereignty of the Senkaku Islands, the United States acknowledges the administration of Japan over the Senkaku Islands;

(4) the unilateral action of a third party will not affect the United States' acknowledgment of the administration of Japan over the Senkaku Islands;

(5) the United States has national interests in freedom of navigation, the maintenance of peace and stability, respect for international law, and unimpeded lawful commerce;

(6) the United States supports a collaborative diplomatic process by claimants to resolve territorial disputes without coercion, and opposes efforts at coercion, the threat of use of force, or use of force by any claimant in seeking to resolve sovereignty and territorial issues in the East China Sea; and

(7) the United States reaffirms its commitment to the Government of Japan under Article V of the Treaty of Mutual Cooperation and Security that “[e]ach Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes”.

## Subtitle G—Reports

### SEC. 1291. REVIEW AND REPORTS ON DEPARTMENT OF DEFENSE EFFORTS TO BUILD THE CAPACITY OF AND PARTNER WITH FOREIGN SECURITY FORCES.

#### (a) REVIEW.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Defense Policy Board shall conduct a review of the efforts of the Department of Defense to build the capacity of, or partner with, foreign security forces in support of United States national defense and security strategies.

(2) ELEMENTS.—The review required by this subsection shall include the following:

(A) An examination of the ways in which the efforts of the Department to build the capacity of, or partner with, foreign security forces directly support implementation of current national defense and security strategies.

(B) An assessment of the range of effects that efforts of the Department to build the capacity of, or partner with, foreign security forces are designed to achieve in support of current national defense and security strategies.

(C) An assessment of the criteria used for prioritizing such efforts in support of national defense and security strategies.

(D) An identification of the authorities the Department currently uses to implement such efforts, together with an assessment of the adequacy of such authorities.

(E) An assessment of the capabilities and resources required by the Department to implement such efforts.

(F) An assessment of the most effective distribution of the roles and responsibilities for such efforts within the Department, together with an assessment whether the Department military and civilian workforce is appropriately sized and shaped to meet the requirements of such efforts.

(G) An evaluation of current measures of the Department for assessing activities of the Department designed to build the capacity of, or partner with, foreign security forces, including an assessment whether such measures address the extent to which such activities directly support the priorities of national defense and security strategies.

(H) An identification of recommendations for clarifying or improving the guidance and assessment measures of the Department relating to its efforts to build the capacity of, or partner with, foreign security forces in support of national defense and security strategies.

(3) REPORT.—Not later than 90 days after the completion of the review required by this subsection, the Secretary of Defense shall submit to the congressional defense committees a report containing the result of the review.

(b) STRATEGIC GUIDANCE ON DEPARTMENT OF DEFENSE EFFORTS TO BUILD PARTNER CAPACITY AND OTHER PARTNERSHIP INITIATIVES.—Not later than 120 days after the completion of the review required by subsection (a), the Secretary of Defense shall, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, submit to the congressional defense committees a report setting forth the following:

(1) An assessment, taking into account the recommendations of the Defense Policy Board in the review required by subsection (a), of the efforts of the Department of Defense to build the capacity of, and partner with, foreign military forces in support of national defense and security strategies.

(2) Strategic guidance for the Department for its efforts to build the capacity of, and partner with, foreign military forces in support of national defense and security strategies, which guidance shall address—

(A) the ways such efforts directly support the goals and objectives of national defense and security strategies;

(B) the criteria to be used for prioritizing activities to implement such efforts in support of national defense and security strategies;

(C) the measures to be used to assess the effects achieved by such efforts and the extent to which such effects support the objectives of national defense and security strategies;

(D) the appropriate roles and responsibilities of the Armed Forces, the combatant commands, the Defense Agencies, and other components of the Department in conducting such efforts; and

(E) the relationship of Department workforce planning with the requirements for such efforts.

**SEC. 1292. ADDITIONAL REPORT ON MILITARY AND SECURITY DEVELOPMENTS INVOLVING THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA.**

Section 1236(a) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1641) is amended by inserting after “November 1, 2012,” the following: “and November 1, 2013,”.

**SEC. 1293. REPORT ON HOST NATION SUPPORT FOR OVERSEAS UNITED STATES MILITARY INSTALLATIONS AND UNITED STATES ARMED FORCES DEPLOYED IN COUNTRY.**

**(a) REPORT REQUIRED.—**

(1) **IN GENERAL.**—Not later than March 1 of each year from 2013 through 2015, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on the direct, indirect, and burden-sharing contributions made by host nations to support overseas United States military installations and United States Armed Forces deployed in country.

(2) **ELEMENTS.**—The report required by paragraph (1) shall include at least the following:

(A) A description of all costs associated with stationing United States Armed Forces in the host nation, including military personnel costs, operation and maintenance costs, and military construction costs.

(B) A description of direct, indirect, and burden-sharing contributions made by the host nation, including the following:

(i) Contributions accepted for the following costs:

(I) Compensation for local national employees of the Department of Defense.

(II) Military construction projects of the Department of Defense, including design, procurement, construction management costs, rents on privately-owned land, facilities, labor, utilities, and vicinity improvements.

(III) Other costs such as loan guarantees on public-private venture housing and payment-in-kind for facilities returned to the host nation.

(ii) Contributions accepted for any other purpose.

(C) The methodology and accounting procedures used to measure and track direct, indirect, and burden-sharing contributions made by host nations.

(3) **DESCRIPTION OF CONTRIBUTIONS IN UNITED STATES DOLLARS.**—The report required by paragraph (1) shall describe the direct, indirect, and burden-sharing contributions made by host nations in United States dollars and shall specify the exchange rates used to determine the United States dollar value of such host nation contributions.

(b) **FORM.**—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex if necessary.

(c) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the congressional defense committees; and



(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(2) **HOST NATION.**—The term “host nation” means any country that hosts a permanent or temporary United States military installation or a permanent or rotational deployment of United States Armed Forces located outside of the borders of the United States.

(3) **CONTRIBUTIONS.**—The term “contributions” means cash and in-kind contributions made by a host nation that replace expenditures that would otherwise be made by the Secretary of Defense using funds appropriated or otherwise made available in defense appropriations Acts.

**SEC. 1294. REPORT ON MILITARY ACTIVITIES TO DENY OR SIGNIFICANTLY DEGRADE THE USE OF AIR POWER AGAINST CIVILIAN AND OPPOSITION GROUPS IN SYRIA.**

(a) **REPORT REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Chairman of the Joint Chiefs of Staff, submit to the congressional defense committees a report identifying the limited military activities that could deny or significantly degrade the ability of President Bashar al-Assad of Syria, and forces loyal to him, to use air power against civilians and opposition groups in Syria.

(b) **NATURE OF MILITARY ACTIVITIES.**—

(1) **PRINCIPAL PURPOSE.**—The principal purpose of the military activities identified for purposes of the report required by subsection (a) shall be to advance the goals of President Obama of stopping the killing of civilians in Syria and creating conditions for a transition to a democratic, pluralistic political system in Syria.

(2) **ADDITIONAL GOALS.**—The military activities identified for purposes of the report shall also meet the goals as follows:

(A) That the United States Armed Forces conduct such activities with foreign allies or partners.

(B) That United States ground troops not be deployed onto Syrian territory.

(C) That the risk to civilians on the ground in Syria be limited.

(D) That the risks to United States military personnel be limited.

(E) That the financial costs to the United States be limited.

(c) **ELEMENTS ON POTENTIAL MILITARY ACTIVITIES.**—The report required by subsection (a) shall include a comprehensive description, evaluation, and assessment of the potential effectiveness of the following military activities, as required by subsection (a):

(1) The deployment of air defense systems, such as Patriot missile batteries, to neighboring countries for the purpose of denying or significantly degrading the operational capability of Syria aircraft.

(2) The establishment of one or more no-fly zones over key population centers in Syria.

(3) Limited air strikes to destroy or significantly degrade Syria aircraft.

(4) Such other military activities as the Secretary considers appropriate to achieve the goals stated in subsection (b).

(d) **ELEMENTS IN DESCRIPTION OF POTENTIAL MILITARY ACTIVITIES.**—For each military activity that the Secretary identifies in subsection (c), the comprehensive description of such activities under that subsection shall include, but not be limited to, the type and the number of United States military personnel and assets to be involved in such activities, the anticipated duration of such activities, and the anticipated cost of such activities. The report shall also identify what elements would be required to maximize the effectiveness of such military activities.

(e) **NO AUTHORIZATION FOR USE OF MILITARY FORCE.**—Nothing in this section shall be construed as a declaration of war or an authorization for the use of force.

(f) **FORM.**—The report required by subsection (a) shall be submitted in classified form.

**SEC. 1295. REPORT ON MILITARY ASSISTANCE PROVIDED BY RUSSIA TO SYRIA.**

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, shall provide to the appropriate congressional committees a report on military assistance provided by the Russian Federation to Syria.

(b) **MATTERS TO BE INCLUDED.**—The report required by subsection (a) shall include the following:

(1) An analysis of whether Russia is providing direct or indirect military support for the Government of Syria's actions to forcefully act against groups opposing the Government of Syria, including a description of the types of support.

(2) A description and analysis of Russia's military interests in Syria.

(3) A description and analysis of Russia's military presence in Syria.

(c) **FORM.**—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

## **TITLE XIII—COOPERATIVE THREAT REDUCTION**

Sec. 1301. Specification of cooperative threat reduction programs and funds.

Sec. 1302. Funding allocations.

Sec. 1303. Report on Cooperative Threat Reduction Programs in Russia.

**SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) **SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.**—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs

specified in section 1501 of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2362 note).

(b) **FISCAL YEAR 2013 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.**—As used in this title, the term “fiscal year 2013 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 and made available by the funding table in section 4301 for Cooperative Threat Reduction programs.

(c) **AVAILABILITY OF FUNDS.**—Funds appropriated pursuant to the authorization of appropriations in section 301 and made available by the funding table in section 4301 for Cooperative Threat Reduction programs shall be available for obligation for fiscal years 2013, 2014, and 2015.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) **FUNDING FOR SPECIFIC PURPOSES.**—Of the \$519,111,000 authorized to be appropriated to the Department of Defense for fiscal year 2013 in section 301 and made available by the funding table in section 4301 for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

- (1) For strategic offensive arms elimination, \$68,271,000.
- (2) For chemical weapons destruction, \$14,630,000.
- (3) For global nuclear security, \$99,789,000.
- (4) For cooperative biological engagement, \$276,399,000.
- (5) For proliferation prevention, \$32,402,000.
- (6) For threat reduction engagement, \$2,375,000.

(7) For activities designated as Other Assessments/Administrative Costs, \$25,245,000.

(b) **REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.**—No fiscal year 2013 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (7) of subsection (a) until 15 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2013 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) **LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2013 for a purpose listed in paragraphs (1) through (7) of subsection (a) in excess of the specific amount authorized for that purpose.

(2) **NOTICE-AND-WAIT REQUIRED.**—An obligation of funds for a purpose stated in paragraphs (1) through (7) of subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification. Time period.

**SEC. 1303. REPORT ON COOPERATIVE THREAT REDUCTION PROGRAMS IN RUSSIA.**

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, the Secretary of Energy, and the Director of National Intelligence, shall submit to the appropriate congressional committees a report on Cooperative Threat Reduction Programs in the Russian Federation.

(b) **MATTERS INCLUDED.**—The report under subsection (a) shall include the following:

(1) Identification of nonproliferation programs in Russia that—

(A) have accomplished their long-term objectives in reducing the threat of proliferation of weapons of mass destruction; and

(B) will be phased out during the five-year period beginning on the date of the enactment of this Act.

(2) Identification of—

(A) nonproliferation programs in Russia that—

(i) reduce the threat of the proliferation of weapons of mass destruction; and

(ii) will not be phased out during such five-year period; and

(B) the metrics to evaluate the success of such programs.

(3) Identification of—

(A) the nature of the threat of the proliferation of weapons of mass destruction that underpin the programs described in paragraphs (1) and (2); and

(B) the current and foreseeable threats that are addressed by such programs.

(4) The impact on nonproliferation programs in Russia and the risks and benefits to national security if the current agreement regarding such programs (commonly referred to as the “umbrella agreement”) is amended or not renewed.

(5) What steps, if any, will be taken to continue or terminate ongoing nonproliferation programs if the umbrella agreement is not renewed.

(c) **FORM.**—The report under subsection (a) shall be in unclassified form, but may contain a classified annex.

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

**TITLE XIV—OTHER AUTHORIZATIONS**

## Subtitle A—Military Programs

Sec. 1401. Working capital funds.

Sec. 1402. National Defense Sealift Fund.

Sec. 1403. Chemical Agents and Munitions Destruction, Defense.

Sec. 1404. Drug Interdiction and Counter-Drug Activities, Defense-wide.

Sec. 1405. Defense Inspector General.

Sec. 1406. Defense Health Program.

## Subtitle B—National Defense Stockpile

- Sec. 1411. Authorized uses of National Defense Stockpile funds.
- Sec. 1412. Additional security of strategic materials supply chains.
- Sec. 1413. Release of materials needed for national defense purposes from the Strategic and Critical Materials Stockpile.

## Subtitle C—Chemical Demilitarization Matters

- Sec. 1421. Supplemental chemical agent and munitions destruction technologies at Pueblo Chemical Depot, Colorado, and Blue Grass Army Depot, Kentucky.

## Subtitle D—Other Matters

- Sec. 1431. Reduction of unobligated balances within the Pentagon Reservation Maintenance Revolving Fund.
- Sec. 1432. Authority for transfer of funds to Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund for Captain James A. Lovell Health Care Center, Illinois.
- Sec. 1433. Authorization of appropriations for Armed Forces Retirement Home.
- Sec. 1434. Cemeterial expenses.
- Sec. 1435. Additional Weapons of Mass Destruction Civil Support Teams.

## Subtitle A—Military Programs

**SEC. 1401. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds, as specified in the funding table in section 4501.

**SEC. 1402. NATIONAL DEFENSE SEALIFT FUND.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for the National Defense Sealift Fund, as specified in the funding table in section 4501.

**SEC. 1403. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2013 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, as specified in the funding table in section 4501.

(b) **USE.**—Amounts authorized to be appropriated under subsection (a) are authorized for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

**SEC. 1404. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2013 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, as specified in the funding table in section 4501.

**SEC. 1405. DEFENSE INSPECTOR GENERAL.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2013 for expenses, not otherwise

provided for, for the Office of the Inspector General of the Department of Defense, as specified in the funding table in section 4501.

**SEC. 1406. DEFENSE HEALTH PROGRAM.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for the Defense Health Program, as specified in the funding table in section 4501, for use of the Armed Forces and other activities and agencies of the Department of Defense in providing for the health of eligible beneficiaries.

## **Subtitle B—National Defense Stockpile**

**SEC. 1411. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) **OBLIGATION OF STOCKPILE FUNDS.**—During fiscal year 2013, the National Defense Stockpile Manager may obligate up to \$44,899,227 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS.**—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **LIMITATIONS.**—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 1412. ADDITIONAL SECURITY OF STRATEGIC MATERIALS SUPPLY CHAINS.**

Section 2(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a(b)) is amended by inserting “or a single point of failure” after “foreign sources”.

**SEC. 1413. RELEASE OF MATERIALS NEEDED FOR NATIONAL DEFENSE PURPOSES FROM THE STRATEGIC AND CRITICAL MATERIALS STOCKPILE.**

(a) **AUTHORITY FOR PRESIDENT TO DELEGATE SPECIAL DISPOSAL AUTHORITY OF PRESIDENT FOR RELEASE FOR NATIONAL DEFENSE PURPOSES.**—Section 7(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f(a)) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(3) on the order of the Under Secretary of Defense for Acquisition, Technology, and Logistics, if the President has designated the Under Secretary to have authority to issue release orders under this subsection and, in the case of any such order, if the Under Secretary determines that the release

Time period.

of such materials is required for use, manufacture, or production for purposes of national defense.”.

(b) EXCLUSION FROM DELEGATION LIMITATION.—Section 16 of such Act (50 U.S.C. 98h-7) is amended by striking “sections 7 and 13” each place it appears and inserting “sections 7(a)(1) and 13”.

## **Subtitle C—Chemical Demilitarization Matters**

### **SEC. 1421. SUPPLEMENTAL CHEMICAL AGENT AND MUNITIONS DESTRUCTION TECHNOLOGIES AT PUEBLO CHEMICAL DEPOT, COLORADO, AND BLUE GRASS ARMY DEPOT, KEN- TUCKY.**

(a) SUPPLEMENTAL DESTRUCTION TECHNOLOGIES.—Section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) is amended—

(1) in subsection (i)(2), by adding at the end the following new subparagraph:

“(E) A description of any supplemental chemical agent and munitions destruction technologies used at Pueblo Chemical Depot, Colorado, and Blue Grass Army Depot, Kentucky, during the period covered by the report, including explosive destruction technologies and any technologies developed for the treatment and disposal of energetic or agent hydrolystates.”;

(2) in subsection (j)(2), by adding at the end the following new subparagraph:

“(E) A description and justification for the use of any supplemental chemical agent and munitions destruction technologies used at Pueblo Chemical Depot, Colorado, and Blue Grass Army Depot, Kentucky, during the period covered by the report, including explosive destruction technologies and any technologies developed for the treatment and disposal of energetic or agent hydrolysates. Such description and justification shall outline—

“(i) the need for the use of supplemental destruction technologies and technologies developed for the treatment and disposal of energetic or agent hydrolystates;

“(ii) site-by-site descriptions of the problematic aspects of the stockpile requiring the use of supplemental technologies;

“(iii) the type of supplemental destruction technologies used at each site; and

“(iv) any planned future use of other supplemental destruction technologies for each site.”;

(3) by redesignating subsection (o) as subsection (p); and

(4) by inserting after subsection (n) the following new subsection (o):

“(o) SUPPLEMENTAL DESTRUCTION TECHNOLOGIES.—In determining the technologies to supplement the neutralization destruction of the stockpile of lethal chemical agents and munitions at Pueblo Chemical Depot, Colorado, and Blue Grass Army Depot, Kentucky, the Secretary of Defense may consider the following:

“(1) Explosive Destruction Technologies.

“(2) Any technologies developed for the treatment and disposal of energetic or agent hydrolysates, if problems with the current on-site treatment of hydrolysates are encountered.”.

(b) **REPEAL OF SUPERSEDED PROVISION.**—Section 151 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1645A-30) is repealed.

## Subtitle D—Other Matters

### **SEC. 1431. REDUCTION OF UNOBLIGATED BALANCES WITHIN THE PENTAGON RESERVATION MAINTENANCE REVOLVING FUND.**

Deadline.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall transfer \$5,000,000 from the unobligated balances of the Pentagon Reservation Maintenance Revolving Fund established under section 2674(e) of title 10, United States Code, to the Miscellaneous Receipts Fund of the United States Treasury.

### **SEC. 1432. AUTHORITY FOR TRANSFER OF FUNDS TO JOINT DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITY DEMONSTRATION FUND FOR CAPTAIN JAMES A. LOVELL HEALTH CARE CENTER, ILLINOIS.**

(a) **AUTHORITY FOR TRANSFER OF FUNDS.**—Of the funds authorized to be appropriated for section 1406 and available for the Defense Health Program for operation and maintenance, \$139,204,000 may be transferred by the Secretary of Defense to the Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund established by subsection (a)(1) of section 1704 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2571). For purposes of subsection (a)(2) of such section 1704, any funds so transferred shall be treated as amounts authorized and appropriated specifically for the purpose of such a transfer.

(b) **USE OF TRANSFERRED FUNDS.**—For the purposes of subsection (b) of such section 1704, facility operations for which funds transferred under subsection (a) may be used are operations of the Captain James A. Lovell Federal Health Care Center, consisting of the North Chicago Veterans Affairs Medical Center, the Navy Ambulatory Care Center, and supporting facilities designated as a combined Federal medical facility under an operational agreement covered by section 706 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4500).

### **SEC. 1433. AUTHORIZATION OF APPROPRIATIONS FOR ARMED FORCES RETIREMENT HOME.**

There is hereby authorized to be appropriated for fiscal year 2013 from the Armed Forces Retirement Home Trust Fund the sum of \$67,590,000 for the operation of the Armed Forces Retirement Home.

### **SEC. 1434. CEMETERIAL EXPENSES.**

Funds are hereby authorized to be appropriated for the Department of the Army for fiscal year 2013 for cemeterial expenses, not otherwise provided for, in the amount of \$173,800,000.



**SEC. 1435. ADDITIONAL WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS.**

(a) IN GENERAL.—Section 1403 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2676; 10 U.S.C. 12310 note) is amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (a) the following new subsections (b), (c), and (d):

“(b) ESTABLISHMENT OF FURTHER ADDITIONAL TEAMS.—The Secretary of Defense is authorized to have established two additional teams designated as Weapons of Mass Destruction Civil Support Teams, beyond the 55 teams required in subsection (a), if—

“(1) the Secretary of Defense has made the certification provided for in section 12310(c)(5) of title 10, United States Code, with respect to each of such additional teams before December 31, 2011; and

“(2) the establishment of such additional teams does not require an increase in authorized personnel levels above the numbers authorized as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013.

“(c) LIMITATION OF ESTABLISHMENT OF FURTHER TEAMS.—No Weapons of Mass Destruction Civil Support Team may be established beyond the number authorized by subsections (a) and (b) unless—

“(1) the Secretary submits to Congress a request for authority to establish such team, including a detailed justification for its establishment; and

“(2) the establishment of such team is specifically authorized by a law enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013.

“(d) NOTIFICATION OF DISESTABLISHMENT OF TEAMS.—No Weapons of Mass Destruction Civil Support Team established pursuant to this section may be disestablished unless, by not later than 90 days before the date on which such team is disestablished, the Secretary submits to the congressional defense committees notice of the proposed disestablishment of the team and the date on which the disestablishment is proposed to take place.”

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the Weapons of Mass Destruction Civil Support Teams. The report shall include the following:

(1) A detailed description of risk management criteria and considerations to be used in determining the optimal number and location of Weapons of Mass Destruction Civil Support Teams.

(2) A description of the operational and training activities conducted by the Weapons of Mass Destruction Civil Support Teams during each of fiscal years 2010, 2011, and 2012, and of such activities planned for fiscal year 2013.

(3) An assessment of the optimal number and location of Weapons of Mass Destruction Civil Support Teams in light of the information under paragraphs (1) and (2).

(4) A comparative analysis of the cost of establishing Weapons of Mass Destruction Civil Support Teams in the reserve components of the Armed Forces (other than the

Certification.  
Deadline.

Request.

Deadline.

National Guard) with the cost of establishing Weapons of Mass Destruction Civil Support Teams in the National Guard.

(5) A description of the portion of the costs of Weapons of Mass Destruction Civil Support Teams that is currently borne by the States.

(6) Any other matter that the Secretary determines is appropriate.

## **TITLE XV—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OVERSEAS CONTINGENCY OPERATIONS**

### **Subtitle A—Authorization of Additional Appropriations**

- Sec. 1501. Purpose.
- Sec. 1502. Procurement.
- Sec. 1503. Research, development, test, and evaluation.
- Sec. 1504. Operation and maintenance.
- Sec. 1505. Military personnel.
- Sec. 1506. Working capital funds.
- Sec. 1507. Defense Health Program.
- Sec. 1508. Drug Interdiction and Counter-Drug Activities, Defense-wide.
- Sec. 1509. Defense Inspector General.

### **Subtitle B—Financial Matters**

- Sec. 1521. Treatment as additional authorizations.
- Sec. 1522. Special transfer authority.

### **Subtitle C—Limitations and Other Matters**

- Sec. 1531. Afghanistan Security Forces Fund.
- Sec. 1532. Joint Improvised Explosive Device Defeat Fund.
- Sec. 1533. One-year extension of project authority and related requirements of Task Force for Business and Stability Operations in Afghanistan.
- Sec. 1534. Plan for transition in funding of United States Special Operations Command from supplemental funding for overseas contingency operations to recurring funding under the future-years defense program.
- Sec. 1535. Assessment of counter-improvised explosive device training and intelligence activities of the Joint Improvised Explosive Device Defeat Organization and national and military intelligence Organizations.

## **Subtitle A—Authorization of Additional Appropriations**

### **SEC. 1501. PURPOSE.**

The purpose of this subtitle is to authorize appropriations for the Department of Defense for fiscal year 2013 to provide additional funds for overseas contingency operations being carried out by the Armed Forces.

### **SEC. 1502. PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for procurement accounts for the Army, the Navy and the Marine Corps, the Air Force, and Defense-wide activities, as specified in the funding table in section 4102.

### **SEC. 1503. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for the use of the Department of Defense for research, development, test, and evaluation, as specified in the funding table in section 4202.

**SEC. 1504. OPERATION AND MAINTENANCE.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, as specified in the funding table in section 4302.

**SEC. 1505. MILITARY PERSONNEL.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for military personnel, as specified in the funding table in section 4402.

**SEC. 1506. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds, as specified in the funding table in section 4502.

**SEC. 1507. DEFENSE HEALTH PROGRAM.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2013 for expenses, not otherwise provided for, for the Defense Health Program, as specified in the funding table in section 4502.

**SEC. 1508. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2013 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, as specified in the funding table in section 4502.

**SEC. 1509. DEFENSE INSPECTOR GENERAL.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2013 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, as specified in the funding table in section 4502.

## **Subtitle B—Financial Matters**

**SEC. 1521. TREATMENT AS ADDITIONAL AUTHORIZATIONS.**

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

**SEC. 1522. SPECIAL TRANSFER AUTHORITY.**

(a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.**—

(1) **AUTHORITY.**—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2013 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) **LIMITATION.**—The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed \$3,000,000,000.

(b) **TERMS AND CONDITIONS.**—Transfers under this section shall be subject to the same terms and conditions as transfers under section 1001.

(c) **ADDITIONAL AUTHORITY.**—The transfer authority provided by this section is in addition to the transfer authority provided under section 1001.

## Subtitle C—Limitations and Other Matters

### SEC. 1531. AFGHANISTAN SECURITY FORCES FUND.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) it is the responsibility of the Commander, International Security Assistance Force/Commander, United States Forces—Afghanistan to ensure the security of members of the Armed Forces deployed to Afghanistan and to mitigate internal threats to such forces to the greatest extent possible, while continuing to meet the objectives of the International Security Assistance Force mission in Afghanistan, including the training and equipping of the Afghan National Security Forces so that they may provide for their own security;

(2) the Afghan Public Protection Force must meet and maintain key standards to provide force protection for members of the Armed Forces; and

(3) if the Secretary of Defense determines that the Afghan Public Protection Force is not meeting such standards, the Secretary should take all appropriate actions to provide force protection for members of the Armed Forces, including, if necessary, having the Armed Forces provide for their own force protection.

(b) **CONTINUATION OF EXISTING LIMITATIONS ON USE OF FUNDS IN FUND.**—Funds available to the Department of Defense for the Afghanistan Security Forces Fund for fiscal year 2013 shall be subject to the conditions contained in subsections (b) through (g) of section 1513 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 428), as amended by section 1531(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4424).

(c) **AFGHAN PUBLIC PROTECTION FORCE.**—

(1) **SEMI-ANNUAL CERTIFICATIONS.**—Not later than 90 days after the date of the enactment of this Act, and semiannually thereafter through December 31, 2014, the Secretary of Defense shall certify in writing to the congressional defense committees the elements specified in paragraph (3).

(2) **REPORT FOLLOWING INABILITY TO CERTIFY ANY ELEMENT.**—If the Secretary determines that an element specified in paragraph (3) cannot be certified in a report required by paragraph (1), the Secretary shall submit to the congressional defense committees a report setting forth the following:

(A) An explanation why such element cannot be certified.

(B) A description of the actions, if any, that are being taken to mitigate the risk associated with such element.

Deadline.

(C) A description of the specific actions being taken to achieve the certification of such element, to the extent practicable.

(3) CERTIFICATION ELEMENTS.—The elements of each certification specified in this paragraph are the following:

(A) That each agreement between the United States and the Government of Afghanistan, or any contract between the Department of Defense and a contractor that subcontracts to the Afghan Public Protection Force, contains—

(i) uniform standards that ensure a consistent level of security;

(ii) standard procedures and institutional mechanisms for dispute resolution;

(iii) requirements for the Afghan Public Protection Force to adhere to the Afghan Public Protection Force Code of Conduct and applicable international standards, such as the Montreux Document, and the International Code of Conduct for private security service providers; and

(iv) provisions for the United States, or the contractor, to take actions to address the failure of the Afghan Public Protection Force to perform in a manner consistent with the Afghan Public Protection Force Code of Conduct and applicable international standards.

(B) That all Afghan Public Protection Force recruits and personnel are vetted under procedures consistent with the vetting standards of the United States for the Afghan National Security Forces as of the date of the enactment of this Act.

(C) That all Afghan Public Protection Force recruits and personnel are biometrically screened in an independent fashion by the United States or contractors.

(D) In the case of contracts to provide force protection at installations in Afghanistan where the Armed Forces are garrisoned or housed, that the Commander, International Security and Assistance Force/Commander, United States Forces—Afghanistan, or designees, are provided the ability to—

(i) approve or disapprove arming authorization for Afghan Public Protection Force personnel performing activities at such installations; and

(ii) account for and maintain records of Afghan Public Protection Force personnel authorized to perform activities at such installations.

(E) That the International Security and Assistance Force Command has designated a centralized entity within that Command authorized to provide oversight of coalition activities relating to the Afghan Public Protection Force, including consultations with the Afghanistan Ministry of Interior regarding rules on the use of force, violations of contract, and other performance issues.

(F) That there is a mechanism in place sufficient to—

(i) account for the transfer of any United States Government-owned, contractor-acquired defense articles to the Afghan Public Protection Force; and

(ii) conduct end-use monitoring, of such defense articles, including an inventory of the existence and completeness of any such defense articles.

(d) REPORTS.—

(1) INITIAL ASSESSMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth an assessment of the Afghan Public Protection Force.

(2) SUBSEQUENT ASSESSMENTS.—On a semiannual basis following the submittal of the report required by paragraph (1) through September 30, 2014, the Secretary shall submit to the congressional defense committees an assessment of the progress in the development of the Afghan Public Protection Force during the preceding six months.

(3) ELEMENTS.—Each report under this subsection shall include the following:

(A) A description of the size and composition of the Afghan Public Protection Force.

(B) An assessment of the recruiting and training for the Afghan Public Protection Force.

(C) An assessment of the ability of the Afghan Public Protection Force to perform its tasks and missions.

(D) A description of measures of effectiveness for evaluating the Afghan Public Protection Force.

(E) Any recommendations provided by the United States to the Afghanistan Ministry of Interior to improve the performance of the Afghan Public Protection Force.

(F) A description of any instances of termination of contracts with the Afghan Public Protection Force.

(G) An assessment of the ability of the United States, or contractors, to hold the Afghan Public Protection Force accountable for gross or repeated violations.

(H) A description of the status of United States Government-owned, contractor-acquired defense articles provided to the Afghan Public Protection Force.

(4) ADDITIONAL ELEMENTS DURING FISCAL YEAR 2014 REPORTS.—Each report under paragraph (2) submitted during fiscal year 2014 shall include a plan, and any updates, on the post-2014 disposition of the Afghan Public Protection Force.

(5) SUBMITTAL WITH OTHER REPORTS.—Each report under paragraph (2) may be submitted as part of the report on progress toward security and stability in Afghanistan that is submitted under sections 1230 and 1231 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 385, 390).

Deadline.  
Time period.

(e) PLAN FOR USE OF AFGHANISTAN SECURITY FORCES FUND THROUGH FISCAL YEAR 2017.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan for using funds available to the Department of Defense to provide assistance to the security forces of Afghanistan through the Afghanistan Security Forces Fund through September 30, 2017.

Records.  
Deadline.

(f) AGREEMENTS.—The Secretary of Defense shall submit to the congressional committees a copy of each agreement entered into by the United States and Afghanistan for services of the

Afghan Public Protection Force for the Department of Defense not later than 30 days after entry into such agreement.

**SEC. 1532. JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND.**

(a) **USE AND TRANSFER OF FUNDS.**—Subsections (b) and (c) of section 1514 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2439), as in effect before the amendments made by section 1503 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4649), shall apply to the funds made available to the Department of Defense for the Joint Improvised Explosive Device Defeat Fund for fiscal year 2013. In providing prior notice to the congressional defense committees of the obligation of funds from the Joint Improvised Explosive Device Defeat Fund for such fiscal year, as required by paragraph (4) of such subsection (c), the Secretary of Defense shall include the associated analysis of alternatives conducted in the process of taking action to initiate any project for which the total obligation of funds from the Fund will exceed \$10,000,000.

(b) **MONTHLY OBLIGATIONS AND EXPENDITURE REPORTS.**—Not later than 15 days after the end of each month of fiscal year 2013, the Secretary of Defense shall provide to the congressional defense committees a report on the Joint Improvised Explosive Device Defeat Fund explaining monthly commitments, obligations, and expenditures by line of operation.

(c) **INTERDICTION OF IMPROVISED EXPLOSIVE DEVICE PRECURSOR CHEMICALS.**—

(1) **AVAILABILITY OF CERTAIN FISCAL YEAR 2013 FUNDS.**—Of the funds made available to the Department of Defense for the Joint Improvised Explosive Device Defeat Fund for fiscal year 2013, \$15,000,000 may be available to the Secretary of Defense to provide training, equipment, supplies, and services to ministries and other entities of the Government of Pakistan that the Secretary has identified as critical for countering the flow of improvised explosive device precursor chemicals from Pakistan to locations in Afghanistan.

(2) **PROVISION THROUGH OTHER US AGENCIES.**—If jointly agreed upon by the Secretary of Defense and the head of another department or agency of the United States Government, the Secretary of Defense may transfer funds available under paragraph (1) to such department or agency for the provision by such department or agency of training, equipment, supplies, and services to ministries and other entities of the Government of Pakistan as described in that paragraph.

(3) **NOTICE TO CONGRESS.**—Funds may not be used under the authority in paragraph (1) until 15 days after the date on which the Secretary of Defense submits to the congressional defense committees a notice—

(A) describing the training, equipment, supplies, and services to be provided using such funds; and

(B) evaluating the effectiveness of the efforts by the Government of Pakistan to counter the flow of improvised explosive device precursor chemicals from Pakistan to locations in Afghanistan.

(4) **EXPIRATION.**—The authority provided by this subsection expires on December 31, 2013.

Applicability.

Analysis.

Pakistan.  
Afghanistan.

Time period.

**SEC. 1533. ONE-YEAR EXTENSION OF PROJECT AUTHORITY AND RELATED REQUIREMENTS OF TASK FORCE FOR BUSINESS AND STABILITY OPERATIONS IN AFGHANISTAN.**

(a) **EXTENSION.**—Subsection (a) of section 1535 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4426), as amended by section 1534 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1658), is further amended—

(1) in paragraph (6), by striking “October 31, 2011, and October 31, 2012” and inserting “October 31, 2011, October 31, 2012, and October 31, 2013”; and

(2) in paragraph (7)—

(A) by striking “provided in” and inserting “to obligate funds for projects under”; and

(B) by striking “September 30, 2012” and inserting “September 30, 2013”.

(b) **SCOPE OF PROJECTS.**—Paragraph (3) of such subsection, as so amended, is further amended by striking “focus on improving the commercial viability of” and inserting “complement”.

(c) **FUNDING.**—Paragraph (4) of such subsection, as so amended, is further amended—

(1) by striking “The Secretary” and inserting the following:

“(A) **IN GENERAL.**—The Secretary”;

(2) by striking “The amount” and all that follows through “appropriate congressional committees.” and inserting the following:

“(B) **LIMITATION.**—The amount of funds obligated under the authority of subparagraph (A)—

“(i) may not exceed \$150,000,000 for fiscal year 2012, except that not more than 50 percent of such amount of funds may be obligated until the Secretary of Defense submits to the appropriate congressional committees the plan required by subsection (b); and

“(ii) may not exceed \$93,000,000 for fiscal year 2013, except that not more than \$50,000,000 of such amount of funds may be obligated until the Secretary of Defense submits to the appropriate congressional committees the report required by paragraph (7) of this subsection.”; and

(3) by striking “The funds” and inserting the following:

“(C) **AVAILABILITY.**—The funds”.

(d) **REPORT ON IMPLEMENTATION OF TRANSITION ACTION PLAN.**—Subsection (a) of section 1535 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, as amended by section 1534 of the National Defense Authorization Act for Fiscal Year 2012 and as amended by this section, is further amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

“(7) **REPORT ON IMPLEMENTATION OF TRANSITION ACTION PLAN.**—

“(A) **IN GENERAL.**—The Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on the progress in implementing the Transition Action Plan of the Task Force for Business and Stability Operations in Afghanistan.

Consultation.



“(B) UPDATES.—The Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees an update of the report required by subparagraph (A) every 90 days after the submission of such report.”.

**SEC. 1534. PLAN FOR TRANSITION IN FUNDING OF UNITED STATES SPECIAL OPERATIONS COMMAND FROM SUPPLEMENTAL FUNDING FOR OVERSEAS CONTINGENCY OPERATIONS TO RECURRING FUNDING UNDER THE FUTURE-YEARS DEFENSE PROGRAM.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan for the transition of funding of the United States Special Operations Command from funds authorized to be appropriated for overseas contingency operations (commonly referred to as the “overseas contingency operations budget”) to funds authorized to be appropriated for recurring operations of the Department of Defense in accordance with applicable future-years defense programs under section 221 of title 10, United States Code (commonly referred to as the “base budget”).

Deadline.

**SEC. 1535. ASSESSMENT OF COUNTER-IMPROVISED EXPLOSIVE DEVICE TRAINING AND INTELLIGENCE ACTIVITIES OF THE JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT ORGANIZATION AND NATIONAL AND MILITARY INTELLIGENCE ORGANIZATIONS.**

(a) ASSESSMENT OF TRAINING ACTIVITIES.—

(1) ASSESSMENT REQUIRED.—The Secretary of Defense shall prepare an assessment of the training-related activities of the Joint Improvised Explosive Device Defeat Organization (JIEDDO).

(2) ELEMENTS.—The assessment required by paragraph (1) shall—

(A) include all training programs and functions, both enduring and non-enduring, executed by the Joint Improvised Explosive Device Defeat Organization in support of the United States Armed Forces;

(B) identify any program or function that is similar to or duplicates other training activities conducted elsewhere within the Department of Defense; and

(C) assess the value of maintaining such similarity or duplication.

(3) CONSULTATION.—The Secretary of Defense shall prepare the assessment required by paragraph (1) in consultation with the Chairman of the Joint Chiefs of Staff and the other chiefs of staff of the Armed Forces.

(4) SUBMISSION AND FORM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit a report containing the results of the assessment required by paragraph (1) to the congressional defense committees. The report shall be submitted in unclassified form, but may include a classified annex.

Deadline.  
Reports.

(b) ASSESSMENT OF INTELLIGENCE ACTIVITIES.—

(1) ASSESSMENT REQUIRED.—The Secretary of Defense shall prepare an assessment of the intelligence activities carried out in support of the counter-improvised explosive device mission of the Department of Defense.

(2) ELEMENTS.—The assessment required by paragraph (1) shall—

(A) consider the activities of the Counter-Improved Explosive Device Operations Integration Center of the Joint Improvised Explosive Device Defeat Organization, including—

(i) identification of all intelligence analysis programs and functions executed by the Counter-Improved Explosive Device Operations Integration Center in support of United States combatant commands and United States military activities in Afghanistan;

(ii) identification of any program or function which is duplicated elsewhere in the intelligence components of the Department of Defense or the intelligence community of the United States;

(iii) an assessment of the value of maintaining such duplication; and

(iv) identification of any opportunities to eliminate unnecessary duplication;

(B) consider the activities of the national and military intelligence communities to counter improvised explosive devices, including an assessment of—

(i) the sufficiency, adequacy, and effectiveness of these efforts in support of the commanders of combatant commands;

(ii) the prioritization of collection efforts and resource allocation within the intelligence components of the Department of Defense toward countering improvised explosive devices; and

(iii) opportunities for improvement of these efforts, including how these components would support a broader counter improvised explosive device effort beyond operations in Afghanistan; and

(C) consider the enduring need for a Counter-Improved Explosive Device Operations Integration Center and, if determined to be necessary, how this center could be most efficiently and effectively integrated into the broader Department of Defense intelligence community.

(3) CONSULTATION.—The Secretary of Defense shall prepare the assessment required by paragraph (1) in consultation with the Director of National Intelligence and the Chairman of the Joint Chiefs of Staff.

(4) SUBMISSION AND FORM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit a report containing the results of the assessment required by paragraph (1) to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate. The report shall be submitted in unclassified form, but may include a classified annex.

Deadline.  
Reports.

## TITLE XVI—INDUSTRIAL BASE MATTERS

Subtitle A—Defense Industrial Base Matters

Sec. 1601. Disestablishment of Defense Materiel Readiness Board.

- Sec. 1602. Assessment of effects of foreign boycotts.
- Sec. 1603. National security strategy for national technology and industrial base.

Subtitle B—Department of Defense Activities Related to Small Business Matters

- Sec. 1611. Role of the directors of small business programs in acquisition processes of the Department of Defense.
- Sec. 1612. Small Business Ombudsman for defense audit agencies.
- Sec. 1613. Independent assessment of Federal procurement contracting performance of the Department of Defense.
- Sec. 1614. Additional responsibilities of Inspector General of the Department of Defense.
- Sec. 1615. Restoration of 1 percent funding for administrative expenses of Commercialization Readiness Program of Department of Defense.

Subtitle C—Matters Relating to Small Business Concerns

PART I—PROCUREMENT CENTER REPRESENTATIVES

- Sec. 1621. Procurement center representatives.
- Sec. 1622. Small Business Act contracting requirements training.
- Sec. 1623. Acquisition planning.

PART II—GOALS FOR PROCUREMENT CONTRACTS AWARDED TO SMALL BUSINESS CONCERNS

- Sec. 1631. Goals for procurement contracts awarded to small business concerns.
- Sec. 1632. Reporting on goals for procurement contracts awarded to small business concerns.
- Sec. 1633. Senior executives.

PART III—MENTOR-PROTEGE PROGRAMS

- Sec. 1641. Mentor-Protege programs.

PART IV—TRANSPARENCY IN SUBCONTRACTING

- Sec. 1651. Limitations on subcontracting.
- Sec. 1652. Penalties.
- Sec. 1653. Subcontracting plans.
- Sec. 1654. Notices of subcontracting opportunities.
- Sec. 1655. Publication of certain documents.

PART V—SMALL BUSINESS CONCERN SIZE STANDARDS

- Sec. 1661. Small business concern size standards.

PART VI—CONTRACT BUNDLING

- Sec. 1671. Contract bundling.

PART VII—INCREASED PENALTIES FOR FRAUD

- Sec. 1681. Safe harbor for good faith compliance efforts.
- Sec. 1682. Requirement that fraudulent businesses be suspended or debarred.
- Sec. 1683. Annual report on suspensions and debarments proposed by Small Business Administration.

PART VIII—OFFICES OF SMALL AND DISADVANTAGED BUSINESS UNITS

- Sec. 1691. Offices of Small and Disadvantaged Business Utilization.
- Sec. 1692. Small Business Procurement Advisory Council.

PART IX—OTHER MATTERS

- Sec. 1695. Surety bonds.
- Sec. 1696. Conforming Amendments; Repeal of redundant provisions; Regulations.
- Sec. 1697. Contracting with small business concerns owned and controlled by women.
- Sec. 1698. Small business HUBZones.
- Sec. 1699. National Veterans Business Development Corporation.
- Sec. 1699a. State Trade and Export Promotion Grant Program.

## Subtitle A—Defense Industrial Base Matters

### SEC. 1601. DISESTABLISHMENT OF DEFENSE MATERIEL READINESS BOARD.

(a) DISESTABLISHMENT OF BOARD.—The Defense Materiel Readiness Board established pursuant to section 871 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 117 note) is hereby disestablished.

(b) TERMINATION OF DEFENSE STRATEGIC READINESS FUND.—The Department of Defense Strategic Readiness Fund established by section 872(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 117 note) is hereby closed.

(c) REPEAL.—Subtitle G of title VIII of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 117 note) is repealed.

### SEC. 1602. ASSESSMENT OF EFFECTS OF FOREIGN BOYCOTTS.

Section 2505 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) ASSESSMENT OF EXTENT OF EFFECTS OF FOREIGN BOYCOTTS.—Each assessment under subsection (a) shall include an examination of the extent to which the national technology and industrial base is affected by foreign boycotts. If it is determined that a foreign boycott (other than a boycott addressed in a previous assessment) is subjecting the national technology and industrial base to significant harm, the assessment shall include a separate discussion and presentation regarding that foreign boycott that shall, at a minimum—

“(1) identify the sectors that are subject to such harm;

“(2) describe the harm resulting from such boycott; and

“(3) identify actions necessary to minimize the effects of such boycott on the national technology and industrial base.”.

### SEC. 1603. NATIONAL SECURITY STRATEGY FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.

(a) REQUIREMENT FOR STRATEGY.—

(1) IN GENERAL.—Section 2501 of title 10, United States Code, is amended as follows:

(A) The section heading is amended by striking “**objectives concerning**” and inserting “**strategy for**”.

(B) Subsection (a) is amended—

(i) in the subsection heading, by striking “**OBJECTIVES**” and inserting “**STRATEGY**”;

(ii) by striking “It is the policy of” and all that follows through “objectives;” and inserting the following: “The Secretary of Defense shall develop a national security strategy for the national technology and industrial base. Such strategy shall be based on a prioritized assessment of risks and challenges to the defense supply chain and shall ensure that the national technology and industrial base is capable of

achieving the following national security objectives:”; and

(iii) by adding at the end the following new paragraphs:

“(9) Ensuring reliable sources of materials that are critical to national security, such as specialty metals, essential minerals, armor plate, and rare earth elements.

“(10) Reducing, to the maximum extent practicable, the presence of counterfeit parts in the supply chain and the risk associated with such parts.”.

(2) CLERICAL AMENDMENT.—The item relating to section 2501 in the table of sections at the beginning of subchapter II of chapter 148 of such title is amended to read as follows:

10 USC  
prec. 2501.

“2501. National security strategy for national technology and industrial base.”.

(b) AMENDMENT TO ANNUAL REPORT RELATING TO DEFENSE INDUSTRIAL BASE.—Section 2504 of such title is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) by inserting after paragraph (2) (as so redesignated) the following new paragraph (3):

“(3) Based on the strategy required by section 2501 of this title and on the assessments prepared pursuant to section 2505 of this title—

“(A) a description of any mitigation strategies necessary to address any gaps or vulnerabilities in the national technology and industrial base; and

“(B) any other steps necessary to foster and safeguard the national technology and industrial base.”.

(c) REQUIREMENT FOR CONSIDERATION OF STRATEGY IN ACQUISITION PLANS.—Section 2440 of such title is amended by inserting after “base” the following: “, in accordance with the strategy required by section 2501 of this title,”.

(d) CONFORMING AMENDMENTS.—Section 852 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1517; 10 U.S.C. 2504 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c), and in that subsection by striking “subsection (c).” in the first sentence and inserting “section 2501 of title 10, United States Code.”.

## **Subtitle B—Department of Defense Activities Related to Small Business Matters**

### **SEC. 1611. ROLE OF THE DIRECTORS OF SMALL BUSINESS PROGRAMS IN ACQUISITION PROCESSES OF THE DEPARTMENT OF DEFENSE.**

10 USC 144 note.

(a) GUIDANCE REQUIRED.—The Secretary of Defense shall develop and issue guidance to ensure that the head of each Office of Small Business Programs of the Department of Defense is a participant as early as practicable in the acquisition processes—

(1) of the Department, in the case of the Director of Small Business Programs in the Department of Defense; and

(2) of the military department concerned, in the case of the Director of Small Business Programs in the Department

of the Army, in the Department of the Navy, and in the Department of the Air Force.

(b) MATTERS TO BE INCLUDED.—Such guidance shall, at a minimum—

(1) require the Director of Small Business Programs in the Department of Defense—

(A) to provide advice to the Defense Acquisition Board; and

(B) to provide advice to the Information Technology Acquisition Board; and

(2) require coordination between the chiefs of staff of the Armed Forces and the service acquisition executives, as appropriate (or their designees), and the Director of Small Business Programs in each military department as early as practical in the relevant acquisition processes.

**SEC. 1612. SMALL BUSINESS OMBUDSMAN FOR DEFENSE AUDIT AGENCIES.**

(a) SMALL BUSINESS OMBUDSMAN.—Subchapter II of chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 204.

**“§ 204. Small Business Ombudsman for defense audit agencies**

Designation.

“(a) SMALL BUSINESS OMBUDSMAN.—The Secretary of Defense shall designate within each defense audit agency an official as the Small Business Ombudsman to have the duties described in subsection (b) and such other responsibilities as may be determined by the Secretary.

“(b) DUTIES.—The Small Business Ombudsman of a defense audit agency shall—

“(1) advise the Director of the defense audit agency on policy issues related to small business concerns;

“(2) serve as the defense audit agency’s primary point of contact and source of information for small business concerns;

“(3) collect and monitor relevant data regarding the defense audit agency’s conduct of audits of small business concerns, including—

“(A) data regarding the timeliness of audit closeouts for small business concerns; and

“(B) data regarding the responsiveness of the defense audit agency to issues or other matters raised by small business concerns; and

“(4) make recommendations to the Director regarding policies, processes, and procedures related to the timeliness of audits of small business concerns and the responsiveness of the defense audit agency to issues or other matters raised by small business concerns.

“(c) AUDIT INDEPENDENCE.—The Small Business Ombudsman of a defense audit agency shall be segregated from ongoing audits in the field and shall not engage in activities with regard to particular audits that could compromise the independence of the defense audit agency or undermine compliance with applicable audit standards.

“(d) DEFENSE AUDIT AGENCY DEFINED.—In this section, the term ‘defense audit agency’ means the Defense Contract Audit Agency and the Defense Contract Management Agency.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 8 of such title is amended by inserting after the item relating to section 203 the following new item:

10 USC  
prec. 201.

“204. Small Business Ombudsman for defense audit agencies.”.

**SEC. 1613. INDEPENDENT ASSESSMENT OF FEDERAL PROCUREMENT CONTRACTING PERFORMANCE OF THE DEPARTMENT OF DEFENSE.**

(a) ASSESSMENT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall select an appropriate entity to conduct an independent assessment of the procurement performance of the Department of Defense related to small business concerns. Deadline.

(b) MATTERS COVERED.—The assessment under subsection (a) shall, at a minimum, include an examination of—

(1) the industrial composition of companies receiving subcontracts pursuant to the test program for the negotiation of comprehensive small business subcontracting plans pursuant to section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 15 U.S.C. 637 note), compared to the industrial composition of other contractors in the defense industrial base;

(2) the quality and reliability of data on small business prime contracting and subcontracting by the Department, and the reliability of the information technology systems that the Department uses to track such data;

(3) the negotiation and execution of small business subcontracting plans, and the degree to which proposed teaming agreements are or are not maintained through the performance of contracts;

(4) the extent to which the Department adheres to current policies and guidelines relating to small business prime contracting and subcontracting goals;

(5) the extent to which the Department bundles, consolidates, or otherwise groups requirements into contracts that are unsuitable for award to small business concerns, the extent to which such bundling, consolidation, or grouping of requirements is justified, and the effects that such practices have on small business participation in contracting opportunities with the Department;

(6) the degree to which abuses of small business contracting and subcontracting programs result in contracts and subcontracts intended for small business concerns not being awarded to small business concerns; and

(7) an examination of the transition challenges faced by businesses that graduate from small business programs or grow to exceed the size standards for participation in such programs, along with specific recommendations on steps that should be taken to help ensure the continued health and growth of such businesses.

(c) REPORT.—Not later than January 1, 2014, the Secretary of Defense shall submit to the congressional defense committees a report on the independent assessment conducted under this section. The report shall include the findings and recommendations of the assessment, together with any recommendations that the Secretary may have for improving the Department’s small business

contracting practices and addressing any shortcomings identified by the assessment.

**SEC. 1614. ADDITIONAL RESPONSIBILITIES OF INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.**

5 USC app. 8. (a) REQUIREMENT FOR EXTERNAL PEER REVIEWS.—Section 8(c) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by striking “and” at the end of paragraph (8);

(2) by striking the period and inserting “; and” at the end of paragraph (9); and

(3) by adding at the end the following new paragraph:

“(10) conduct, or approve arrangements for the conduct of, external peer reviews of Department of Defense audit agencies in accordance with and in such frequency as provided by Government auditing standards as established by the Comptroller General of the United States.”.

(b) REQUIREMENT FOR ADDITIONAL INFORMATION IN SEMI-ANNUAL REPORTS.—Section 8(f) of such Act is amended by striking paragraph (1) and inserting the following:

“(1) Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall be transmitted by the Secretary of Defense to the Committees on Armed Services and on Homeland Security and Governmental Affairs of the Senate and the Committees on Armed Services and on Oversight and Government Reform of the House of Representatives and to other appropriate committees or subcommittees of Congress. Each such report shall include—

“(A) information concerning the numbers and types of contract audits conducted by the Department during the reporting period; and

“(B) information concerning any Department of Defense audit agency that, during the reporting period, has either received a failed opinion from an external peer review or is overdue for an external peer review required to be conducted in accordance with subsection (c)(10).”.

**SEC. 1615. RESTORATION OF 1 PERCENT FUNDING FOR ADMINISTRATIVE EXPENSES OF COMMERCIALIZATION READINESS PROGRAM OF DEPARTMENT OF DEFENSE.**

(a) RESTORATION.—Section 9(y) of the Small Business Act (15 U.S.C. 638(y)), as amended by section 5141(b)(1)(B) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1853) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph (4):

“(4) FUNDING.—For payment of expenses incurred to administer the Commercialization Readiness Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds shall not be used to make Phase III awards.”.

(b) TECHNICAL AMENDMENT.—Section 5141(b)(3)(B) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1854) is amended by striking “subsection



(y)—” and all that follows through “the following:” and inserting “subsection (y), by amending paragraph (4) to read as follows:”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2012. 15 USC 638 note.

## **Subtitle C—Matters Relating to Small Business Concerns**

### **PART I—PROCUREMENT CENTER REPRESENTATIVES**

#### **SEC. 1621. PROCUREMENT CENTER REPRESENTATIVES.**

(a) IN GENERAL.—Section 15(l) of the Small Business Act (15 U.S.C. 644(l)) is amended by striking the subsection enumerator and inserting the following:

“(l) PROCUREMENT CENTER REPRESENTATIVES.—”.

(b) ASSIGNMENT AND ROLE.—Paragraph (1) of section 15(l) of such Act (15 U.S.C. 644(l)) is amended to read as follows:

“(1) ASSIGNMENT AND ROLE.—The Administrator shall assign to each major procurement center a procurement center representative with such assistance as may be appropriate.”.

(c) ACTIVITIES.—Section 15(l)(2) of such Act (15 U.S.C. 644(l)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking “(2) In addition to carrying out the responsibilities assigned by the Administration, a breakout” and inserting the following:

“(2) ACTIVITIES.—A”;

(2) in subparagraph (B)—

(A) by striking “(B) review, at any time, restrictions on competition” and inserting the following:

“(B) review, at any time, barriers to small business participation in Federal contracting”;

(B) by striking “items” and inserting “goods and services”; and

(C) by striking “limitations” and inserting “barriers”;

(3) in subparagraph (C), by striking “(C) review restrictions on competition” and inserting the following:

“(C) review barriers to small business participation in Federal contracting”;

(4) by striking subparagraph (D) and inserting the following:

“(D) review any bundled or consolidated solicitation or contract in accordance with this Act;”;

(5) by striking subparagraph (E) and inserting the following:

“(E) have access to procurement records and other data of the procurement center commensurate with the level of such representative’s approved security clearance classification, with such data provided upon request in electronic format, when available;”;

(6) by striking subparagraphs (F) and (G) and inserting the following:

“(F) receive unsolicited proposals from small business concerns and transmit such proposals to personnel of the activity responsible for reviewing such proposals, who shall

furnish the procurement center representative with information regarding the disposition of any such proposal;

“(G) consult with the Director the Office of Small and Disadvantaged Business Utilization of that agency and the agency personnel described in paragraph (7) and (8) of subsection (k) with regard to agency insourcing decisions covered by subsection (k)(11);

“(H) be an advocate for the maximum practicable utilization of small business concerns in Federal contracting, including by advocating against the consolidation or bundling of contract requirements when not justified; and

“(I) carry out any other responsibility assigned by the Administrator.”.

(d) APPEALS.—Section 15(l)(3) of such Act (15 U.S.C. 644(l)(3)) is amended by striking “(3) A breakout procurement center representative” and inserting the following:

“(3) APPEALS.—A procurement center representative”.

(e) ASSIGNMENT TO MAJOR PROCUREMENT CENTERS.—Paragraph (4) of section 15(l) of such Act (15 U.S.C. 644(l)) is amended by striking “breakout procurement center representative” and inserting “procurement center representative”.

(f) POSITION REQUIREMENTS.—Section 15(l)(5) of such Act (15 U.S.C. 644(l)(5)) is amended—

(1) by striking the paragraph enumerator and inserting the following:

“(5) POSITION REQUIREMENTS.—”;

(2) by striking subparagraphs (A) and (B) and inserting the following:

“(A) IN GENERAL.—A procurement center representative assigned under this subsection shall—

“(i) be a full-time employee of the Administration;

“(ii) be fully qualified, technically trained, and familiar with the goods and services procured by the major procurement center to which that representative is assigned; and

“(iii) have a Level III Federal Acquisition Certification in Contracting (or any successor certification) or the equivalent Department of Defense certification, except that any person serving in such a position on the date of enactment of this clause may continue to serve in that position for a period of 5 years without the required certification.”; and

(3) in subparagraph (C) by striking “(C) The Administration shall establish personnel positions for breakout procurement representatives and advisers assigned pursuant to” and inserting the following:

“(B) COMPENSATION.—The Administrator shall establish personnel positions for procurement center representatives assigned under”.

(g) MAJOR PROCUREMENT CENTER DEFINED.—Section 15(l)(6) of such Act (15 U.S.C. 644(l)(6)) is amended—

(1) by striking “(6) For purposes” and inserting the following:

“(6) MAJOR PROCUREMENT CENTER DEFINED.—For purposes”;

(2) by striking “other than commercial items and which has the potential to incur significant savings as the result

of the placement of a breakout procurement center representative” and inserting “goods or services, including goods or services that are commercially available”.

(h) TRAINING.—Section 15(l)(7) of such Act (15 U.S.C. 644(l)(7)) is amended—

(1) by striking the paragraph enumerator and inserting the following:

“(7) TRAINING.—”;

(2) in subparagraph (A) by striking “(A) At such times” and inserting the following:

“(A) AUTHORIZATION.—At such times”.

(3) in subparagraph (B)—

(A) by striking “(B) The breakout procurement center representative” and inserting the following:

“(8) ANNUAL BRIEFING AND REPORT.—A procurement center representative”; and

(B) by striking “sixty” and inserting “60”; and

(4) by inserting after subparagraph (A) the following:

“(B) LIMITATION.—A procurement center representative may provide training under subparagraph (A) only to the extent that the training does not interfere with the representative carrying out other activities under this subsection.”.

#### **SEC. 1622. SMALL BUSINESS ACT CONTRACTING REQUIREMENTS TRAINING.**

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this part, the Defense Acquisition University and the Federal Acquisition Institute shall each provide a course on contracting requirements under the Small Business Act, including the requirements for small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

Deadline.  
15 USC 631 note.

(b) COURSE REQUIRED.—To have a Federal Acquisition Certification in Contracting (or any successor certification) or the equivalent Department of Defense certification an individual shall be required to complete the course established under subsection (a).

15 USC 631 note.

(c) REQUIREMENT THAT BUSINESS OPPORTUNITY SPECIALISTS BE CERTIFIED.—Section 7(j)(10)(D)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(D)(i)) is amended by inserting after “to assist such Program Participant.” the following: “The Business Opportunity Specialist shall have a Level I Federal Acquisition Certification in Contracting (or any successor certification) or the equivalent Department of Defense certification, except that a Business Opportunity Specialist serving at the time of the date of enactment of the National Defense Authorization Act for Fiscal Year 2013 may continue to serve as a Business Opportunity Specialist for a period of 5 years beginning on that date of enactment without such a certification.”.

Time period.

#### **SEC. 1623. ACQUISITION PLANNING.**

Section 15(e)(1) of the Small Business Act (15 U.S.C. 644(e)(1)) is amended—

(1) by striking “the various agencies” and inserting “a Federal department or agency”; and

(2) by striking the period and inserting “, and each such Federal department or agency shall—

“(A) provide opportunities for the participation of small business concerns during acquisition planning processes and in acquisition plans; and

“(B) invite the participation of the appropriate Director of Small and Disadvantaged Business Utilization in acquisition planning processes and provide that Director access to acquisition plans.”.

## **PART II—GOALS FOR PROCUREMENT CONTRACTS AWARDED TO SMALL BUSINESS CONCERNS**

### **SEC. 1631. GOALS FOR PROCUREMENT CONTRACTS AWARDED TO SMALL BUSINESS CONCERNS.**

(a) GOVERNMENTWIDE GOALS.—Paragraph (1) of section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended to read as follows:

“(1) GOVERNMENTWIDE GOALS.—

“(A) ESTABLISHMENT.—The President shall annually establish Governmentwide goals for procurement contracts awarded to small business concerns, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women in accordance with the following:

“(i) The Governmentwide goal for participation by small business concerns shall be established at not less than 23 percent of the total value of all prime contract awards for each fiscal year.

“(ii) The Governmentwide goal for participation by small business concerns owned and controlled by service-disabled veterans shall be established at not less than 3 percent of the total value of all prime contract and subcontract awards for each fiscal year.

“(iii) The Governmentwide goal for participation by qualified HUBZone small business concerns shall be established at not less than 3 percent of the total value of all prime contract and subcontract awards for each fiscal year.

“(iv) The Governmentwide goal for participation by small business concerns owned and controlled by socially and economically disadvantaged individuals shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.

“(v) The Governmentwide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.

“(B) ACHIEVEMENT OF GOVERNMENTWIDE GOALS.—Each agency shall have an annual goal that presents, for that

President.  
Deadline.

agency, the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women to participate in the performance of contracts let by such agency. The Small Business Administration and the Administrator for Federal Procurement Policy shall, when exercising their authority pursuant to paragraph (2), insure that the cumulative annual prime contract goals for all agencies meet or exceed the annual Governmentwide prime contract goal established by the President pursuant to this paragraph.”.

(b) AMENDMENTS TO THE SMALL BUSINESS ACT.—Paragraph (2) of section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended—

(1) in subparagraph (A), by adding at the end the following: “Such goals shall separately address prime contract awards and subcontract awards for each category of small business covered.”;

(2) in subparagraph (D), by striking “For the purpose of establishing goals under this subsection” and all that follows through the end of that subparagraph, and inserting the following: “After establishing goals under this paragraph for a fiscal year, the head of each Federal agency shall develop a plan for achieving such goals at both the prime contract and the subcontract level, which shall apportion responsibilities among the agency’s acquisition executives and officials. In establishing goals under this paragraph, the head of each Federal agency shall make a consistent effort to annually expand participation by small business concerns from each industry category in procurement contracts and subcontracts of such agency, including participation by small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.”; and

(3) by striking subparagraphs (E) and (F) and inserting the following:

“(E) The head of each Federal agency, in attempting to attain expanded participation under subparagraph (D), shall consider—

“(i) contracts awarded as the result of unrestricted competition; and

“(ii) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 8(a).

“(F)(i) Each procurement employee or program manager described in clause (ii) shall communicate to the subordinates of the procurement employee or program manager the importance of achieving goals established under subparagraph (A).

“(ii) A procurement employee or program manager described in this clause is a senior procurement executive,

Plans.

senior program manager, or Director of Small and Disadvantaged Business Utilization of a Federal agency having contracting authority.”.

Deadline.  
Review.  
Revision.  
15 USC 644 note.

(c) **ADDITIONAL REQUIREMENTS.**—Not later than 180 days after the date of the enactment of this part, the Administrator of the Small Business Administration shall review and revise the Goaling Guidelines for the Small Business Preference Programs for Prime and Subcontract Federal Procurement Goals and Achievements to the extent necessary to ensure that—

(1) agency subcontracting goals are established on the basis of realistically achievable improvements to levels of subcontracting rather than on the basis of an average of previous years’ subcontracting performance;

(2) agency contracting and subcontracting goals are established in a manner that does not exclude categories of contracts on the basis of—

(A) the type of goods or services for which the agency contracts;

(B) in the case of contracts subject to competitive procedures under chapter 33 of title 41, United States Code—

(i) whether or not funding for the contracts is made directly available to the agency by an Appropriations Act or is made available by reimbursement from another agency or account; or

(ii) whether or not the contract is subject to the Federal Acquisition Regulation; and

(3) whenever an agency contracting or subcontracting goal is established at a level lower than the Governmentwide goal for small business concerns or the relevant category of small business concerns, the Administration is required to document the basis for the decision to establish such lower goal.

Deadline.

(d) **ASSESSMENT REQUIRED.**—Not later than 60 days after the date of the enactment of this part, the Chief Counsel for Advocacy of the Small Business Administration shall enter into a contract with an appropriate entity to conduct an independent assessment of the small business procurement goals established in section 15(g) of the Small Business Act.

(1) **COORDINATION WITH DEPARTMENT OF DEFENSE.**—To the extent practicable, the Administrator shall coordinate this assessment with the Secretary of Defense, to avoid unnecessary duplication with the assessment required by section 1613 of this title.

(2) **MATTERS COVERED.**—The assessment under this subsection shall, at a minimum, include—

(A) a description of the industrial composition of companies receiving prime contracts and subcontracts with the Federal Government;

(B) a description of the industrial composition of domestic small business concerns, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women;

(C) a comparison of the industrial composition of prime contractors and subcontractors participating in Federal contracting and the industrial composition of domestic small

business concerns, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women;

(D) a determination of barriers to accurately capturing data on small business prime contracting and subcontracting, including an examination of the reliability of information technology systems used by more than one Federal agency to track such data;

(E) recommendations for improving the quality and availability of data regarding small business prime contracting and subcontracting performance;

(F) recommendations to improve and inform the establishment of the goals in section 15(g) of the Small Business Act, including:

(i) alternate methodologies for establishing the goals;

(ii) determining which contracts should be subject to the goals;

(iii) methods for improving the correlation of current goaling practices with the health of the industrial base; and

(iv) methods of allocating goals between Federal agencies; and

(G) barriers within Federal procurement practices that inhibit the maximum practicable utilization of domestic small business concerns, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

**SEC. 1632. REPORTING ON GOALS FOR PROCUREMENT CONTRACTS AWARDED TO SMALL BUSINESS CONCERNS.**

Subsection (h) of section 15 of the Small Business Act (15 U.S.C. 644) is amended to read as follows:

“(h) **REPORTING ON GOALS FOR PROCUREMENT CONTRACTS AWARDED TO SMALL BUSINESS CONCERNS.**—

“(1) **AGENCY REPORTS.**—At the conclusion of each fiscal year, the head of each Federal agency shall submit to the Administrator a report describing—

“(A) the extent of the participation by small business concerns, small business concerns owned and controlled by veterans (including service-disabled veterans), qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women in the procurement contracts of such agency during such fiscal year;

“(B) whether the agency achieved the goals established for the agency under subsection (g)(2) with respect to such fiscal year; and

“(C) any justifications for a failure to achieve such goals.

Web posting.

“(2) REPORTS BY ADMINISTRATOR.—Not later than 60 days after receiving a report from each Federal agency under paragraph (1) with respect to a fiscal year, the Administrator shall submit to the President and Congress, and to make available on a public Web site, a report that includes—

“(A) a copy of each report submitted to the Administrator under paragraph (1);

“(B) a determination of whether each goal established by the President under subsection (g)(1) for such fiscal year was achieved;

“(C) a determination of whether each goal established by the head of a Federal agency under subsection (g)(2) for such fiscal year was achieved;

“(D) the reasons for any failure to achieve a goal established under paragraph (1) or (2) of subsection (g) for such fiscal year and a description of actions planned by the applicable agency to address such failure, including the Administrator’s comments and recommendations on the proposed remediation plan; and

“(E) for the Federal Government and each Federal agency, an analysis of the number and dollar amount of prime contracts awarded during such fiscal year to—

“(i) small business concerns—

“(I) in the aggregate;

“(II) through sole source contracts;

“(III) through competitions restricted to small business concerns; and

“(IV) through unrestricted competition;

“(ii) small business concerns owned and controlled by service-disabled veterans—

“(I) in the aggregate;

“(II) through sole source contracts;

“(III) through competitions restricted to small business concerns;

“(IV) through competitions restricted to small business concerns owned and controlled by service-disabled veterans; and

“(V) through unrestricted competition;

“(iii) qualified HUBZone small business concerns—

“(I) in the aggregate;

“(II) through sole source contracts;

“(III) through competitions restricted to small business concerns;

“(IV) through competitions restricted to qualified HUBZone small business concerns;

“(V) through unrestricted competition where a price evaluation preference was used; and

“(VI) through unrestricted competition where a price evaluation preference was not used;

“(iv) small business concerns owned and controlled by socially and economically disadvantaged individuals—

“(I) in the aggregate;

“(II) through sole source contracts;

“(III) through competitions restricted to small business concerns;



“(IV) through competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals;  
“(V) through unrestricted competition; and  
“(VI) by reason of that concern’s certification as a small business owned and controlled by socially and economically disadvantaged individuals;  
“(v) small business concerns owned by an Indian tribe (as such term is defined in section 8(a)(13)) other than an Alaska Native Corporation—

“(I) in the aggregate;  
“(II) through sole source contracts;  
“(III) through competitions restricted to small business concerns;  
“(IV) through competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals; and  
“(V) through unrestricted competition;  
“(vi) small business concerns owned by a Native Hawaiian Organization—

“(I) in the aggregate;  
“(II) through sole source contracts;  
“(III) through competitions restricted to small business concerns;  
“(IV) through competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals; and  
“(V) through unrestricted competition;  
“(vii) small business concerns owned by an Alaska Native Corporation—

“(I) in the aggregate;  
“(II) through sole source contracts;  
“(III) through competitions restricted to small business concerns;  
“(IV) through competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals; and  
“(V) through unrestricted competition; and  
“(viii) small business concerns owned and controlled by women—

“(I) in the aggregate;  
“(II) through competitions restricted to small business concerns;  
“(III) through competitions restricted using the authority under section 8(m)(2);  
“(IV) through competitions restricted using the authority under section 8(m)(2) and in which the waiver authority under section 8(m)(3) was used; and  
“(V) through unrestricted competition; and

“(F) for the Federal Government, the number, dollar amount, and distribution with respect to the North American Industry Classification System of subcontracts awarded during such fiscal year to small business concerns, small business concerns owned and controlled by service-

disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women, provided that such information is publicly available through data systems developed pursuant to the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), or otherwise available as provided in paragraph (3).

“(3) ACCESS TO DATA.—

“(A) FEDERAL PROCUREMENT DATA SYSTEM.—To assist in the implementation of this section, the Administration shall have access to information collected through the Federal Procurement Data System, Federal Subcontracting Reporting System, or any new or successor system.

“(B) AGENCY PROCUREMENT DATA SOURCES.—To assist in the implementation of this section, the head of each contracting agency shall provide, upon request of the Administration, procurement information collected through agency data collection sources in existence at the time of the request. Contracting agencies shall not be required to establish new data collection systems to provide such data.”.

**SEC. 1633. SENIOR EXECUTIVES.**

5 USC 3396 note.

(a) TRAINING.—Programs established for the development of senior executives under section 3396(a) of title 5, United States Code, shall include training with respect to Federal procurement requirements, including contracting requirements under the Small Business Act (15 U.S.C. 631 et seq.).

15 USC 631 note.

(b) RESPONSIBILITY FOR ACHIEVING SMALL BUSINESS GOALS.—The head of an agency shall take steps to ensure that members of the senior executive service, as defined under section 3396(a) of title 5, United States Code, responsible for acquisition, other senior officials responsible for acquisition, and other members of the senior executive service, as appropriate, assume responsibility for of the agency’s success in achieving small business contracting goals and percentages by—

(1) promoting a climate or environment that is responsive to small business concerns;

(2) communicating the importance of achieving the agency’s small business contracting goals; and

(3) encouraging small business awareness, outreach, and support.

15 USC 631 note.

(c) DEFINITIONS.—In this section the term “responsible for acquisition”, with respect to a member of the senior executive service or other senior official, means such a member or official who acquires services or supplies, directs agency organizations to acquire services or supplies, oversees acquisition officials, including program managers, contracting officers, and other acquisition workforce personnel responsible for formulating and approving acquisition strategies and plans.

**PART III—MENTOR-PROTEGE PROGRAMS**

15 USC 631 note.

**SEC. 1641. MENTOR-PROTEGE PROGRAMS.**

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

- (1) by redesignating section 45 as section 47; and
- (2) by inserting after section 44 the following:

**“SEC. 45. MENTOR-PROTEGE PROGRAMS.**

15 USC 657r.

“(a) ADMINISTRATION PROGRAM.—

“(1) AUTHORITY.—The Administrator is authorized to establish a mentor-protege program for all small business concerns.

“(2) MODEL FOR PROGRAM.—The mentor-protege program established under paragraph (1) shall be identical to the mentor-protege program of the Administration for small business concerns that participate in the program under section 8(a) (as in effect on the date of enactment of this section), except that the Administrator may modify the program to the extent necessary given the types of small business concerns included as proteges.

“(b) PROGRAMS OF OTHER AGENCIES.—

“(1) APPROVAL REQUIRED.—Except as provided in paragraph (4), a Federal department or agency may not carry out a mentor-protege program for small business concerns unless—

“(A) the head of the department or agency submits a plan to the Administrator for the program; and

“(B) the Administrator approves such plan.

“(2) BASIS FOR APPROVAL.—The Administrator shall approve or disapprove a plan submitted under paragraph (1) based on whether the program proposed—

“(A) will assist proteges to compete for Federal prime contracts and subcontracts; and

“(B) complies with the regulations issued under paragraph (3).

“(3) REGULATIONS.—Not later than 270 days after the date of enactment of this section, the Administrator shall issue, subject to notice and comment, regulations with respect to mentor-protege programs, which shall ensure that such programs improve the ability of proteges to compete for Federal prime contracts and subcontracts and which shall address, at a minimum, the following:

“(A) Eligibility criteria for program participants, including any restrictions on the number of mentor-protege relationships permitted for each participant.

“(B) The types of developmental assistance to be provided by mentors, including how the assistance provided shall improve the competitive viability of the proteges.

“(C) Whether any developmental assistance provided by a mentor may affect the status of a program participant as a small business concern due to affiliation.

“(D) The length of mentor-protege relationships.

“(E) The effect of mentor-protege relationships on contracting.

“(F) Benefits that may accrue to a mentor as a result of program participation.

“(G) Reporting requirements during program participation.

“(H) Postparticipation reporting requirements.

“(I) The need for a mentor-protege pair, if accepted to participate as a pair in a mentor-protege program of any Federal department or agency, to be accepted to participate as a pair in all Federal mentor-protege programs.

Plans.

Deadline.

“(J) Actions to be taken to ensure benefits for proteges and to protect a protege against actions by a mentor that—

“(i) may adversely affect the protege’s status as a small business concern; or

“(ii) provide disproportionate economic benefits to the mentor relative to those provided the protege.

“(4) LIMITATION ON APPLICABILITY.—Paragraph (1) does not apply to the following:

“(A) Any mentor-protege program of the Department of Defense.

“(B) Any mentoring assistance provided under a Small Business Innovation Research Program or a Small Business Technology Transfer Program.

Time period.

“(C) Until the date that is 1 year after the date on which the Administrator issues regulations under paragraph (3), any Federal department or agency operating a mentor-protege program in effect on the date of enactment of this section.

“(c) REPORTING.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Administrator shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report that—

“(A) identifies each Federal mentor-protege program;

“(B) specifies the number of participants in each such program, including the number of participants that are—

“(i) small business concerns;

“(ii) small business concerns owned and controlled by service-disabled veterans;

“(iii) qualified HUBZone small business concerns;

“(iv) small business concerns owned and controlled by socially and economically disadvantaged individuals; or

“(v) small business concerns owned and controlled by women;

“(C) describes the type of assistance provided to proteges under each such program;

“(D) describes the benefits provided to mentors under each such program; and

“(E) describes the progress of proteges under each such program with respect to competing for Federal prime contracts and subcontracts.

“(2) PROVISION OF INFORMATION.—The head of each Federal department or agency carrying out a mentor-protege program shall provide to the Administrator, on an annual basis, the information necessary for the Administrator to submit a report required under paragraph (1).

“(d) DEFINITIONS.—In this section, the following definitions apply:

“(1) MENTOR.—The term ‘mentor’ means a for-profit business concern, of any size, that—

“(A) has the ability to assist and commits to assisting a protege to compete for Federal prime contracts and subcontracts; and

“(B) satisfies any other requirements imposed by the Administrator.

“(2) MENTOR-PROTEGE PROGRAM.—The term ‘mentor-protege program’ means a program that pairs a mentor with a protege for the purpose of assisting the protege to compete for Federal prime contracts and subcontracts.

“(3) PROTEGE.—The term ‘protege’ means a small business concern that—

“(A) is eligible to enter into Federal prime contracts and subcontracts; and

“(B) satisfies any other requirements imposed by the Administrator.

“(e) CURRENT MENTOR PROTEGE AGREEMENTS.—Mentors and proteges with approved agreement in a program operating pursuant to subsection (b)(4)(C) shall be permitted to continue their relationship according to the terms specified in their agreement until the expiration date specified in the agreement.

“(f) SUBMISSION OF AGENCY PLANS.—Agencies operating mentor protege programs pursuant to subsection (b)(4)(C) shall submit the plans specified in subsection (b)(1)(A) to the Administrator within 6 months of the promulgation of rules required by subsection (b)(3). The Administrator shall provide initial comments on each plan within 60 days of receipt, and final approval or denial of each plan within 180 days after receipt.”.

Deadlines.

## PART IV—TRANSPARENCY IN SUBCONTRACTING

### SEC. 1651. LIMITATIONS ON SUBCONTRACTING.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting before section 47 (as redesignated by section 1641 of this subtitle) the following:

#### “SEC. 46. LIMITATIONS ON SUBCONTRACTING.

15 USC 657s.

“(a) IN GENERAL.—If awarded a contract under section 8(a), 8(m), 15(a), 31, or 36, a covered small business concern—

“(1) in the case of a contract for services, may not expend on subcontractors more than 50 percent of the amount paid to the concern under the contract;

“(2) in the case of a contract for supplies (other than from a regular dealer in such supplies), may not expend on subcontractors more than 50 percent of the amount, less the cost of materials, paid to the concern under the contract;

“(3) in the case of a contract described in paragraphs (1) and (2)—

Determinations.

“(A) shall determine for which category, services (as described in paragraph (1)) or supplies (as described in paragraph (2)), the greatest percentage of the contract is awarded;

“(B) shall determine the amount awarded under the contract for that category of services or supplies; and

“(C) may not expend on subcontractors, with respect to the amount determined under subparagraph (B), more than 50 percent of that amount; and

“(4) in the case of a contract for supplies from a regular dealer in such supplies, shall supply the product of a domestic small business manufacturer or processor, unless a waiver of such requirement is granted—

“(A) by the Administrator, after reviewing a determination by the applicable contracting officer that no small business manufacturer or processor can reasonably be expected to offer a product meeting the specifications (including period for performance) required by the contract; or

“(B) by the Administrator for a product (or class of products), after determining that no small business manufacturer or processor is available to participate in the Federal procurement market.

“(b) SIMILARLY SITUATED ENTITIES.—Contract amounts expended by a covered small business concern on a subcontractor that is a similarly situated entity shall not be considered subcontracted for purposes of determining whether the covered small business concern has violated a requirement established under subsection (a) or (d).

Regulations.  
Notice.  
Public  
information.  
Determination.

“(c) MODIFICATIONS OF PERCENTAGES.—The Administrator may change, by rule (after providing notice and an opportunity for public comment), a percentage specified in paragraphs (1) through (4) of subsection (a) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

“(d) OTHER CONTRACTS.—

Regulation.  
Notice.  
Public  
information.

“(1) IN GENERAL.—With respect to a category of contracts to which a requirement under subsection (a) does not apply, the Administrator is authorized to establish, by rule (after providing notice and an opportunity for public comment), a requirement that a covered small business concern may not expend on subcontractors more than a specified percentage of the amount paid to the concern under a contract in that category.

Applicability.

“(2) UNIFORMITY.—A requirement established under paragraph (1) shall apply to all covered small business concerns.

Regulations.  
Requirements.  
Applicability.

“(3) CONSTRUCTION PROJECTS.—The Administrator shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such paragraph. The percentage applicable to any such requirement shall be determined in accordance with paragraph (1).

Determination.

“(e) DEFINITIONS.—In this section, the following definitions apply:

“(1) COVERED SMALL BUSINESS CONCERN.—The term ‘covered small business concern’ means a business concern that—

“(A) with respect to a contract awarded under section 8(a), is a small business concern eligible to receive contracts under that section;

“(B) with respect to a contract awarded under section 8(m)—

“(i) is a small business concern owned and controlled by women (as defined in that section); or

“(ii) is a small business concern owned and controlled by women (as defined in that section) that is not less than 51 percent owned by 1 or more women

who are economically disadvantaged (and such ownership is determined without regard to any community property law);

“(C) with respect to a contract awarded under section 15(a), is a small business concern;

“(D) with respect to a contract awarded under section 31, is a qualified HUBZone small business concern; or

“(E) with respect to a contract awarded under section 36, is a small business concern owned and controlled by service-disabled veterans.

“(2) SIMILARLY SITUATED ENTITY.—The term ‘similarly situated entity’ means a subcontractor that—

“(A) if a subcontractor for a small business concern, is a small business concern;

“(B) if a subcontractor for a small business concern eligible to receive contracts under section 8(a), is such a concern;

“(C) if a subcontractor for a small business concern owned and controlled by women (as defined in section 8(m)), is such a concern;

“(D) if a subcontractor for a small business concern owned and controlled by women (as defined in section 8(m)) that is not less than 51 percent owned by 1 or more women who are economically disadvantaged (and such ownership is determined without regard to any community property law), is such a concern;

“(E) if a subcontractor for a qualified HUBZone small business concern, is such a concern; or

“(F) if a subcontractor for a small business concern owned and controlled by service-disabled veterans, is such a concern.”.

#### SEC. 1652. PENALTIES.

Section 16 of the Small Business Act (15 U.S.C. 645) is amended by adding at the end the following:

“(g) SUBCONTRACTING LIMITATIONS.—

“(1) IN GENERAL.—Whoever violates a requirement established under section 46 shall be subject to the penalties prescribed in subsection (d), except that, for an entity that exceeded a limitation on subcontracting under such section, the fine described in subsection (d)(2)(A) shall be treated as the greater of—

“(A) \$500,000; or

“(B) the dollar amount expended, in excess of permitted levels, by the entity on subcontractors.

“(2) MONITORING.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall take such actions as are necessary to ensure that an existing Federal subcontracting reporting system is modified to notify the Administrator, the appropriate Director of the Office of Small and Disadvantaged Business Utilization, and the appropriate contracting officer if a requirement established under section 46 is violated.”.

Deadline.

#### SEC. 1653. SUBCONTRACTING PLANS.

(a) AMENDMENTS TO SMALL BUSINESS ACT REQUIREMENTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by—

- (1) redesignating paragraphs (7), (8), (9), (10), (11), and (12) as paragraphs (8), (9), (10), (11), (12), and (13) respectively;
- (2) inserting after paragraph (6) the following:
- “(7) The head of the contracting agency shall ensure that—
- Reports.      “(A) the agency collects and reports data on the extent to which contractors of the agency meet the goals and objectives set forth in subcontracting plans submitted pursuant to this subsection; and
- Reviews.      “(B) the agency periodically reviews data collected and reported pursuant to subparagraph (A) for the purpose of ensuring that such contractors comply in good faith with the requirements of this subsection and subcontracting plans submitted by the contractors pursuant to this subsection.”;
- (3) in paragraph (9), as redesignated by paragraph (1) of this subsection, striking “shall be a material breach of such contract or subcontract” and inserting “shall be a material breach of such contract or subcontract and may be considered in any past performance evaluation of the contractor”;
- (4) in subparagraph (C) of paragraph (11), as redesignated by paragraph (1) of this subsection, by striking “, either on a contract-by-contract basis, or in the case contractors” and inserting “as a supplement to evaluations performed by the contracting agency, either on a contract-by-contract basis or, in the case of contractors”; and
- (5) by adding at the end the following:
- Notification.      “(14) An offeror for a covered contract that intends to identify a small business concern as a potential subcontractor in a bid or proposal for the contract, or in a plan submitted pursuant to this subsection in connection with the contract, shall notify the small business concern prior to making such identification.
- Reports.      “(15) The Administrator shall establish a reporting mechanism that allows a subcontractor or potential subcontractor to report fraudulent activity or bad faith by a contractor with respect to a subcontracting plan submitted pursuant to this subsection.”.
- 15 USC 637d.      (b) ADDITIONAL REQUIREMENTS.—
- (1) REPORTING REQUIREMENTS.—Not later than 1 year after the date of the enactment of this part, the Administrator of the Small Business Administration shall take such actions as are necessary to ensure that the electronic subcontracting reporting system established by the Administration to carry out the requirement of section 8(d)(6)(E) of the Small Business Act is modified to ensure that it can identify entities that fail to submit required reports.
- (2) ANNUAL REPORT.—Not later than March 31 of each year, the Administrator of the Small Business Administration shall provide the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report, based on data available through existing systems, that sets forth, by agency (and to the extent practicable, by type of goal or plan), the following information:
- (A) the percentage of entities required to submit reports pursuant to section 8(d)(6) of the Small Business



Act that filed such reports and that failed to file such reports during the prior fiscal year;

(B) the percentage of entities filing such reports that met, exceeded, or failed to meet goals set forth in their subcontracting plans during the prior fiscal year; and

(C) the aggregate value by which such entities exceeded, or failed to meet, their subcontracting goals during the prior fiscal year.

**SEC. 1654. NOTICES OF SUBCONTRACTING OPPORTUNITIES.**

Section 8(k)(1) of the Small Business Act (15 U.S.C. 637(k)(1)) is amended by striking “in the Commerce Business Daily” and inserting “on the appropriate Federal Web site (as determined by the Administrator)”.

**SEC. 1655. PUBLICATION OF CERTAIN DOCUMENTS.**

Not later than 270 days after the date of the enactment of this part, the Director of the Office of Management and Budget shall publish procedures and methodologies to be used by Federal agencies with respect to decisions to convert a function being performed by a small business concern to performance by a Federal employee, including procedures and methodologies for determining which contracts will be studied for potential conversion; procedures and methodologies by which a contract is evaluated as inherently governmental or as a critical agency function; and procedures and methodologies for estimating and comparing costs. Should a Federal agency develop any agency-specific methodologies for identifying critical agency functions or supplemental implementation guidance, such methodologies and guidance shall be published upon implementation.

Deadline.  
Procedures.  
31 USC 501 note.

## **PART V—SMALL BUSINESS CONCERN SIZE STANDARDS**

**SEC. 1661. SMALL BUSINESS CONCERN SIZE STANDARDS.**

Section 3 of the Small Business Act (15 U.S.C. 632) is amended—

(1) by striking “SEC. 3.” and inserting the following:

“**SEC. 3. DEFINITIONS.**”;

and

(2) in subsection (a)—

(A) by striking the subsection enumerator and inserting the following:

“(a) **SMALL BUSINESS CONCERNS.**—”;

(B) in paragraph (1), by striking “(1) For the purposes” and inserting the following:

“(1) **IN GENERAL.**—For the purposes”;

(C) in paragraph (3), by striking “(3) When establishing” and inserting the following:

“(3) **VARIATION BY INDUSTRY AND CONSIDERATION OF OTHER FACTORS.**—When establishing”;

(D) by moving paragraph (5), including each subparagraph and clause therein, 2 ems to the right; and

(E) by adding at the end the following:

“(6) **PROPOSED RULEMAKING.**—In conducting rulemaking to revise, modify or establish size standards pursuant to this

Public  
information.

section, the Administrator shall consider, and address, and make publicly available as part of the notice of proposed rule-making and notice of final rule each of the following:

“(A) a detailed description of the industry for which the new size standard is proposed;

“(B) an analysis of the competitive environment for that industry;

“(C) the approach the Administrator used to develop the proposed standard including the source of all data used to develop the proposed rule making; and

“(D) the anticipated effect of the proposed rulemaking on the industry, including the number of concerns not currently considered small that would be considered small under the proposed rule making and the number of concerns currently considered small that would be deemed other than small under the proposed rulemaking.

Public  
information.  
Deadline.

“(7) COMMON SIZE STANDARDS.—In carrying out this subsection, the Administrator may establish or approve a single size standard for a grouping of 4-digit North American Industry Classification System codes only if the Administrator makes publicly available, not later than the date on which such size standard is established or approved, a justification demonstrating that such size standard is appropriate for each individual industry classification included in the grouping.

“(8) NUMBER OF SIZE STANDARDS.—The Administrator shall not limit the number of size standards established pursuant to paragraph (2), and shall assign the appropriate size standard to each North American Industry Classification System Code.”.

## PART VI—CONTRACT BUNDLING

### SEC. 1671. CONTRACT BUNDLING.

(a) CONSTRUCTION CONTRACTS.—Section 44 of the Small Business Act (15 U.S.C. 657q) is amended in subsection (a)(2) by striking “or a multiple award contract to satisfy 2 or more requirements of the Federal agency for goods or services that have been provided to or performed for the Federal agency under 2 or more separate contracts lower in cost than the total cost of the contract for which the offers are solicited; and” and inserting the following: “or a multiple award contract—

“(A) to satisfy 2 or more requirements of the Federal agency for goods or services that have been provided to or performed for the Federal agency under 2 or more separate contracts lower in cost than the total cost of the contract for which the offers are solicited; or

“(B) to satisfy requirements of the Federal agency for construction projects to be performed at 2 or more discrete sites; and”.

(b) CLARIFICATION OF CERTAIN REQUIREMENTS.—Section 44 of such Act is further amended in subsection (c)(1)(E), by striking “certifies to the head of the Federal agency” and inserting “ensures”.

(c) REPEAL OF SUPERSEDED LAW AND CONFORMING CHANGE.—

(1) CONSOLIDATION OF CONTRACT REQUIREMENTS: POLICY AND RESTRICTIONS.—Section 2382 of title 10, United States Code is repealed. The table of sections for chapter 141 of such title is amended by striking the item relating to section 2382.

10 USC 2381  
prec.

(2) CONSOLIDATION OF CONTRACT REQUIREMENTS; DEPARTMENT OF DEFENSE.—Section 44 of the Small Business Act, as amended by subsections (a) and (b) of this section, is further amended in subsection (c) by striking paragraph (4).

(d) COMPTROLLER GENERAL REVIEW.—Not later than 270 days after the date of the enactment of this subsection, the Comptroller General of the United States shall review data and information regarding consolidated contracts awarded by Federal agencies. The review shall include an assessment of—

Deadline.

Assessment.

(1) the extent to which written determinations that the consolidation of contract requirements was necessary and justified meet the requirements of applicable provisions of law and regulation;

(2) the amount of savings and benefits realized pursuant to such contracts, in comparison with—

(A) the performance of similar requirements under previous contracts; and

(B) the savings and benefits anticipated by the analysis required prior to the contract award pursuant to applicable provisions of law and regulation;

(3) the extent to which the consolidation of contract requirements was consistent with the contracting agency's small business subcontracting plans; and

(4) the adequacy of data collected pursuant to section 15 of the Small Business Act relating to contract bundling.

## PART VII—INCREASED PENALTIES FOR FRAUD

### SEC. 1681. SAFE HARBOR FOR GOOD FAITH COMPLIANCE EFFORTS.

Deadlines.

(a) SMALL BUSINESS FRAUD.—Section 16(d) of the Small Business Act (15 U.S.C. 645(d)) is amended by inserting after paragraph (2) the following:

“(3) LIMITATION ON LIABILITY.—This subsection shall not apply to any conduct in violation of subsection (a) if the defendant acted in good faith reliance on a written advisory opinion from a Small Business Development Center (as defined in this Act), or an entity participating in the Procurement Technical Assistance Cooperative Agreement Program defined in chapter 142 of title 10, United States Code; however nothing in this Act shall obligate either entity to provide such a letter nor shall the provision of such a letter in any way render the providing entity liable to the business concern should the Administrator later determine that the concern is not a small business concern. Upon issuance of an advisory opinion under this paragraph, the entity issuing the advisory opinion shall remit a copy of the opinion to the General Counsel of the Administration, who may reject the advisory opinion. If the General Counsel of the Administration rejects the advisory opinion, the Administration shall notify the entity issuing the advisory opinion and the recipient of the opinion, after which time the business concern may not rely upon the opinion.”.

Advisory opinion.  
Records.

Notification.

(b) REGULATIONS.—Not later than 270 days after the date of enactment of this part, the Administrator of the Small Business Administration shall issue rules defining what constitutes an adequate advisory opinion for purposes of section 16(d)(3) of the Small Business Act.

15 USC 645 note.

- 15 USC 632 note. (c) **SMALL BUSINESS COMPLIANCE GUIDE.**—Not later than 270 days after the date of enactment of this part, the Administrator of the Small Business Administration shall issue (pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996) a compliance guide to assist business concerns in accurately determining their status as a small business concern.
- Deadlines. **SEC. 1682. REQUIREMENT THAT FRAUDULENT BUSINESSES BE SUSPENDED OR DEBARRED.**
- (a) **IN GENERAL.**—Section 16(d)(2)(C) of the Small Business Act (15 U.S.C. 645(d)(2)(C)) is amended by striking “on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government or a subcontract under such a contract”.
- 15 USC 645 note. (b) **DEVELOPMENT AND PROMULGATION OF GUIDANCE.**—Not later than 270 days after the date of enactment of this part, the Administrator of the Small Business Administration shall develop and promulgate guidance implementing this section.
- 15 USC 645 note. (c) **PUBLICATION OF PROCEDURES REGARDING SUSPENSION AND DEBARMENT.**—Not later than 270 days after the date of enactment of this part, the Administrator shall publish and maintain on the Administration’s Web site the current standard operating procedures of the Administration for suspension and debarment, and the name and contact information for the individual designated by the Administrator as the senior individual responsible for suspension and debarment proceedings.
- Web posting.
- 15 USC 645a. **SEC. 1683. ANNUAL REPORT ON SUSPENSIONS AND DEBARMENTS PROPOSED BY SMALL BUSINESS ADMINISTRATION.**
- (a) **REPORT REQUIREMENT.**—The Administrator of the Small Business Administration shall submit each year to the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report on the suspension and debarment actions taken by the Administrator during the year preceding the year of submission of the report.
- (b) **MATTERS COVERED.**—The report required by subsection (a) shall include the following information for the year covered by the report:
- (1) **NUMBER.**—The number of contractors proposed for suspension or debarment.
  - (2) **SOURCE.**—The office within a Federal agency that originated each proposal for suspension or debarment.
  - (3) **REASONS.**—The reason for each proposal for suspension or debarment.
  - (4) **RESULTS.**—The result of each proposal for suspension or debarment, and the reason for such result.
  - (5) **REFERRALS.**—The number of suspensions or debarments referred to the Inspector General of the Small Business Administration or another agency, or to the Attorney General (for purposes of this paragraph, the Administrator may redact identifying information on names of companies or other information in order to protect the integrity of any ongoing criminal or civil investigation).

## PART VIII—OFFICES OF SMALL AND DISADVANTAGED BUSINESS UNITS

### SEC. 1691. OFFICES OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.

(a) APPOINTMENT AND POSITION OF DIRECTOR.—Section 15(k)(2) of the Small Business Act (15 U.S.C. 644(k)(2)) is amended by striking “such agency,” and inserting “such agency to a position that is a Senior Executive Service position (as such term is defined under section 3132(a) of title 5, United States Code), except that, for any agency in which the positions of Chief Acquisition Officer and senior procurement executive (as such terms are defined under section 44(a) of this Act) are not Senior Executive Service positions, the Director of Small and Disadvantaged Business Utilization may be appointed to a position compensated at not less than the minimum rate of basic pay payable for grade GS-15 of the General Schedule under section 5332 of such title (including comparability payments under section 5304 of such title);”.

(b) PERFORMANCE APPRAISALS.—Section 15(k)(3) of such Act (15 U.S.C. 644(k)(3)) is amended—

(1) by striking “be responsible only to, and report directly to, the head” and inserting “shall be responsible only to (including with respect to performance appraisals), and report directly and exclusively to, the head”; and

(2) by striking “be responsible only to, and report directly to, such Secretary” and inserting “be responsible only to (including with respect to performance appraisals), and report directly and exclusively to, such Secretary”.

(c) ADDITIONAL REQUIREMENTS.—Section 15(k) of such Act (15 U.S.C. 644(k)) is amended by inserting after paragraph (10) the following:

“(11) shall review and advise such agency on any decision to convert an activity performed by a small business concern to an activity performed by a Federal employee; Review.

“(12) shall provide to the Chief Acquisition Officer and senior procurement executive of such agency advice and comments on acquisition strategies, market research, and justifications related to section 44 of this Act;

“(13) may provide training to small business concerns and contract specialists, except that such training may only be provided to the extent that the training does not interfere with the Director carrying out other responsibilities under this subsection;

“(14) shall receive unsolicited proposals and, when appropriate, forward such proposals to personnel of the activity responsible for reviewing such proposals;

“(15) shall carry out exclusively the duties enumerated in this Act, and shall, while the Director, not hold any other title, position, or responsibility, except as necessary to carry out responsibilities under this subsection; and

“(16) shall submit, each fiscal year, to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report describing— Reports.

“(A) the training provided by the Director under paragraph (13) in the most recently completed fiscal year;

“(B) the percentage of the budget of the Director used for such training in the most recently completed fiscal year; and

“(C) the percentage of the budget of the Director used for travel in the most recently completed fiscal year.”.

(d) REQUIREMENT OF ACQUISITION EXPERIENCE FOR OSDBU DIRECTOR.—Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), as amended by this part, is further amended, in the matter preceding paragraph (1), by striking “who shall” and inserting the following: “, with experience serving in any combination of the following roles: program manager, deputy program manager, or assistant program manager for Federal acquisition program; chief engineer, systems engineer, assistant engineer, or product support manager for Federal acquisition program; Federal contracting officer; small business technical advisor; contracts administrator for Federal Government contracts; attorney specializing in Federal procurement law; small business liaison officer; officer or employee who managed Federal Government contracts for a small business; or individual whose primary responsibilities were for the functions and duties of section 8, 15 or 44 of this Act. Such officer or employee”.

(e) TECHNICAL AMENDMENTS.—Section 15(k) of such Act (15 U.S.C. 644(k)), as amended, is further amended—

(1) in paragraph (1)—

(A) by striking “be known” and inserting “shall be known”; and

(B) by striking “such agency,” and inserting “such agency;”;

(2) in paragraph (2) by striking “be appointed by” and inserting “shall be appointed by”;

(3) in paragraph (3)—

(A) by striking “director” and inserting “Director”; and

(B) by striking “Secretary’s designee,” and inserting “Secretary’s designee;”;

(4) in paragraph (4)—

(A) by striking “be responsible” and inserting “shall be responsible”; and

(B) by striking “such agency,” and inserting “such agency;”;

(5) in paragraph (5) by striking “identify proposed” and inserting “shall identify proposed”;

(6) in paragraph (6) by striking “assist small” and inserting “shall assist small”;

(7) in paragraph (7)—

(A) by striking “have supervisory” and inserting “shall have supervisory”; and

(B) by striking “this Act,” and inserting “this Act;”;

(8) in paragraph (8)—

(A) in the matter preceding subparagraph (A), by striking “assign a” and inserting “shall assign a”; and

(B) in subparagraph (A), by striking “the activity, and” and inserting “the activity; and”;

(9) in paragraph (9)—

(A) by striking “cooperate, and” and inserting “shall cooperate, and”; and

(B) by striking “subsection, and” and inserting “subsection;”;

(10) in paragraph (10)—

(A) by striking “make recommendations” and inserting “shall make recommendations”;

(B) by striking “subsection (a), or section” and inserting “subsection (a), section”;

(C) by striking “Act or section 2323” and inserting “Act, or section 2323”;

(D) by striking “Code. Such recommendations shall” and inserting “Code, which shall”; and

(E) by striking “contract file.” and inserting “contract file;”.

#### **SEC. 1692. SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL.**

(a) DUTIES.—Section 7104(b) of the Federal Acquisition Streamlining Act of 1994 (15 U.S.C. 644 note) is amended—

(1) in paragraph (1) by striking “and” at the end;

(2) in paragraph (2) by striking “authorities.” and inserting “authorities;”; and

(3) by adding at the end the following:

“(3) to conduct reviews of each Office of Small and Disadvantaged Business Utilization established under section 15(k) of the Small Business Act (15 U.S.C. 644(k)) to determine the compliance of each Office with requirements under such section;

Reviews.

“(4) to identify best practices for maximizing small business utilization in Federal contracting that may be implemented by Federal agencies having procurement powers; and

“(5) to submit, annually, to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report describing—

Reports.  
Time periods.

“(A) the comments submitted under paragraph (2) during the 1-year period ending on the date on which the report is submitted, including any outcomes related to the comments;

“(B) the results of reviews conducted under paragraph (3) during such 1-year period; and

“(C) best practices identified under paragraph (4) during such 1-year period.”.

(b) MEMBERSHIP.—Section 7104(c)(3) of such Act (15 U.S.C. 644 note) is amended by striking “(established under section 15(k) of the Small Business Act (15 U.S.C. 644(k))”.

(c) CHAIRMAN.—Section 7104(d) of such Act (15 U.S.C. 644 note) is amended by inserting after “Small Business Administration” the following: “(or the designee of the Administrator)”.

## **PART IX—OTHER MATTERS**

#### **SEC. 1695. SURETY BONDS.**

(a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by striking “does not exceed” and all that follows through the period at the end, and inserting “does not exceed \$6,500,000, as adjusted for inflation in accordance with section 1908 of title 41, United States Code.”; and

(3) by adding at the end the following:

“(B) The Administrator may guarantee a surety under subparagraph (A) for a total work order or contract amount that does not exceed \$10,000,000, if a contracting officer of a Federal agency certifies that such a guarantee is necessary.”.

(b) DENIAL OF LIABILITY.—Section 411 of the Small Business Investment Act of 1958 (15 U.S.C. 694b) is amended—

(1) by striking subsection (e) and inserting the following:

“(e) REIMBURSEMENT OF SURETY; CONDITIONS.—Pursuant to any such guarantee or agreement, the Administration shall reimburse the surety, as provided in subsection (c) of this section, except that the Administration shall be relieved of liability (in whole or in part within the discretion of the Administration) if—

“(1) the surety obtained such guarantee or agreement, or applied for such reimbursement, by fraud or material misrepresentation,

“(2) the total contract amount at the time of execution of the bond or bonds exceeds \$6,500,000,

“(3) the surety has breached a material term or condition of such guarantee agreement, or

“(4) the surety has substantially violated the regulations promulgated by the Administration pursuant to subsection (d).”; and

(2) by inserting after subsection (i) the following:

“(j) For bonds made or executed with the prior approval of the Administration, the Administration shall not deny liability to a surety based upon material information that was provided as part of the guarantee application.”.

(c) SIZE STANDARDS.—Section 410 of the Small Business Investment Act of 1958 (15 U.S.C. 694a) is amended by inserting after paragraph (8) the following:

Definition.

“(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purpose of sections 410, 411, and 412 the term ‘small business concern’ means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.”.

#### **SEC. 1696. CONFORMING AMENDMENTS; REPEAL OF REDUNDANT PROVISIONS; REGULATIONS.**

(a) TECHNICAL AMENDMENTS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in the heading of subsection (p), to read as follows: “ACCESS TO DATA.—”; and

(2) in the heading of subsection (q), to read as follows: “REPORTS RELATED TO PROCUREMENT CENTER REPRESENTATIVES.—”.

(b) CONFORMING AMENDMENTS PERTAINING TO LIMITATIONS ON SUBCONTRACTING.—

(1) HUBZONES.—Section 3(p)(5) of the Small Business Act (15 U.S.C. 632(p)(5)) is amended—

(A) in subparagraph (A)(i) by striking subclause (III) and inserting the following:

“(III) with respect to any subcontract entered into by the small business concern pursuant to a contract awarded to the small business concern



under section 31, the small business concern will ensure that the requirements of section 46 are satisfied; and”;

(B) by striking subparagraphs (B) and (C); and

(C) by redesignating subparagraph (D) as subparagraph (B).

(2) ENTITIES ELIGIBLE FOR CONTRACTS UNDER SECTION 8(a).—Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by striking paragraph (14) and inserting the following:

“(14) LIMITATIONS ON SUBCONTRACTING.—A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees to satisfy the requirements of section 46.”.

(3) SMALL BUSINESS CONCERNS.—Section 15 of such Act (15 U.S.C. 644) is amended by striking subsection (o) and inserting the following:

“(o) LIMITATIONS ON SUBCONTRACTING.—A concern may not be awarded a contract under subsection (a) as a small business concern unless the concern agrees to satisfy the requirements of section 46.”.

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this part, the Administrator of the Small Business Administration shall issue guidance with respect to the changes made to the Small Business Act by the amendments in this subtitle, with opportunities for notice and comment.

Deadline.  
Guidance.  
15 USC 632 note.

**SEC. 1697. CONTRACTING WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY WOMEN.**

(a) PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.—Section 8(m)(2) of the Small Business Act (15 U.S.C. 637(m)(2)) is amended—

(1) by striking subparagraph (D); and

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

(b) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

“(o) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—

“(1) STUDY.—The Administrator shall periodically conduct a study to identify industries, as defined under the North American Industry Classification System, underrepresented by small business concerns owned and controlled by women.

“(2) REPORT.—Not later than 5 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.”.

Time period.

**SEC. 1698. SMALL BUSINESS HUBZONES.**

15 USC 632 note.

(a) DEFINITION.—In this section, the term “covered base closure area” means a base closure area that, on or before the date of enactment of this Act, was treated as a HUBZone for purposes of the Small Business Act (15 U.S.C. 631 et seq.) pursuant to section 152(a)(2) of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 632 note).

## (b) TREATMENT AS HUBZONE.—

(1) IN GENERAL.—Subject to paragraph (2), a covered base closure area shall be treated as a HUBZone for purposes of the Small Business Act (15 U.S.C. 631 et seq.) during the 5-year period beginning on the date of enactment of this Act.

(2) LIMITATION.—The total period of time that a covered base closure area is treated as a HUBZone for purposes of the Small Business Act (15 U.S.C. 631 et seq.) pursuant to this section and section 152(a)(2) of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 632 note) may not exceed 5 years.

**SEC. 1699. NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION.**

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by striking section 33 (15 U.S.C. 657c).

Effective date.  
15 USC 657c  
note.

(b) CORPORATION.—On and after the date of enactment of this Act, the National Veterans Business Development Corporation and any successor thereto may not represent that the corporation is federally chartered or in any other manner authorized by the Federal Government.

## (c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 10.—Section 1142(b)(13) of title 10, United States Code, is amended by striking “and the National Veterans Business Development Corporation”.

(2) TITLE 38.—Section 3452(h) of title 38, United States Code, is amended by striking “any of the” and all that follows and inserting “any small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), insofar as such center offers, sponsors, or cosponsors an entrepreneurship course, as that term is defined in section 3675(c)(2).”.

(3) VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999.—Section 203(c)(5) of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking “In cooperation with the National Veterans Business Development Corporation, develop” and inserting “Develop”.

**SEC. 1699a. STATE TRADE AND EXPORT PROMOTION GRANT PROGRAM.**

Section 1207(a)(5) of the Small Business Jobs Act of 2010 (15 U.S.C. 649b note) is amended by inserting after “Guam,” the following: “the Commonwealth of the Northern Mariana Islands,”.

## TITLE XVII—ENDING TRAFFICKING IN GOVERNMENT CONTRACTING

Sec. 1701. Definitions.

Sec. 1702. Contracting requirements.

Sec. 1703. Compliance plan and certification requirement.

Sec. 1704. Monitoring and investigation of trafficking in persons.

Sec. 1705. Notification to inspectors general and cooperation with Government.

Sec. 1706. Expansion of penalties for fraud in foreign labor contracting to include attempted fraud and work outside the United States.

Sec. 1707. Improving Department of Defense accountability for reporting trafficking in persons claims and violations.

Sec. 1708. Rules of construction; effective date.

**SEC. 1701. DEFINITIONS.**

In this title:

22 USC 7104a  
note.

(1) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given the term in section 133 of title 41, United States Code.

(2) SUBCONTRACTOR.—The term “subcontractor” means a recipient of a contract at any tier under a grant, contract, or cooperative agreement.

(3) SUBGRANTEE.—The term “subgrantee” means a recipient of a grant at any tier under a grant or cooperative agreement.

(4) UNITED STATES.—The term “United States” has the meaning provided in section 103(12) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(12)).

#### SEC. 1702. CONTRACTING REQUIREMENTS.

Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) is amended by striking “without penalty” and all that follows through the period at the end and inserting the following: “or take any of the other remedial actions authorized under section 1704(c) of the National Defense Authorization Act for Fiscal Year 2013, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor, engages in, or uses labor recruiters, brokers, or other agents who engage in—

“(i) severe forms of trafficking in persons;

“(ii) the procurement of a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect;

“(iii) the use of forced labor in the performance of the grant, contract, or cooperative agreement; or

“(iv) acts that directly support or advance trafficking in persons, including the following acts:

“(I) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee’s identity or immigration documents.

“(II) Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless—

“(aa) exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant, contract, or cooperative agreement; or

“(bb) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action.

“(III) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.

“(IV) Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee’s monthly

salary, or recruitment fees that violate the laws of the country from which an employee is recruited.

“(V) Providing or arranging housing that fails to meet the host country housing and safety standards.”.

**SEC. 1703. COMPLIANCE PLAN AND CERTIFICATION REQUIREMENT.**

22 USC 7104a.

(a) **REQUIREMENT.**—The head of an executive agency may not provide or enter into a grant, contract, or cooperative agreement if the estimated value of the services required to be performed under the grant, contract, or cooperative agreement outside the United States exceeds \$500,000, unless a duly designated representative of the recipient of such grant, contract, or cooperative agreement certifies to the contracting or grant officer prior to receiving an award and on an annual basis thereafter, after having conducted due diligence, that—

(1) the recipient has implemented a plan to prevent the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702, and is in compliance with that plan;

Procedures.

(2) the recipient has implemented procedures to prevent any activities described in such section 106(g) and to monitor, detect, and terminate any subcontractor, subgrantee, or employee of the recipient engaging in any activities described in such section; and

(3) to the best of the representative’s knowledge, neither the recipient, nor any subcontractor or subgrantee of the recipient or any agent of the recipient or of such a subcontractor or subgrantee, is engaged in any of the activities described in such section.

(b) **LIMITATION.**—Any plan or procedures implemented pursuant to subsection (a) shall be appropriate to the size and complexity of the grant, contract, or cooperative agreement and to the nature and scope of its activities, including the number of non-United States citizens expected to be employed.

Records.  
Web posting.

(c) **DISCLOSURE.**—The recipient shall provide a copy of the plan to the contracting or grant officer upon request, and as appropriate, shall post the useful and relevant contents of the plan or related materials on its website and at the workplace.

President.  
Consultation.  
Procedures.

(d) **GUIDANCE.**—The President, in consultation with the Secretary of State, the Attorney General, the Secretary of Defense, the Secretary of Labor, the Secretary of Homeland Security, the Administrator for the United States Agency for International Development, and the heads of such other executive agencies as the President deems appropriate, shall establish minimum requirements for contractor plans and procedures to be implemented pursuant to this section.

22 USC 7104b.

**SEC. 1704. MONITORING AND INVESTIGATION OF TRAFFICKING IN PERSONS.**

(a) **REFERRAL AND INVESTIGATION.**—

(1) **REFERRAL.**—If the contracting or grant officer of an executive agency for a grant, contract, or cooperative agreement receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 106(g) of the Trafficking Victims Protection

Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702, including a report from a contracting officer representative, an auditor, an alleged victim or victim's representative, or any other credible source, the contracting or grant officer shall promptly refer the matter to the agency's Office of Inspector General for investigation. The contracting officer may also direct the contractor to take specific steps to abate an alleged violation or enforce the requirements of a compliance plan implemented pursuant to section 1703.

(2) INVESTIGATION.—An Inspector General who receives a referral under paragraph (1) or otherwise receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702, shall promptly review the referral or information and determine whether to initiate an investigation of the matter. In the event that an Inspector General does not initiate an investigation, the Inspector General shall document the rationale for the decision not to investigate.

Review.  
Determination.

(3) CRIMINAL INVESTIGATION.—If the matter is referred to the Department of Justice for criminal prosecution, the Inspector General may suspend any investigation under this subsection pending the outcome of the criminal prosecution. The Inspector General shall notify the head of the executive agency that awarded the contract, grant, or cooperative agreement of an indictment, information, or criminal complaint against the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor. If the criminal investigation results in a decision not to prosecute, the Inspector General shall promptly determine whether to resume any investigation that was suspended pursuant to this paragraph. In the event that an Inspector General does not resume an investigation, the Inspector General shall document the rationale for the decision.

Notification.

Determination.

Documentation.

(b) REPORT.—Upon completion of an investigation under subsection (a), the Inspector General shall submit a report on the investigation to the head of the executive agency that awarded the contract, grant, or cooperative agreement. The report shall include the Inspector General's conclusions regarding whether or not any allegations that the recipient of a grant, contract, or cooperative agreement; any subcontractor or subgrantee of the recipient; or any agent of the recipient or of such a subcontractor or subgrantee, engaged in any of the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702, are substantiated.

(c) REMEDIAL ACTIONS.—

(1) IN GENERAL.—Upon receipt of an Inspector General's report substantiating an allegation that the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor, engaged in any of the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by

section 1702, or notification of an indictment, information, or criminal complaint for an offense under subsection (a)(3), the head of agency shall consider taking one or more of the following remedial actions:

(A) Requiring the recipient to remove an employee from the performance of work under the grant, contract, or cooperative agreement.

(B) Requiring the recipient to terminate a subcontract or subgrant.

(C) Suspending payments under the grant, contract, or cooperative agreement until such time as the recipient of the grant, contract, or cooperative agreement has taken appropriate remedial action.

(D) Withholding award fees, consistent with the award fee plan, for the performance period in which the agency determined the contractor or subcontractor engaged in any of the activities described in such section 106(g).

(E) Declining to exercise available options under the contract.

(F) Terminating the contract for default or cause, in accordance with the termination clause for the contract.

(G) Referring the matter to the agency suspension and debarment official.

(2) SAVINGS CLAUSE.—Nothing in this subsection shall be construed as limiting the scope of applicable remedies available to the Federal Government.

(3) MITIGATING FACTOR.—Where applicable, the head of an executive agency may consider whether the contractor or grantee had a plan in place under section 1703, and was in compliance with that plan at the time of the violation, as a mitigating factor in determining which remedies, if any, should apply.

(4) AGGRAVATING FACTOR.—Where applicable, the head of an executive agency may consider the failure of a contractor or grantee to abate an alleged violation or enforce the requirements of a compliance plan when directed by a contracting officer pursuant to subsection (a)(1) as an aggravating factor in determining which remedies, if any, should apply.

(d) INCLUSION OF REPORT CONCLUSIONS IN FAPIIS.—

(1) IN GENERAL.—The head of an executive agency shall ensure that any substantiated allegation in the report under subsection (b) is included in the Federal Awardee Performance and Integrity Information System (FAPIIS) and that the contractor has an opportunity to respond to any such report in accordance with applicable statutes and regulations.

(2) AMENDMENT TO TITLE 41, UNITED STATES CODE.—Section 2313(c)(1)(E) of title 41, United States Code, is amended to read as follows:

“(E) In an administrative proceeding—

“(i) a final determination of contractor fault by the Secretary of Defense pursuant to section 823(d) of the National Defense Authorization Act for Fiscal Year 2010 (10 U.S.C. 2302 note; Public Law 111-84); or

“(ii) a substantiated allegation, pursuant to section 1704(b) of the National Defense Authorization Act for Fiscal Year 2013, that the contractor, a subcontractor,

or an agent of the contractor or subcontractor engaged in any of the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)).”.

**SEC. 1705. NOTIFICATION TO INSPECTORS GENERAL AND COOPERATION WITH GOVERNMENT.** 22 USC 7104c.

The head of an executive agency making or awarding a grant, contract, or cooperative agreement shall require that the recipient of the grant, contract, or cooperative agreement—

(1) immediately inform the Inspector General of the executive agency of any information it receives from any source that alleges credible information that the recipient; any subcontractor or subgrantee of the recipient; or any agent of the recipient or of such a subcontractor or subgrantee, has engaged in conduct described in section 106(g) of the Trafficking in Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702 of this Act; and

(2) fully cooperate with any Federal agencies responsible for audits, investigations, or corrective actions relating to trafficking in persons.

**SEC. 1706. EXPANSION OF PENALTIES FOR FRAUD IN FOREIGN LABOR CONTRACTING TO INCLUDE ATTEMPTED FRAUD AND WORK OUTSIDE THE UNITED STATES.**

(a) IN GENERAL.—Section 1351 of title 18, United States Code, is amended—

(1) by striking “Whoever knowingly and with the intent to defraud recruits, solicits or hires a person outside the United States” and inserting “(a) WORK INSIDE THE UNITED STATES.—Whoever knowingly and with intent to defraud recruits, solicits, or hires a person outside the United States or causes another person to recruit, solicit, or hire a person outside the United States, or attempts to do so,”; and

(2) by adding at the end the following new subsection: “(b) WORK OUTSIDE THE UNITED STATES.—Whoever knowingly and with intent to defraud recruits, solicits, or hires a person outside the United States or causes another person to recruit, solicit, or hire a person outside the United States, or attempts to do so, for purposes of employment performed on a United States Government contract performed outside the United States, or on a United States military installation or mission outside the United States or other property or premises outside the United States owned or controlled by the United States Government, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment, shall be fined under this title or imprisoned for not more than 5 years, or both.”.

(b) SPECIAL RULE FOR ALIEN VICTIMS.—No alien may be admitted to the United States pursuant to subparagraph (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) as a result of the alien being a victim of a crime described in subsection (b) of section 1351 of title 18, United States Code, as added by subsection (a). 8 USC 1101 note.

**SEC. 1707. IMPROVING DEPARTMENT OF DEFENSE ACCOUNTABILITY FOR REPORTING TRAFFICKING IN PERSONS CLAIMS AND VIOLATIONS.**

Section 105(d)(7)(H) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)(7)(H)) is amended—

- (1) in clause (ii), by striking “and” at the end;
- (2) by redesignating clause (iii) as clause (iv);
- (3) by inserting after clause (ii) the following new clause:  
     “(iii) all known trafficking in persons cases reported to the Under Secretary of Defense for Personnel and Readiness;”;
- (4) in clause (iv), as redesignated by paragraph (2), by inserting “and” at the end after the semicolon; and
- (5) by adding at the end the following new clause:  
     “(v) all trafficking in persons activities of contractors reported to the Under Secretary of Defense for Acquisition, Technology, and Logistics;”.

22 USC 7104d.

**SEC. 1708. RULES OF CONSTRUCTION; EFFECTIVE DATE.**

(a) **LIABILITY.**—Excluding section 1706, nothing in this title shall be construed to supersede, enlarge, or diminish the common law or statutory liabilities of any grantee, subgrantee, contractor, subcontractor, or other party covered by section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702.

(b) **AUTHORITY OF DEPARTMENT OF JUSTICE.**—Nothing in this title shall be construed as diminishing or otherwise modifying the authority of the Attorney General to investigate activities covered by this title.

Deadlines.  
Applicability.

(c) **IMPLEMENTATION AND EFFECTIVE DATES.**—

(1) **CONTRACTING REQUIREMENTS.**—

(A) Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to carry out the requirements of sections 1702, 1703, and 1704(c), and the second sentence of section 1704(a)(1), of this title.

(B) The requirements of sections 1702, 1703, and 1704(c), and the second sentence of section 1704(a)(1), of this title, shall apply to grants, contracts, and cooperative agreements entered into on or after the date that is 270 days after the date of the enactment of this Act, and to task and delivery orders awarded on or after such date pursuant to contracts entered before, on, or after such date.

(2) **INVESTIGATIVE AND PROCEDURAL REQUIREMENTS.**—Federal agencies shall implement the requirements of sections 1704, 1705, and 1707 (other than subsection (c) of section 1704) not later than 90 days after the date of the enactment of this Act.

(3) **CRIMINAL LAW CHANGES.**—The amendments made by section 1706 shall take effect upon the date of enactment and shall apply to conduct taking place on or after such date.



## TITLE XVIII—FEDERAL ASSISTANCE TO FIRE DEPARTMENTS

### Subtitle A—Fire Grants Reauthorization

- Sec. 1801. Short title.
- Sec. 1802. Amendments to definitions.
- Sec. 1803. Assistance to firefighters grants.
- Sec. 1804. Staffing for adequate fire and emergency response.
- Sec. 1805. Sense of Congress on value and funding of Assistance to Firefighters and Staffing for Adequate Fire and Emergency Response programs.
- Sec. 1806. Report on amendments to Assistance to Firefighters and Staffing for Adequate Fire and Emergency Response programs.
- Sec. 1807. Studies and reports on the state of fire services.

### Subtitle B—Reauthorization of United States Fire Administration

- Sec. 1811. Short title.
- Sec. 1812. Clarification of relationship between United States Fire Administration and Federal Emergency Management Agency.
- Sec. 1813. Modification of authority of Administrator to educate public about fire and fire prevention.
- Sec. 1814. Authorization of appropriations.
- Sec. 1815. Removal of limitation.

### Subtitle A—Fire Grants Reauthorization

Fire Grants  
Reauthorization  
Act of 2012.  
15 USC 2201  
note.

#### SEC. 1801. SHORT TITLE.

This subtitle may be cited as the “Fire Grants Reauthorization Act of 2012”.

#### SEC. 1802. AMENDMENTS TO DEFINITIONS.

(a) IN GENERAL.—Section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) is amended—

(1) in paragraph (3), by inserting “, except as otherwise provided,” after “means”;

(2) in paragraph (4), by striking “‘Director’ means” and all that follows through “Agency;” and inserting “‘Administrator of FEMA’ means the Administrator of the Federal Emergency Management Agency;”;

(3) in paragraph (5)—

(A) by inserting “Indian tribe,” after “county;” and

(B) by striking “and ‘firecontrol’” and inserting “and ‘fire control’”;

(4) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(5) by inserting after paragraph (5), the following:

“(6) ‘Indian tribe’ has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and ‘tribal’ means of or pertaining to an Indian tribe;”;

(6) by redesignating paragraphs (9) and (10), as redesignated by paragraph (4), as paragraphs (10) and (11);

(7) by inserting after paragraph (8), as redesignated by paragraph (4), the following:

“(9) ‘Secretary’ means, except as otherwise provided, the Secretary of Homeland Security;” and

(8) by amending paragraph (10), as redesignated by paragraph (6), to read as follows:

“(10) ‘State’ has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).”.

15 USC 2204,  
2206, 2210, 2214,  
2215, 2217, 2218,  
2224, 2226;  
42 USC 290a.

(b) CONFORMING AMENDMENTS.—

(1) ADMINISTRATOR OF FEMA.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by striking “Director” each place it appears and inserting “Administrator of FEMA”.

(2) ADMINISTRATOR OF FEMA’S AWARD.—Section 15 of such Act (15 U.S.C. 2214) is amended by striking “Director’s Award” each place it appears and inserting “Administrator’s Award”.

**SEC. 1803. ASSISTANCE TO FIREFIGHTERS GRANTS.**

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended to read as follows:

**“SEC. 33. FIREFIGHTER ASSISTANCE.**

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR OF FEMA.—The term ‘Administrator of FEMA’ means the Administrator of FEMA, acting through the Administrator.

“(2) AVAILABLE GRANT FUNDS.—The term ‘available grant funds’, with respect to a fiscal year, means those funds appropriated pursuant to the authorization of appropriations in subsection (q)(1) for such fiscal year less any funds used for administrative costs pursuant to subsection (q)(2) in such fiscal year.

“(3) CAREER FIRE DEPARTMENT.—The term ‘career fire department’ means a fire department that has an all-paid force of firefighting personnel other than paid-on-call firefighters.

“(4) COMBINATION FIRE DEPARTMENT.—The term ‘combination fire department’ means a fire department that has—

“(A) paid firefighting personnel; and

“(B) volunteer firefighting personnel.

“(5) FIREFIGHTING PERSONNEL.—The term ‘firefighting personnel’ means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

“(6) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

“(7) NONAFFILIATED EMS ORGANIZATION.—The term ‘non-affiliated EMS organization’ means a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Administrator of FEMA finds that emergency medical services are adequately provided by a fire department.

“(8) PAID-ON-CALL.—The term ‘paid-on-call’ with respect to firefighting personnel means firefighting personnel who are paid a stipend for each event to which they respond.

“(9) VOLUNTEER FIRE DEPARTMENT.—The term ‘volunteer fire department’ means a fire department that has an all-volunteer force of firefighting personnel.

“(b) ASSISTANCE PROGRAM.—

“(1) AUTHORITY.—In accordance with this section, the Administrator of FEMA may award—

“(A) assistance to firefighters grants under subsection (c); and

“(B) fire prevention and safety grants and other assistance under subsection (d).

“(2) ADMINISTRATIVE ASSISTANCE.—The Administrator of FEMA shall—

“(A) establish specific criteria for the selection of grant recipients under this section; and Criteria.

“(B) provide assistance with application preparation to applicants for such grants.

“(c) ASSISTANCE TO FIREFIGHTERS GRANTS.—

“(1) IN GENERAL.—The Administrator of FEMA may, in consultation with the chief executives of the States in which the recipients are located, award grants on a competitive basis directly to—

“(A) fire departments, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the United States against fire, fire-related, and other hazards;

“(B) nonaffiliated EMS organizations to support the provision of emergency medical services; and

“(C) State fire training academies for the purposes described in subparagraphs (G), (H), and (I) of paragraph (3).

“(2) MAXIMUM GRANT AMOUNTS.—

“(A) POPULATION.—The Administrator of FEMA may not award a grant under this subsection in excess of amounts as follows:

“(i) In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of the grant awarded to such recipient shall not exceed \$1,000,000 in any fiscal year.

“(ii) In the case of a recipient that serves a jurisdiction with more than 100,000 people but not more than 500,000 people, the amount of the grant awarded to such recipient shall not exceed \$2,000,000 in any fiscal year.

“(iii) In the case of a recipient that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people, the amount of the grant awarded to such recipient shall not exceed \$3,000,000 in any fiscal year.

“(iv) In the case of a recipient that serves a jurisdiction with more than 1,000,000 people but not more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed \$6,000,000 for any fiscal year.

“(v) In the case of a recipient that serves a jurisdiction with more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed \$9,000,000 in any fiscal year.

“(B) AGGREGATE.—

“(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B) and except as provided under clause (ii), the Administrator of FEMA may not award a grant under this subsection in a fiscal year in an amount that exceeds the amount that is one percent of the available grant funds in such fiscal year.

“(ii) EXCEPTION.—The Administrator of FEMA may waive the limitation in clause (i) with respect to a Waiver authority. Determination.

grant recipient if the Administrator of FEMA determines that such recipient has an extraordinary need for a grant in an amount that exceeds the limit under clause (i).

“(3) USE OF GRANT FUNDS.—Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

“(A) To train firefighting personnel in—

“(i) firefighting;

“(ii) emergency medical services and other emergency response (including response to natural disasters, acts of terrorism, and other man-made disasters);

“(iii) arson prevention and detection;

“(iv) maritime firefighting; or

“(v) the handling of hazardous materials.

“(B) To train firefighting personnel to provide any of the training described under subparagraph (A).

“(C) To fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies.

“(D) To certify—

“(i) fire inspectors; and

“(ii) building inspectors—

“(I) whose responsibilities include fire safety inspections; and

“(II) who are employed by or serving as volunteers with a fire department.

“(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel are able to carry out their duties as firefighters, including programs dedicated to raising awareness of, and prevention of, job-related mental health issues.

“(F) To fund emergency medical services provided by fire departments and nonaffiliated EMS organizations.

“(G) To acquire additional firefighting vehicles, including fire trucks and other apparatus.

“(H) To acquire additional firefighting equipment, including equipment for—

“(i) fighting fires with foam in remote areas without access to water; and

“(ii) communications, monitoring, and response to a natural disaster, act of terrorism, or other man-made disaster, including the use of a weapon of mass destruction.

“(I) To acquire personal protective equipment, including personal protective equipment—

“(i) prescribed for firefighting personnel by the Occupational Safety and Health Administration of the Department of Labor; or

“(ii) for responding to a natural disaster or act of terrorism or other man-made disaster, including the use of a weapon of mass destruction.

“(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

“(K) To educate the public about arson prevention and detection.

Certification.

“(L) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer firefighting departments and other firefighting departments that utilize volunteers.

“(M) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

“(d) FIRE PREVENTION AND SAFETY GRANTS.—

“(1) IN GENERAL.—For the purpose of assisting fire prevention programs and supporting firefighter health and safety research and development, the Administrator of FEMA may, on a competitive basis—

“(A) award grants to fire departments;

“(B) award grants to, or enter into contracts or cooperative agreements with, national, State, local, tribal, or non-profit organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and firefighter research and development programs, for the purpose of carrying out—

“(i) fire prevention programs; and

“(ii) research to improve firefighter health and life safety; and

“(C) award grants to institutions of higher education, national fire service organizations, or national fire safety organizations to establish and operate fire safety research centers.

“(2) MAXIMUM GRANT AMOUNT.—A grant awarded under this subsection may not exceed \$1,500,000 for a fiscal year.

“(3) USE OF GRANT FUNDS.—Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

“(A) To enforce fire codes and promote compliance with fire safety standards.

“(B) To fund fire prevention programs, including programs that educate the public about arson prevention and detection.

“(C) To fund wildland fire prevention programs, including education, awareness, and mitigation programs that protect lives, property, and natural resources from fire in the wildland-urban interface.

“(D) In the case of a grant awarded under paragraph (1)(C), to fund the establishment or operation of a fire safety research center for the purpose of significantly reducing the number of fire-related deaths and injuries among firefighters and the general public through research, development, and technology transfer activities.

“(E) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

“(4) LIMITATION.—None of the funds made available under this subsection may be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations. ACORN.

“(e) APPLICATIONS FOR GRANTS.—

“(1) IN GENERAL.—An entity seeking a grant under this section shall submit to the Administrator of FEMA an application therefor in such form and in such manner as the Administrator of FEMA determines appropriate.

“(2) ELEMENTS.—Each application submitted under paragraph (1) shall include the following:

“(A) A description of the financial need of the applicant for the grant.

“(B) An analysis of the costs and benefits, with respect to public safety, of the use for which a grant is requested.

“(C) An agreement to provide information to the national fire incident reporting system for the period covered by the grant.

“(D) A list of other sources of funding received by the applicant—

“(i) for the same purpose for which the application for a grant under this section was submitted; or

“(ii) from the Federal Government for other fire-related purposes.

“(E) Such other information as the Administrator of FEMA determines appropriate.

“(3) JOINT OR REGIONAL APPLICATIONS.—

“(A) IN GENERAL.—Two or more entities may submit an application under paragraph (1) for a grant under this section to fund a joint program or initiative, including acquisition of shared equipment or vehicles.

“(B) NONEXCLUSIVITY.—Applications under this paragraph may be submitted instead of or in addition to any other application submitted under paragraph (1).

“(C) GUIDANCE.—The Administrator of FEMA shall—

“(i) publish guidance on applying for and administering grants awarded for joint programs and initiatives described in subparagraph (A); and

“(ii) encourage applicants to apply for grants for joint programs and initiatives described in subparagraph (A) as the Administrator of FEMA determines appropriate to achieve greater cost effectiveness and regional efficiency.

“(f) PEER REVIEW OF GRANT APPLICATIONS.—

“(1) IN GENERAL.—The Administrator of FEMA shall, after consultation with national fire service and emergency medical services organizations, appoint fire service personnel to conduct peer reviews of applications received under subsection (e)(1).

“(2) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities carried out pursuant to this subsection.

“(g) PRIORITIZATION OF GRANT AWARDS.—In awarding grants under this section, the Administrator of FEMA shall consider the following:

“(1) The findings and recommendations of the peer reviews carried out under subsection (f).

“(2) The degree to which an award will reduce deaths, injuries, and property damage by reducing the risks associated with fire-related and other hazards.

“(3) The extent of the need of an applicant for a grant under this section and the need to protect the United States as a whole.

Publication.

Consultation.

“(4) The number of calls requesting or requiring a fire fighting or emergency medical response received by an applicant.

“(h) ALLOCATION OF GRANT AWARDS.—In awarding grants under this section, the Administrator of FEMA shall ensure that of the available grant funds in each fiscal year—

“(1) not less than 25 percent are awarded under subsection (c) to career fire departments;

“(2) not less than 25 percent are awarded under subsection (c) to volunteer fire departments;

“(3) not less than 25 percent are awarded under subsection (c) to combination fire departments and fire departments using paid-on-call firefighting personnel;

“(4) not less than 10 percent are available for open competition among career fire departments, volunteer fire departments, combination fire departments, and fire departments using paid-on-call firefighting personnel for grants awarded under subsection (c);

“(5) not less than 10 percent are awarded under subsection (d); and

“(6) not more than 2 percent are awarded under this section to nonaffiliated EMS organizations described in subsection (c)(1)(B).

“(i) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

“(1) FUNDING FOR EMERGENCY MEDICAL SERVICES.—Not less than 3.5 percent of the available grant funds for a fiscal year shall be awarded under this section for purposes described in subsection (c)(3)(F).

“(2) STATE FIRE TRAINING ACADEMIES.—

“(A) MAXIMUM SHARE.—Not more than 3 percent of the available grant funds for a fiscal year may be awarded under subsection (c)(1)(C).

“(B) MAXIMUM GRANT AMOUNT.—The Administrator of FEMA may not award a grant under subsection (c)(1)(C) to a State fire training academy in an amount that exceeds \$1,000,000 in any fiscal year.

“(3) AMOUNTS FOR PURCHASING FIREFIGHTING VEHICLES.—Not more than 25 percent of the available grant funds for a fiscal year may be used to assist grant recipients to purchase vehicles pursuant to subsection (c)(3)(G).

“(j) FURTHER CONSIDERATIONS.—

“(1) ASSISTANCE TO FIREFIGHTERS GRANTS TO FIRE DEPARTMENTS.—In considering applications for grants under subsection (c)(1)(A), the Administrator of FEMA shall consider—

“(A) the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property; and

“(B) a broad range of factors important to the applicant’s ability to respond to fires and related hazards, such as the following:

“(i) Population served.

“(ii) Geographic response area.

“(iii) Hazards vulnerability.

“(iv) Call volume.

“(v) Financial situation, including unemployment rate of the area being served.

“(vi) Need for training or equipment.

“(2) APPLICATIONS FROM NONAFFILIATED EMS ORGANIZATIONS.—In the case of an application submitted under subsection (e)(1) by a nonaffiliated EMS organization, the Administrator of FEMA shall consider the extent to which other sources of Federal funding are available to the applicant to provide the assistance requested in such application.

“(3) AWARDING FIRE PREVENTION AND SAFETY GRANTS TO CERTAIN ORGANIZATIONS THAT ARE NOT FIRE DEPARTMENTS.—In the case of applicants for grants under this section who are described in subsection (d)(1)(B), the Administrator of FEMA shall give priority to applicants who focus on—

“(A) prevention of injuries to high risk groups from fire; and

“(B) research programs that demonstrate a potential to improve firefighter safety.

“(4) AWARDING GRANTS FOR FIRE SAFETY RESEARCH CENTERS.—

“(A) CONSIDERATIONS.—In awarding grants under subsection (d)(1)(C), the Administrator of FEMA shall—

“(i) select each grant recipient on—

“(I) the demonstrated research and extension resources available to the recipient to carry out the research, development, and technology transfer activities;

“(II) the capability of the recipient to provide leadership in making national contributions to fire safety;

“(III) the recipient’s ability to disseminate the results of fire safety research; and

“(IV) the strategic plan the recipient proposes to carry out under the grant;

“(ii) give special consideration in selecting recipients under subparagraph (A) to an applicant for a grant that consists of a partnership between—

“(I) a national fire service organization or a national fire safety organization; and

“(II) an institution of higher education, including a minority-serving institution (as described in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))); and

“(iii) consider the research needs identified and prioritized through the workshop required by subparagraph (B)(i).

“(B) RESEARCH NEEDS.—

“(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the Fire Grants Reauthorization Act of 2012, the Administrator of FEMA shall convene a workshop of the fire safety research community, fire service organizations, and other appropriate stakeholders to identify and prioritize fire safety research needs.

“(ii) PUBLICATION.—The Administrator of FEMA shall ensure that the results of the workshop are made available to the public.

“(C) LIMITATIONS ON GRANTS FOR FIRE SAFETY RESEARCH CENTERS.—

Deadline.  
Workshop.

Public  
information.



“(i) IN GENERAL.—The Administrator of FEMA may award grants under subsection (d) to establish not more than 3 fire safety research centers.

“(ii) RECIPIENTS.—An institution of higher education, a national fire service organization, and a national fire safety organization may not directly receive a grant under subsection (d) for a fiscal year for more than 1 fire safety research center.

“(5) AVOIDING DUPLICATION.—The Administrator of FEMA shall review lists submitted by applicants pursuant to subsection (e)(2)(D) and take such actions as the Administrator of FEMA considers necessary to prevent unnecessary duplication of grant awards. Review.

“(k) MATCHING AND MAINTENANCE OF EXPENDITURE REQUIREMENTS.— Contracts.

“(1) MATCHING REQUIREMENT FOR ASSISTANCE TO FIRE-FIGHTERS GRANTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an applicant seeking a grant to carry out an activity under subsection (c) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 15 percent of the grant awarded to such applicant under such subsection.

“(B) EXCEPTION FOR ENTITIES SERVING SMALL COMMUNITIES.—In the case that an applicant seeking a grant to carry out an activity under subsection (c) serves a jurisdiction of—

“(i) more than 20,000 residents but not more than 1,000,000 residents, the application shall agree to make available non-Federal funds in an amount equal to not less than 10 percent of the grant awarded to such applicant under such subsection; and

“(ii) 20,000 residents or fewer, the applicant shall agree to make available non-Federal funds in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

“(2) MATCHING REQUIREMENT FOR FIRE PREVENTION AND SAFETY GRANTS.—

“(A) IN GENERAL.—An applicant seeking a grant to carry out an activity under subsection (d) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

“(B) MEANS OF MATCHING.—An applicant for a grant under subsection (d) may meet the matching requirement under subparagraph (A) through direct funding, funding of complementary activities, or the provision of staff, facilities, services, material, or equipment.

“(3) MAINTENANCE OF EXPENDITURES.—An applicant seeking a grant under subsection (c) or (d) shall agree to maintain during the term of the grant the applicant’s aggregate expenditures relating to the uses described in subsections (c)(3) and (d)(3) at not less than 80 percent of the average amount of such expenditures in the 2 fiscal years preceding the fiscal year in which the grant amounts are received.

“(4) WAIVER.—

“(A) IN GENERAL.—Except as provided in subparagraph (C)(ii), the Administrator of FEMA may waive or reduce the requirements of paragraphs (1), (2), and (3) in cases of demonstrated economic hardship.

“(B) GUIDELINES.—

Publication.

“(i) IN GENERAL.—The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of this paragraph.

“(ii) CONSULTATION.—In developing guidelines under clause (i), the Administrator of FEMA shall consult with individuals who are—

“(I) recognized for expertise in firefighting, emergency medical services provided by fire services, or the economic affairs of State and local governments; and

“(II) members of national fire service organizations or national organizations representing the interests of State and local governments.

“(iii) CONSIDERATIONS.—In developing guidelines under clause (i), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

“(I) Changes in rates of unemployment from previous years.

“(II) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded the annual national average rates of unemployment.

“(III) Changes in percentages of individuals eligible to receive food stamps from previous years.

“(IV) Such other factors as the Administrator of FEMA considers appropriate.

“(C) CERTAIN APPLICANTS FOR FIRE PREVENTION AND SAFETY GRANTS.—The authority under subparagraph (A) shall not apply with respect to a nonprofit organization that—

“(i) is described in subsection (d)(1)(B); and

“(ii) is not a fire department or emergency medical services organization.

“(1) GRANT GUIDELINES.—

Federal Register,  
publication.

“(1) GUIDELINES.—For each fiscal year, prior to awarding any grants under this section, the Administrator of FEMA shall publish in the Federal Register—

“(A) guidelines that describe—

“(i) the process for applying for grants under this section; and

“(ii) the criteria that will be used for selecting grant recipients; and

“(B) an explanation of any differences between such guidelines and the recommendations obtained under paragraph (2).

“(2) ANNUAL MEETING TO OBTAIN RECOMMENDATIONS.—

“(A) IN GENERAL.—For each fiscal year, the Administrator of FEMA shall convene a meeting of qualified members of national fire service organizations and, at the discretion of the Administrator of FEMA, qualified members

of emergency medical service organizations to obtain recommendations regarding the following:

“(i) Criteria for the awarding of grants under this section.

“(ii) Administrative changes to the assistance program established under subsection (b).

“(B) QUALIFIED MEMBERS.—For purposes of this paragraph, a qualified member of an organization is a member who—

“(i) is recognized for expertise in firefighting or emergency medical services;

“(ii) is not an employee of the Federal Government; and

“(iii) in the case of a member of an emergency medical service organization, is a member of an organization that represents—

“(I) providers of emergency medical services that are affiliated with fire departments; or

“(II) nonaffiliated EMS providers.

“(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities carried out under this subsection.

“(m) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, for purposes of this section, equipment costs shall include all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

“(n) ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be eligible to apply for and receive a grant or other assistance under this section on behalf of Alaska Native villages.

“(o) TRAINING STANDARDS.—If an applicant for a grant under this section is applying for such grant to purchase training that does not meet or exceed any applicable national voluntary consensus standards, including those developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 747), the applicant shall submit to the Administrator of FEMA an explanation of the reasons that the training proposed to be purchased will serve the needs of the applicant better than training that meets or exceeds such standards.

“(p) ENSURING EFFECTIVE USE OF GRANTS.—

“(1) AUDITS.—The Administrator of FEMA may audit a recipient of a grant awarded under this section to ensure that—

“(A) the grant amounts are expended for the intended purposes; and

“(B) the grant recipient complies with the requirements of subsection (k).

“(2) PERFORMANCE ASSESSMENT.—

“(A) IN GENERAL.—The Administrator of FEMA shall develop and implement a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section, including protecting the health and safety of the public and firefighting personnel against fire and fire-related hazards.

“(B) CONSULTATION.—The Administrator of FEMA shall consult with fire service representatives and with the Comptroller General of the United States in developing the assessment system required by subparagraph (A).

“(3) ANNUAL REPORTS TO ADMINISTRATOR OF FEMA.—Not less frequently than once each year during the term of a grant awarded under this section, the recipient of the grant shall submit to the Administrator of FEMA an annual report describing how the recipient used the grant amounts.

“(4) ANNUAL REPORTS TO CONGRESS.—

“(A) IN GENERAL.—Not later than September 30, 2013, and each year thereafter through 2017, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology and the Committee on Transportation and Infrastructure of the House of Representatives a report that provides—

“(i) information on the performance assessment system developed under paragraph (2); and

“(ii) using the performance metrics developed under such paragraph, an evaluation of the effectiveness of the grants awarded under this section.

“(B) ADDITIONAL INFORMATION.—The report due under subparagraph (A) on September 30, 2016, shall also include recommendations for legislative changes to improve grants under this section.

“(q) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section—

“(A) \$750,000,000 for fiscal year 2013; and

“(B) for each of fiscal years 2014 through 2017, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

“(i) the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds

“(ii) the Consumer Price Index for the fiscal year preceding the fiscal year described in clause (i).

“(2) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts for salaries and expenses and other administrative costs incurred by the Administrator of FEMA in the course of awarding grants and providing assistance under this section.

“(3) CONGRESSIONALLY DIRECTED SPENDING.—Consistent with the requirements in subsections (c)(1) and (d)(1) that grants under those subsections be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally directed spending item (as defined under the rules of the Senate and the House of Representatives).

“(r) SUNSET OF AUTHORITIES.—The authority to award assistance and grants under this section shall expire on the date that is 5 years after the date of the enactment of the Fire Grants Reauthorization Act of 2012.”

Recommendations.

**SEC. 1804. STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE.****(a) IMPROVEMENTS TO HIRING GRANTS.—**

(1) **TERM OF GRANTS.**—Subparagraph (B) of section 34(a)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a(a)(1)) is amended to read as follows:

“(B) Grants made under this paragraph shall be for 3 years and be used for programs to hire new, additional firefighters.”.

(2) **LIMITATION OF PORTION OF COSTS OF HIRING FIREFIGHTERS.**—Subparagraph (E) of such section is amended to read as follows:

“(E) The portion of the costs of hiring firefighters provided by a grant under this paragraph may not exceed—

“(i) 75 percent in the first year of the grant;

“(ii) 75 percent in the second year of the grant; and

“(iii) 35 percent in the third year of the grant.”.

(b) **CLARIFICATION REGARDING ELIGIBLE ENTITIES FOR RECRUITMENT AND RETENTION GRANTS.**—The second sentence of section 34(a)(2) of such Act (15 U.S.C. 2229a(a)(2)) is amended by striking “organizations on a local or statewide basis” and inserting “national, State, local, or tribal organizations”.

(c) **MAXIMUM AMOUNT FOR HIRING A FIREFIGHTER.**—Paragraph (4) of section 34(c) of such Act (15 U.S.C. 2229a(c)) is amended to read as follows:

“(4) The amount of funding provided under this section to a recipient fire department for hiring a firefighter in any fiscal year may not exceed—

“(A) in the first year of the grant, 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted;

“(B) in the second year of the grant, 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted; and

“(C) in the third year of the grant, 35 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted.”.

(d) **WAIVERS.**—Section 34 of such Act (15 U.S.C. 2229a) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively; and

(2) by inserting after subsection (c) the following:

“(d) **WAIVERS.**—

“(1) **IN GENERAL.**—In a case of demonstrated economic hardship, the Administrator of FEMA may—

“(A) waive the requirements of subsection (c)(1); or

“(B) waive or reduce the requirements in subsection (a)(1)(E) or subsection (c)(2).

“(2) **GUIDELINES.**—

“(A) **IN GENERAL.**—The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of paragraph (1).

“(B) **CONSULTATION.**—In developing guidelines under subparagraph (A), the Administrator of FEMA shall consult with individuals who are—

“(i) recognized for expertise in firefighting, emergency medical services provided by fire services, or

Publication.

the economic affairs of State and local governments; and

“(ii) members of national fire service organizations or national organizations representing the interests of State and local governments.

“(C) CONSIDERATIONS.—In developing guidelines under subparagraph (A), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

“(i) Changes in rates of unemployment from previous years.

“(ii) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded the annual national average rates of unemployment.

“(iii) Changes in percentages of individuals eligible to receive food stamps from previous years.

“(iv) Such other factors as the Administrator of FEMA considers appropriate.”.

(e) IMPROVEMENTS TO PERFORMANCE EVALUATION REQUIREMENTS.—Subsection (e) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended by inserting before the first sentence the following:

Assessment.

“(1) IN GENERAL.—The Administrator of FEMA shall establish a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section.

“(2) SUBMITTAL OF INFORMATION.—”.

(f) REPORT.—

(1) IN GENERAL.—Subsection (f) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended by striking “The authority” and all that follows through “Congress concerning” and inserting the following: “Not later than September 30, 2014, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology and the Committee on Transportation and Infrastructure of the House of Representatives a report on”.

(2) CONFORMING AMENDMENT.—The heading for subsection (f) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended by striking “SUNSET AND REPORTS” and inserting “REPORT”.

(g) ADDITIONAL DEFINITIONS.—

(1) IN GENERAL.—Subsection (i) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended—

(A) in the matter before paragraph (1), by striking “In this section, the term—” and inserting “In this section;”;

(B) in paragraph (1)—

(i) by inserting “The term” before “‘firefighter’ has”; and

(ii) by striking “; and” and inserting a period;

(C) by striking paragraph (2); and

(D) by inserting at the end the following:

“(2) The terms ‘Administrator of FEMA’, ‘career fire department’, ‘combination fire department’, and ‘volunteer fire department’ have the meanings given such terms in section 33(a).”.

(2) CONFORMING AMENDMENT.—Section 34(a)(1)(A) of such Act (15 U.S.C. 2229a(a)(1)(A)) is amended by striking “career, volunteer, and combination fire departments” and inserting “career fire departments, combination fire departments, and volunteer fire departments”.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subsection (j) of section 34 of such Act (15 U.S.C. 2229a), as redesignated by subsection (d)(1) of this section, is amended—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(8) \$750,000,000 for fiscal year 2013; and

“(9) for each of fiscal years 2014 through 2017, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

“(A) the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds

“(B) the Consumer Price Index for the fiscal year preceding the fiscal year described in subparagraph (A).”.

(2) ADMINISTRATIVE EXPENSES.—Such subsection (j) is further amended—

(A) in paragraph (9), as added by paragraph (1) of this subsection, by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the left margin of such clauses, as so redesignated, 2 ems to the right;

(B) by redesignating paragraphs (1) through (9) as subparagraphs (A) through (I), respectively, and moving the left margin of such subparagraphs, as so redesignated, 2 ems to the right;

(C) by striking “There are” and inserting the following:

“(1) IN GENERAL.—There are”; and

(D) by adding at the end the following:

“(2) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts to cover salaries and expenses and other administrative costs incurred by the Administrator of FEMA to make grants and provide assistance under this section.”.

(3) CONGRESSIONALLY DIRECTED SPENDING.—Such subsection (j) is further amended by adding at the end the following:

“(3) CONGRESSIONALLY DIRECTED SPENDING.—Consistent with the requirement in subsection (a) that grants under this section be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally direct spending item (as defined under the rules of the Senate and the House of Representatives).”.

(i) TECHNICAL AMENDMENT.—Section 34 of such Act (15 U.S.C. 2229a) is amended by striking “Administrator” each place it appears and inserting “Administrator of FEMA”.

(j) **CLERICAL AMENDMENT.**—Such section is further amended in the heading by striking “**EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM**” and inserting the following: “**STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE**”.

(k) **SUNSET OF AUTHORITY TO AWARD HIRING GRANTS.**—Such section is further amended by adding at the end the following:

“(k) **SUNSET OF AUTHORITIES.**—The authority to award assistance and grants under this section shall expire on the date that is 5 years after the date of the enactment of the Fire Grants Reauthorization Act of 2012.”.

**SEC. 1805. SENSE OF CONGRESS ON VALUE AND FUNDING OF ASSISTANCE TO FIREFIGHTERS AND STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE PROGRAMS.**

It is the sense of Congress that—

(1) the grants and assistance awarded under sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a) have proven equally valuable in protecting the health and safety of the public and firefighting personnel throughout the United States against fire and fire-related hazards; and

(2) providing parity in funding for the awarding of grants and assistance under both such sections will ensure that the grant and assistance programs under such sections can continue to serve their complementary purposes.

**SEC. 1806. REPORT ON AMENDMENTS TO ASSISTANCE TO FIREFIGHTERS AND STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE PROGRAMS.**

(a) **IN GENERAL.**—Not later than September 30, 2016, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology of the House of Representatives a report on the effect of the amendments made by this subtitle.

(b) **CONTENTS.**—The report required by subsection (a) shall include the following:

Assessment.

(1) An assessment of the effect of the amendments made by sections 1803 and 1804 on the effectiveness, relative allocation, accountability, and administration of the grants and assistance awarded under sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a) after the date of the enactment of this Act.

Evaluation.

(2) An evaluation of the extent to which the amendments made by sections 1803 and 1804 have enabled recipients of grants and assistance awarded under such sections 33 and 34 after the date of the enactment of this Act to mitigate fire and fire-related and other hazards more effectively.

**SEC. 1807. STUDIES AND REPORTS ON THE STATE OF FIRE SERVICES.**

(a) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the United States Fire Administration.

(2) **CAREER FIRE DEPARTMENT, COMBINATION FIRE DEPARTMENT, VOLUNTEER FIRE DEPARTMENT.**—The terms “career fire department”, “combination fire department”, and “volunteer fire department” have the meanings given such terms in section



33(a) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229(a)), as amended by section 1803.

(3) FIRE SERVICE.—The term “fire service” has the meaning given such term in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203).

(b) STUDY AND REPORT ON COMPLIANCE WITH STAFFING STANDARDS.—

(1) STUDY.—The Administrator shall conduct a study on the level of compliance with national voluntary consensus standards for staffing, training, safe operations, personal protective equipment, and fitness among the fire services of the United States.

(2) SURVEY.—

(A) IN GENERAL.—In carrying out the study required by paragraph (1), the Administrator shall carry out a survey of fire services to assess the level of compliance of such fire services with the standards described in such paragraph.

(B) ELEMENTS.—The survey required by subparagraph (A) shall—

(i) include career fire departments, volunteer fire departments, combination fire departments, and fire departments serving communities of different sizes, and such other distinguishing factors as the Administrator considers relevant;

(ii) employ methods to ensure that the survey accurately reflects the actual rate of compliance with the standards described in paragraph (1) among fire services; and

(iii) determine the extent of barriers and challenges to achieving compliance with the standards described in paragraph (1) among fire services.

(C) AUTHORITY TO CARRY OUT SURVEY WITH NON-PROFIT.—If the Administrator determines that it will reduce the costs incurred by the United States Fire Administration in carrying out the survey required by subparagraph (A), the Administrator may carry out such survey in conjunction with a nonprofit organization that has substantial expertise and experience in the following areas:

Determination.

(i) The fire services.

(ii) National voluntary consensus standards.

(iii) Contemporary survey methods.

(3) REPORT ON FINDINGS OF STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the findings of the Administrator with respect to the study required by paragraph (1).

(B) CONTENTS.—The report required by subparagraph (A) shall include the following:

(i) An accurate description, based on the results of the survey required by paragraph (2)(A), of the rate of compliance with the standards described in paragraph (1) among United States fire services, including a comparison of the rates of compliance

among career fire departments, volunteer fire departments, combination fire departments, and fire departments serving communities of different sizes, and such other comparisons as Administrator considers relevant.

(ii) A description of the challenges faced by different types of fire departments and different types of communities in complying with the standards described in paragraph (1).

(c) TASK FORCE TO ENHANCE FIREFIGHTER SAFETY.—

Deadline.

(1) ESTABLISHMENT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish a task force to be known as the “Task Force to Enhance Firefighter Safety” (in this subsection referred to as the “Task Force”).

(2) MEMBERSHIP.—

(A) IN GENERAL.—Members of the Task Force shall be appointed by the Secretary from among the general public and shall include the following:

(i) Representatives of national organizations representing firefighters and fire chiefs.

(ii) Individuals representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community.

(iii) Such other individuals as the Secretary considers appropriate.

(B) REPRESENTATIVES OF OTHER DEPARTMENTS AND AGENCIES.—The Secretary may invite representatives of other Federal departments and agencies that have an interest in fire services to participate in the meetings and other activities of the Task Force.

Determination.

(C) NUMBER; TERMS OF SERVICE; PAY AND ALLOWANCES.—The Secretary shall determine the number, terms of service, and pay and allowances of members of the Task Force appointed by the Secretary, except that a term of service of any such member may not exceed 2 years.

(3) RESPONSIBILITIES.—The Task Force shall—

Consultation.

(A) consult with the Secretary in the conduct of the study required by subsection (b)(1); and

Plans.

(B) develop a plan to enhance firefighter safety by increasing fire service compliance with the standards described in subsection (b)(1), including by—

Review.

Evaluation.

(i) reviewing and evaluating the report required by subsection (b)(3)(A) to determine the extent of and barriers to achieving compliance with the standards described in subsection (b)(1) among fire services; and

(ii) considering ways in which the Federal Government, States, and local governments can promote or encourage fire services to comply with such standards.

(4) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date on which the Secretary submits the report required by subsection (b)(3)(A), the Task Force shall submit to Congress and the Secretary a report on the activities and findings of the Task Force.

(B) CONTENTS.—The report required by subparagraph (A) shall include the following:

- (i) The findings and recommendations of the Task Force with respect to the study carried out under subsection (b)(1).
- (ii) The plan developed under paragraph (3)(B).
- (d) **STUDY AND REPORT ON THE NEEDS OF FIRE SERVICES.**—
  - (1) **STUDY.**—The Administrator shall conduct a study—
    - (A) to define the current roles and activities associated with fire services on a national, State, regional, and local level;
    - (B) to identify the equipment, staffing, and training required to fulfill the roles and activities defined under subparagraph (A);
    - (C) to conduct an assessment to identify gaps between what fire services currently possess and what they require to meet the equipment, staffing, and training needs identified under subparagraph (B) on a national and State-by-State basis; and
    - (D) to measure the impact of the grant and assistance program under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) in meeting the needs of fire services and filling the gaps identified under subparagraph (C).
  - (2) **REPORT.**—Not later than 2 years after the date of the enactment of this title, the Administrator shall submit to Congress a report on the findings of the Administrator with respect to the study conducted under paragraph (1).
- (e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator to carry out this section—
  - (1) \$600,000 for fiscal year 2013; and
  - (2) \$600,000 for fiscal year 2014.

Assessment.

## Subtitle B—Reauthorization of United States Fire Administration

United States  
Fire  
Administration  
Reauthorization  
Act of 2012.  
15 USC 2201  
note.

### SEC. 1811. SHORT TITLE.

This subtitle may be cited as the “United States Fire Administration Reauthorization Act of 2012”.

### SEC. 1812. CLARIFICATION OF RELATIONSHIP BETWEEN UNITED STATES FIRE ADMINISTRATION AND FEDERAL EMERGENCY MANAGEMENT AGENCY.

Section 5(c) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204) is amended to read as follows:

“(c) **DEPUTY ADMINISTRATOR.**—The Administrator may appoint a Deputy Administrator, who shall—

“(1) perform such functions as the Administrator shall from time to time assign or delegate; and

“(2) act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.”.

### SEC. 1813. MODIFICATION OF AUTHORITY OF ADMINISTRATOR TO EDUCATE PUBLIC ABOUT FIRE AND FIRE PREVENTION.

Section 6 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2205) is amended by striking “to take all steps” and all that follows through “fire and fire prevention.” and inserting

“to take such steps as the Administrator considers appropriate to educate the public and overcome public indifference as to fire, fire prevention, and individual preparedness.”.

**SEC. 1814. AUTHORIZATION OF APPROPRIATIONS.**

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) in subparagraph (G), by striking “and” at the end;  
 (2) in subparagraph (H), by striking the period at the end and inserting a semicolon;

(3) by adding after subparagraph (H) the following:

“(I) \$76,490,890 for fiscal year 2013, of which \$2,753,672 shall be used to carry out section 8(f);

“(J) \$76,490,890 for fiscal year 2014, of which \$2,753,672 shall be used to carry out section 8(f);

“(K) \$76,490,890 for fiscal year 2015, of which \$2,753,672 shall be used to carry out section 8(f);

“(L) \$76,490,890 for fiscal year 2016, of which \$2,753,672 shall be used to carry out section 8(f); and

“(M) \$76,490,890 for fiscal year 2017, of which \$2,753,672 shall be used to carry out section 8(f).”; and

(4) in subparagraphs (E) through (H), by moving each margin 2 ems to the left.

**SEC. 1815. REMOVAL OF LIMITATION.**

Section 9(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2208(d)) is amended—

(1) by striking “UPDATE.—” and all that follows through “The Administrator” and inserting “UPDATE.—The Administrator”; and

(2) by striking paragraph (2).

Military  
Construction  
Authorization  
Act for Fiscal  
Year 2013.

## **DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS**

**SEC. 2001. SHORT TITLE.**

This division may be cited as the “Military Construction Authorization Act for Fiscal Year 2013”.

**SEC. 2002. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS  
REQUIRED TO BE SPECIFIED BY LAW.**

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVII and title XXIX of this division for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2015; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2016.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic

Time periods.

Treaty Organization Security Investment Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2015; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2016 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment Program.

## TITLE XXI—ARMY MILITARY CONSTRUCTION

Sec. 2101. Authorized Army construction and land acquisition projects.

Sec. 2102. Family housing.

Sec. 2103. Authorization of appropriations, Army.

Sec. 2104. Modification of authority to carry out certain fiscal year 2010 project.

Sec. 2105. Extension of authorizations of certain fiscal year 2009 projects.

Sec. 2106. Extension of authorizations of certain fiscal year 2010 projects.

Sec. 2107. Extension of limitation on obligation or expenditure of funds for tour normalization.

Sec. 2108. Limitation on project authorization to carry out certain fiscal year 2013 project.

### SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2103(a) and available for military construction projects inside the United States as specified in the funding table in section 4601, the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

State	Installation or Location	Amount
Alaska .....	Fort Wainwright .....	\$10,400,000
	Joint Base Elmendorf-Richardson .....	\$7,900,000
California .....	Concord .....	\$8,900,000
Colorado .....	Fort Carson .....	\$18,000,000
District of Columbia	Fort McNair .....	\$7,200,000
Georgia .....	Fort Benning .....	\$16,000,000
	Fort Gordon .....	\$23,300,000
	Fort Stewart .....	\$49,650,000
	Pohakuloa Training Area .....	\$29,000,000
Hawaii .....	Schofield Barracks .....	\$96,000,000
	Wheeler Army Air Field .....	\$85,000,000
	Fort Riley .....	\$12,200,000
Kansas .....	Fort Riley .....	\$12,200,000
Kentucky .....	Fort Campbell .....	\$81,800,000
	Fort Knox .....	\$6,000,000
Missouri .....	Fort Leonard Wood .....	\$123,000,000
New Jersey .....	Joint Base McGuire-Dix-Lakehurst .....	\$47,000,000
	Picatinny Arsenal .....	\$10,200,000
New York .....	Fort Drum .....	\$95,000,000
	U.S. Military Academy .....	\$192,000,000
North Carolina .....	Fort Bragg .....	\$68,000,000
Oklahoma .....	Fort Sill .....	\$4,900,000

**Army: Inside the United States—Continued**

State	Installation or Location	Amount
South Carolina .....	Fort Jackson .....	\$24,000,000
Texas .....	Corpus Christi .....	\$37,200,000
	Fort Bliss .....	\$7,200,000
	Fort Hood .....	\$51,200,000
	Joint Base San Antonio .....	\$21,000,000
Virginia .....	Fort Belvoir .....	\$94,000,000
	Fort Lee .....	\$81,000,000
Washington .....	Joint Base Lewis-McChord .....	\$164,000,000
	Yakima .....	\$5,100,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2103(a) and available for military construction projects outside the United States as specified in the funding table in section 4601, the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Army: Outside the United States**

Country	Installation or Location	Amount
Italy .....	Camp Ederle .....	\$36,000,000
	Vicenza .....	\$32,000,000
Japan .....	Okinawa .....	\$78,000,000
	Sagami .....	\$18,000,000
Korea .....	Camp Humphreys .....	\$45,000,000

**SEC. 2102. FAMILY HOUSING.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2103(a) and available for military family housing functions as specified in the funding table in section 4601, the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$4,641,000.

**SEC. 2103. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for military construction, land acquisition, and military family housing functions of the Department of the Army as specified in the funding table in section 4601.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under subsection (a), as specified in the funding table in section 4601.

(2) \$106,000,000 (the balance of the amount authorized under section 2101(a) for cadet barracks increment 1 at the United States Military Academy, New York).

**SEC. 2104. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2010 PROJECT.**

In the case of the authorization contained in the table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2628) for Fort Belvoir, Virginia, for construction of a Road and Access Control Point at the installation, the Secretary of the Army may construct a standard design Access Control Point consistent with the Army's construction guidelines for Access Control Points.

**SEC. 2105. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2009 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417; 122 Stat. 4658), authorizations set forth in the table in subsection (b), as provided in section 2101 of that Act (122 Stat. 4659), shall remain in effect until October 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014, whichever is later.

Termination  
date.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Army: Extension of 2009 Project Authorizations**

State	Installation or Location	Project	Amount
Alabama .....	Anniston Army Depot.	Lake Yard Interchange .....	\$1,400,000
New Jersey .....	Picatinny Ar- senal.	Ballistic evaluation Facility Phase I .....	\$9,900,000

**SEC. 2106. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2010 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2627), authorizations set forth in the table in subsection (b), as provided in section 2101 of that Act (123 Stat. 2628), shall remain in effect until October 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014, whichever is later.

Termination  
date.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Army: Extension of 2010 Project Authorizations**

State	Installation or Location	Project	Amount
Louisiana .....	Fort Polk .....	Land Purchases and Con- demnation .....	\$17,000,000
New Jersey .....	Picatinny Ar- senal.	Ballistic Evaluation Facil- ity Phase 2 .....	\$10,200,000
Virginia .....	Fort Belvoir	Road and Access Control Point .....	\$9,500,000

**Army: Extension of 2010 Project Authorizations—Continued**

State	Installation or Location	Project	Amount
Washington .....	Fort Lewis ...	Fort Lewis-McChord AFB Joint Access .....	\$9,000,000
Kuwait .....	Kuwait .....	APS Warehouses .....	\$82,000,000

**SEC. 2107. EXTENSION OF LIMITATION ON OBLIGATION OR EXPENDITURE OF FUNDS FOR TOUR NORMALIZATION.**

Section 2111 of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1665) is amended in the matter preceding paragraph (1) by inserting after “under this Act” the following: “or an Act authorizing funds for military construction for fiscal year 2013”.

**SEC. 2108. LIMITATION ON PROJECT AUTHORIZATION TO CARRY OUT CERTAIN FISCAL YEAR 2013 PROJECT.**

The Secretary of the Army may not obligate or expend any funds authorized in this title for the construction of a cadet barracks at the United States Military Academy, West Point, New York, until the Secretary of the Army—

Plans.

(1) submits to the congressional defense committees, as part of the future-years defense program submitted to Congress during 2013 under section 221 of title 10, United States Code, a plan showing programmed investments to renovate existing cadet barracks at the United States Military Academy; and

Certification.  
Contracts.

(2) certifies to the congressional defense committees that the Secretary has entered into a contract for the renovation of Scott Barracks at the United States Military Academy.

## TITLE XXII—NAVY MILITARY CONSTRUCTION

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Modification of authority to carry out certain fiscal year 2012 project.

Sec. 2206. Extension of authorizations of certain fiscal year 2009 projects.

Sec. 2207. Extension of authorizations of certain fiscal year 2010 projects.

**SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a) and available for military construction projects inside the United States as specified in the funding table in section 4601, the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Navy: Inside the United States**

State	Installation or Location	Amount
Arizona .....	Yuma .....	\$29,285,000



**Navy: Inside the United States—Continued**

<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>
California .....	Camp Pendleton .....	\$88,110,000
	Coronado .....	\$78,541,000
	Miramar .....	\$27,897,000
	Point Mugu .....	\$12,790,000
	San Diego .....	\$71,188,000
	Seal Beach .....	\$30,594,000
	Twentynine Palms .....	\$47,270,000
Florida .....	Jacksonville .....	\$21,980,000
Hawaii .....	Kaneohe Bay .....	\$97,310,000
Mississippi .....	Meridian .....	\$10,926,000
New Jersey .....	Earle .....	\$33,498,000
North Carolina .....	Camp Lejeune .....	\$69,890,000
	Cherry Point Marine Corps Air Station ..	\$45,891,000
	New River .....	\$8,525,000
South Carolina .....	Beaufort .....	\$81,780,000
	Parris Island .....	\$10,135,000
Virginia .....	Dahlgren .....	\$28,228,000
	Oceana Naval Air Station .....	\$39,086,000
	Portsmouth .....	\$32,706,000
	Quantico .....	\$58,714,000
	Yorktown .....	\$48,823,000
Washington .....	Whidbey Island .....	\$6,272,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a) and available for military construction projects outside the United States as specified in the funding table in section 4601, the Secretary of the Navy may acquire real property and carry out military construction projects for the installation or location outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

<b>Country</b>	<b>Installation or Location</b>	<b>Amount</b>
Bahrain .....	SW Asia .....	\$51,348,000
Diego Garcia .....	Diego Garcia .....	\$1,691,000
Greece .....	Souda Bay .....	\$25,123,000
Japan .....	Iwakuni .....	\$13,138,000
	Okinawa .....	\$8,206,000
Romania .....	Deveselu .....	\$45,205,000
Spain .....	Rota .....	\$17,215,000
Worldwide (Unspecified) .....	Unspecified Worldwide Locations .....	\$34,048,000

**SEC. 2202. FAMILY HOUSING.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a) and available for military family housing functions as specified in the funding table in section 4601, the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$4,527,000.

**SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a) and available for military family housing functions, the Secretary of the Navy may improve existing military family housing units in an amount not to exceed \$97,655,000.

**SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for military construction, land acquisition, and military family housing functions of the Department of the Navy, as specified in the funding table in section 4601.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act and the projects described in paragraphs (2) and (3) of this subsection may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under subsection (a), as specified in the funding table in section 4601.

(2) \$382,757,000 (the balance of the amount authorized under section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1666) for an explosive handling wharf at Kitsap, Washington).

(3) \$68,196,000 (the balance of the amount authorized under section 2201(b) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2633) for ramp parking at Joint Region Marianas, Guam).

**SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2012 PROJECT.**

In the case of the authorization contained in the table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1666), for Kitsap (Bangor) Washington, for construction of Explosives Handling Wharf No. 2 at that location, the Secretary of the Navy may acquire fee or lesser real property interests to accomplish required environmental mitigation for the project using appropriations authorized for the project.

**SEC. 2206. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2009 PROJECTS.**

(a) **EXTENSION.**—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417; 122 Stat. 4658), the authorization set forth in the table in subsection (b), as provided in section 2201 of that Act (122 Stat. 4670) and extended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1668), shall remain in effect until October 1, 2013, or the date of an Act authorizing funds for military construction for fiscal year 2014, whichever is later.

(b) **TABLE.**—The table referred to in subsection (a) is as follows:

Termination  
date.

**Navy: Extension of 2009 Project Authorization**

State/Country	Installation or Location	Project	Amount
California .....	Marine Corps Base, Camp Pendleton.	Operations Access Points, Red Beach	\$11,970,000
	Marine Corps Air Station, Miramar.	Emergency Response Station .....	\$6,530,000
District of Columbia	Washington Navy Yard.	Child Development Center .....	\$9,340,000

**SEC. 2207. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2010 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2627), the authorization set forth in the table in subsection (b), as provided in section 2201 of that Act (123 Stat. 2632), shall remain in effect until October 1, 2013, or the date of an Act authorizing funds for military construction for fiscal year 2014, whichever is later.

Termination  
date.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Navy: Extension of 2010 Project Authorization**

State/Country	Installation or Location	Project	Amount
California .....	Mountain Warfare Training Center, Bridgeport.	Mountain Warfare Training, Commissary .....	\$6,830,000
Maine .....	Portsmouth Naval Shipyard.	Gate 2 Security Improvements .....	\$7,090,000
Djibouti .....	Camp Lemonier .....	Security Fencing .....	\$8,109,000
		Ammo Supply Point	\$21,689,000
		Interior Paved Roads .....	\$7,275,000

## TITLE XXIII—AIR FORCE MILITARY CONSTRUCTION

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

Sec. 2305. Extension of authorizations of certain fiscal year 2010 projects.

**SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a) and available for military construction projects inside the United States as specified in the funding table in section 4601, the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Air Force: Inside the United States**

State	Installation or Location	Amount
Arkansas .....	Little Rock Air Force Base .....	\$30,178,000
Florida .....	Tyndall Air Force Base .....	\$14,750,000
Georgia .....	Fort Stewart .....	\$7,250,000
	Moody Air Force Base .....	\$8,500,000
New Mexico .....	Holloman Air Force Base .....	\$25,000,000
North Dakota .....	Minot Air Force Base .....	\$4,600,000
Texas .....	Joint Base San Antonio .....	\$18,000,000
Utah .....	Hill Air Force Base .....	\$13,530,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a) and available for military construction projects outside the United States as specified in the funding table in section 4601, the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

Country	Installation or Location	Amount
Greenland .....	Thule Air Base .....	\$24,500,000
Guam .....	Andersen Air Force Base .....	\$58,000,000
Italy .....	Aviano Air Base .....	\$9,400,000
Portugal .....	Lajes Field .....	\$2,000,000

**SEC. 2302. FAMILY HOUSING.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a) and available for military family housing functions as specified in the funding table in section 4601, the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$4,253,000.

**SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304 and available for military family housing functions as specified in the funding table in section 4601, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed \$79,571,000.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for military construction, land acquisition, and military family housing functions of the Department of the Air Force, as specified in the funding table in section 4601.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section

2301 of this Act and the project described in paragraph (2) of this subsection may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under subsection (a), as specified in the funding table in section 4601.

(2) \$205,000,000 (the balance of the amount authorized under section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1670) for the United States Strategic Command Headquarters at Offutt Air Force Base, Nebraska).

**SEC. 2305. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2010 PROJECTS.**

(a) **EXTENSION.**—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2627), authorizations set forth in the table in subsection (b), as provided in section 2301 of that Act (123 Stat. 2636), shall remain in effect until October 1, 2013, or the date of an Act authorizing funds for military construction for fiscal year 2014, whichever is later.

Termination  
date.

(b) **TABLE.**—The table referred to in subsection (a) is as follows:

**Air Force: Extension of 2010 Project Authorization**

State	Installation or Location	Project	Amount
Missouri .....	Whiteman Air Force Base.	Land Acquisition North & South Boundary .....	\$5,500,000
Montana .....	Malmstrom Air Force Base.	Weapons Storage Area (WSA), Phase 2 .....	\$10,600,000

## TITLE XXIV—DEFENSE AGENCIES MILITARY CONSTRUCTION

### Subtitle A—Defense Agency Authorizations

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Authorized energy conservation projects.

Sec. 2403. Authorization of appropriations, Defense Agencies.

Sec. 2404. Modification of authority to carry out certain fiscal year 2012 projects.

Sec. 2405. Extension of authorization of certain fiscal year 2010 project.

### Subtitle B—Chemical Demilitarization Authorizations

Sec. 2411. Authorization of appropriations, chemical demilitarization construction, defense-wide.

Sec. 2412. Modification of authority to carry out certain fiscal year 1997 project.

## Subtitle A—Defense Agency Authorizations

### SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a) and available for military construction projects inside the United States as specified in the funding table in section 4601, the Secretary of Defense may acquire real property and carry out military

construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Inside the United States**

State	Installation or Location	Amount
Arizona .....	Marana .....	\$6,477,000
	Yuma .....	\$1,300,000
California .....	Coronado .....	\$55,259,000
	DEF Fuel Support Point-San Diego .....	\$91,563,000
	Edwards Air Force Base .....	\$27,500,000
	Twentynine Palms .....	\$27,400,000
Colorado .....	Buckley Air Force Base .....	\$30,000,000
	Fort Carson .....	\$56,673,000
	Pikes Peak .....	\$3,600,000
Delaware .....	Dover Air Force Base .....	\$2,000,000
Florida .....	Eglin Air Force Base .....	\$41,695,000
	Hurlburt Field .....	\$16,000,000
	MacDill Air Force Base .....	\$34,409,000
Hawaii .....	Joint Base Pearl Harbor-Hickam .....	\$24,289,000
Illinois .....	Great Lakes .....	\$28,700,000
	Scott Air Force Base .....	\$86,711,000
Indiana .....	Grissom Army Reserve Base .....	\$26,800,000
Kentucky .....	Fort Campbell .....	\$71,639,000
Louisiana .....	Barksdale Air Force Base .....	\$11,700,000
Maryland .....	Annapolis .....	\$66,500,000
	Bethesda Naval Hospital .....	\$69,200,000
	Fort Meade .....	\$128,600,000
Missouri .....	Fort Leonard Wood .....	\$18,100,000
New Mexico .....	Cannon Air Force Base .....	\$93,085,000
New York .....	Fort Drum .....	\$43,200,000
North Carolina .....	Camp Lejeune .....	\$80,064,000
	Fort Bragg .....	\$130,422,000
	Seymour Johnson Air Force Base .....	\$55,450,000
Pennsylvania .....	DEF Distribution Depot New Cumberland .....	\$17,400,000
South Carolina .....	Shaw Air Force Base .....	\$57,200,000
Texas .....	Red River Army Depot .....	\$16,715,000
Virginia .....	Joint Expeditionary Base Little Creek-Fort Story .....	\$11,132,000
	Norfolk .....	\$8,500,000
Washington .....	Fort Lewis .....	\$50,520,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a) and available for military construction projects outside the United States as specified in the funding table in section 4601, the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Outside the United States**

Country	Installation or Location	Amount
Belgium .....	Brussels .....	\$26,969,000

**Defense Agencies: Outside the United States—Continued**

Country	Installation or Location	Amount
Germany .....	Stuttgart-Patch Barracks .....	\$2,413,000
	Vogelweh .....	\$61,415,000
	Weisbaden .....	\$52,178,000
Guam .....	Andersen Air Force Base .....	\$67,500,000
Guantanamo Bay, Cuba.	Guantanamo Bay .....	\$40,200,000
Japan .....	Camp Zama .....	\$13,273,000
	Kadena Air Base .....	\$143,545,000
	Sasebo .....	\$35,733,000
	Zukeran .....	\$79,036,000
Korea .....	Kunsan Air Base .....	\$13,000,000
	Osan Air Base .....	\$77,292,000
Romania .....	Deveselu .....	\$220,800,000
United Kingdom ..	Menwith Hill Station .....	\$50,283,000
	Royal Air Force Feltwell .....	\$30,811,000
	Royal Air Force Mildenhall .....	\$6,490,000

**SEC. 2402. AUTHORIZED ENERGY CONSERVATION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a) and available for energy conservation projects inside the United States as specified in the funding table in section 4601, the Secretary of Defense may carry out energy conservation projects under chapter 173 of title 10, United States Code, for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Energy Conservation Projects: Inside the United States**

State	Installation or Location	Amount
Alaska .....	Clear .....	\$15,337,000
California .....	Fort Hunter Liggett .....	\$9,600,000
	Parks RFTA .....	\$9,256,000
Colorado .....	Aerospace Data Facility .....	\$3,310,000
	Fort Carson .....	\$4,000,000
Hawaii .....	Joint Base Pearl Harbor Hickam .....	\$6,610,000
Missouri .....	Whiteman .....	\$6,000,000
North Carolina .....	Fort Bragg .....	\$2,700,000
	MCB Camp Lejeune .....	\$5,701,000
New Jersey .....	Sea Girt .....	\$3,000,000
Pennsylvania .....	NSA Mechanicsburg .....	\$19,926,000
	Susquehanna .....	\$2,550,000
	Tobyhanna Army Depot .....	\$3,950,000
Tennessee .....	Arnold .....	\$3,606,000
Texas .....	Fort Bliss .....	\$5,700,000
	Fort Bliss .....	\$2,600,000
	Laughlin .....	\$4,800,000
Virginia .....	MCB Quantico .....	\$7,943,000
	Pentagon Reservation .....	\$2,360,000
	Pentagon Reservation .....	\$2,120,000
Various Locations ..	Various Locations .....	\$12,886,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a) and available for energy conservation projects outside the United States as specified in the funding table in section 4601, the Secretary of Defense may carry out energy conservation projects under chapter 173 of title 10, United States Code, for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Energy Conservation Projects: Outside the United States**

Country	Installation or Location	Amount
Italy .....	Naval Air Station Sigonella .....	\$6,121,000
Spain .....	Naval Station Rota .....	\$2,671,000
Various Locations ..	Various Locations .....	\$7,253,000

**SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), as specified in the funding table in section 4601.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act and the projects described in paragraphs (2) through (9) of this subsection may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under subsection (a), as specified in the funding table in section 4601.

(2) \$13,965,000 (the balance of the amount authorized under section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 119–364; 120 Stat. 2457) for the Army Medical Research Institute of Infectious Diseases Stage I at Fort Detrick, Maryland).

(3) \$103,600,000 (the balance of the amount authorized under section 2401(a) for NSAW Recapitalize Building #1 at Fort Meade, Maryland).

(4) \$556,639,000 (the balance of the amount authorized under section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1672), as amended by section 2404(a) of this Act, for a data center at Fort Meade, Maryland).

(5) \$512,969,000 (the balance of the amount authorized under section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2640) for a hospital at Fort Bliss, Texas).

(6) \$134,900,000 (the balance of the amount authorized under section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1672) for an Ambulatory Care Center Phase III at Joint Base San Antonio, Texas).

(7) \$41,913,000 (the balance of the amount authorized as a Military Construction, Defense-Wide project by title X of



the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1888) for a data center at Camp Williams, Utah).

(8) \$792,408,000 (the balance of the amount authorized under section 2401(b) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1673), as amended by section 2404(b) of this Act, for a hospital at the Rhine Ordnance Barracks, Germany).

(9) \$100,800,000 (the balance of the amount authorized under section 2401(b) for the Aegis Ashore Missile Defense System Complex at Deveselu, Romania).

**SEC. 2404. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2012 PROJECTS.**

(a) MARYLAND.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1672), is amended in the item relating to Fort Meade, Maryland, by striking “\$29,640,000” in the amount column and inserting “\$792,200,000”.

(b) GERMANY.—

(1) PROJECT AUTHORIZATION.—The table in section 2401(b) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1673), is amended in the item relating to Rhine Ordnance Barracks, Germany, by striking “\$750,000,000” in the amount column and inserting “\$990,000,000”.

(2) CERTIFICATION REQUIRED.—The Secretary of Defense may not obligate additional funds made available pursuant to the amendment made by paragraph (1) until the Secretary certifies to the congressional defense committees that both of the following directly support the proposed scope for the hospital at the Rhine Ordnance Barracks, Germany:

(A) A sufficient enduring beneficiary population.

(B) The fiscal year 2014 force structure assessment, incorporated in the budget submitted by the President to Congress for fiscal year 2014.

**SEC. 2405. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2010 PROJECT.**

(a) EXTENSION.—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2627), the authorization set forth in the table in subsection (b), as provided in section 2401(a) of that Act (123 Stat. 2640), shall remain in effect until October 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014, whichever is later.

Termination  
date.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Extension of 2010 Project Authorization**

State	Installation or Location	Project	Amount
Virginia .....	Pentagon Reservation.	Pentagon electrical upgrade .....	\$19,272,000

## **Subtitle B—Chemical Demilitarization Authorizations**

### **SEC. 2411. AUTHORIZATION OF APPROPRIATIONS, CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**— Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for military construction and land acquisition for chemical demilitarization, as specified in the funding table in section 4601.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**— Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under subsection (a) and the project described in paragraph (2) of this subsection may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under subsection (a), as specified in the funding table in section 4601.

(2) \$158,969,000 (the balance of the amount authorized for ammunition demilitarization at Blue Grass, Kentucky, by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 835), as most recently amended by section 2412 of the Military Construction Authorization Act for Fiscal Year 2011 (division B Public Law 111-383; 124 Stat. 4450)).

### **SEC. 2412. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1997 PROJECT.**

(a) **MODIFICATIONS.**—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104-201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 839), section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2699), and section 2413 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4697), is further amended—

(1) under the agency heading relating to Chemical Demilitarization Program, in the item relating to Pueblo Army Depot, Colorado, by striking “\$484,000,000” in the amount column and inserting “\$520,000,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$866,454,000”.

(b) **CONFORMING AMENDMENT.**—Section 2406(b)(2) of the Military Construction Authorization Act for Fiscal Year 1997 (110 Stat. 2779), as so amended, is further amended by striking “\$484,000,000” and inserting “\$520,000,000”.

## **TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM**

Sec. 2501. Authorized NATO construction and land acquisition projects.  
Sec. 2502. Authorization of appropriations, NATO.

### **SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

### **SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment Program authorized by section 2501 as specified in the funding table in section 4601.

## **TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES**

### **Subtitle A—Project Authorizations and Authorization of Appropriations**

Sec. 2601. Authorized Army National Guard construction and land acquisition projects.  
Sec. 2602. Authorized Army Reserve construction and land acquisition projects.  
Sec. 2603. Authorized Navy Reserve and Marine Corps Reserve construction and land acquisition projects.  
Sec. 2604. Authorized Air National Guard construction and land acquisition projects.  
Sec. 2605. Authorized Air Force Reserve construction and land acquisition project.  
Sec. 2606. Authorization of appropriations, National Guard and Reserve.

### **Subtitle B—Other Matters**

Sec. 2611. Modification of authority to carry out certain fiscal year 2010 projects.  
Sec. 2612. Modification of authority to carry out certain fiscal year 2011 projects.  
Sec. 2613. Extension of authorization of certain fiscal year 2009 project.  
Sec. 2614. Extension of authorization of certain fiscal year 2010 projects.

### **Subtitle A—Project Authorizations and Authorization of Appropriations**

### **SEC. 2601. AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2606 and available for the National Guard and Reserve as specified in the funding table in section 4601, the Secretary of the Army may acquire real property and carry out military construction

projects for the Army National Guard locations inside the United States, and in the amounts, set forth in the following table:

**Army National Guard: Inside the United States**

State	Location	Amount
Alabama .....	Fort McClellan .....	\$5,400,000
Arkansas .....	Searcy .....	\$6,800,000
California .....	Fort Irwin .....	\$25,000,000
Connecticut .....	Camp Hartell .....	\$32,000,000
Delaware .....	Bethany Beach .....	\$5,500,000
Florida .....	Camp Blanding .....	\$9,000,000
	Miramar .....	\$20,000,000
Hawaii .....	Kapolei .....	\$28,000,000
Idaho .....	Orchard Training Area .....	\$40,000,000
Indiana .....	South Bend .....	\$21,000,000
	Terra Haute .....	\$9,000,000
Iowa .....	Camp Dodge .....	\$3,000,000
Kansas .....	Topeka .....	\$9,500,000
Kentucky .....	Frankfort .....	\$32,000,000
Massachusetts .....	Camp Edwards .....	\$22,000,000
Minnesota .....	Camp Ripley .....	\$17,000,000
	Arden Hills .....	\$17,000,000
Missouri .....	Fort Leonard Wood .....	\$18,000,000
	Kansas City .....	\$1,900,000
	Monett .....	\$820,000
	Perryville .....	\$700,000
Montana .....	Miles City .....	\$11,000,000
New Jersey .....	Sea Girt .....	\$34,000,000
New York .....	Stormville .....	\$24,000,000
Ohio .....	Chillicothe .....	\$3,100,000
	Delaware .....	\$12,000,000
Oklahoma .....	Camp Gruber .....	\$25,000,000
Utah .....	Camp Williams .....	\$36,000,000
Washington .....	Fort Lewis .....	\$35,000,000
West Virginia .....	Logan .....	\$14,200,000
Wisconsin .....	Wausau .....	\$10,000,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2606 and available for the National Guard and Reserve as specified in the funding table in section 4601, the Secretary of the Army may acquire real property and carry out military construction projects for the Army National Guard locations outside the United States, and in the amounts, set forth in the following table:

**Army National Guard: Outside the United States**

Country	Location	Amount
Guam .....	Barrigada .....	\$8,500,000
Puerto Rico .....	Camp Santiago .....	\$3,800,000
	Ceiba .....	\$2,200,000
	Guaynabo .....	\$15,000,000
	Gurabo .....	\$14,700,000

**SEC. 2602. AUTHORIZED ARMY RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606 and available for the National Guard and Reserve as specified in the funding table in section 4601, the Secretary of the Army may acquire real property and carry out military construction projects for the Army Reserve locations inside the United States, and in the amounts, set forth in the following table:

**Army Reserve**

State	Location	Amount
California .....	Fort Hunter Liggett .....	\$68,300,000
	Tustin .....	\$27,000,000
Illinois .....	Fort Sheridan .....	\$28,000,000
Maryland .....	Aberdeen Proving Ground .....	\$21,000,000
	Baltimore .....	\$10,000,000
Massachusetts .....	Devens Reserve Forces Training Area	\$8,500,000
Nevada .....	Las Vegas .....	\$21,000,000
New Jersey .....	Joint Base McGuire-Dix-Lakehurst ....	\$7,400,000
Washington .....	Joint Base Lewis-McChord .....	\$40,000,000
Wisconsin .....	Fort McCoy .....	\$47,800,000

**SEC. 2603. AUTHORIZED NAVY RESERVE AND MARINE CORPS RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606 and available for the National Guard and Reserve as specified in the funding table in section 4601, the Secretary of the Navy may acquire real property and carry out military construction projects for the Navy Reserve and Marine Corps Reserve locations inside the United States, and in the amounts, set forth in the following table:

**Navy Reserve and Marine Corps Reserve**

State	Location	Amount
Arizona .....	Yuma .....	\$5,379,000
Iowa .....	Fort Des Moines .....	\$19,162,000
Louisiana .....	New Orleans .....	\$7,187,000
New York .....	Brooklyn .....	\$4,430,000
Texas .....	Fort Worth .....	\$11,256,000

**SEC. 2604. AUTHORIZED AIR NATIONAL GUARD CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606 and available for the National Guard and Reserve as specified in the funding table in section 4601, the Secretary of the Air Force may acquire real property and carry out military construction projects for the Air National Guard locations inside the United States, and in the amounts, set forth in the following table:

**Air National Guard**

State	Location	Amount
California .....	Fresno Yosemite International Airport Air National Guard .....	\$11,000,000
Hawaii .....	Joint Base Pearl Harbor-Hickam .....	\$6,500,000
New Mexico .....	Kirtland Air Force Base .....	\$8,500,000
Wyoming .....	Cheyenne Municipal Airport .....	\$6,486,000

**SEC. 2605. AUTHORIZED AIR FORCE RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECT.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2606 and available for the National Guard and Reserve as specified in the funding table in section 4601, the Secretary of the Air Force may acquire real property and carry out a military construction project for the Air Force Reserve location inside the United States, and in the amount, set forth in the following table:

**Air Force Reserve**

State	Location	Amount
New York .....	Niagara Falls International Airport ...	\$6,100,000

**SEC. 2606. AUTHORIZATION OF APPROPRIATIONS, NATIONAL GUARD AND RESERVE.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), as specified in the funding table in section 4601.

**Subtitle B—Other Matters****SEC. 2611. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2010 PROJECTS.**

(a) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD READINESS CENTER PROJECT, NORTH LAS VEGAS, NEVADA.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2648) for North Las Vegas, Nevada, for construction of a Readiness Center, the Secretary of the Army may construct up to 68,593 square feet of readiness center, 10,000 square feet of unheated equipment storage area, and 25,000 square feet of unheated vehicle storage, consistent with the Army’s construction guidelines for readiness centers.

(b) **AUTHORITY TO CARRY OUT ARMY RESERVE CENTER PROJECT, MIRAMAR, CALIFORNIA.**—In the case of the authorization contained in the table in section 2602 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2649) for Camp Pendleton, California, for construction

of an Army Reserve Center, the Secretary of the Army may construct an Army Reserve Center in the vicinity of the Marine Corps Air Station, Miramar, California.

(c) **AUTHORITY TO CARRY OUT ARMY RESERVE CENTER PROJECT, BRIDGEPORT, CONNECTICUT.**—In the case of the authorization contained in the table in section 2602 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2649) for Bridgeport, Connecticut, for construction of an Army Reserve Center/Land, the Secretary of the Army may construct an Army Reserve Center and acquire land in the vicinity of Bridgeport, Connecticut.

**SEC. 2612. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2011 PROJECTS.**

(a) **AUTHORITY TO CARRY OUT ARMY RESERVE CENTER PROJECT, FORT STORY, VIRGINIA.**—In the case of the authorization contained in the table in section 2602 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4453) for Fort Story, Virginia, for construction of an Army Reserve Center, the Secretary of the Army may construct an Army Reserve Center in the vicinity of Fort Story, Virginia.

(b) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD PROJECT, FORT CHAFFEE, ARKANSAS.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4451) for Fort Chaffee, Arkansas, for construction of a Live Fire Shoot House, the Secretary of the Army may construct up to 5,869 square feet of Live Fire Shoot House.

(c) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD PROJECT, WINDSOR LOCKS, CONNECTICUT.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4451) for Windsor Locks, Connecticut, for construction of a Readiness Center, the Secretary of the Army may construct up to 119,510 square feet of a Readiness Center.

(d) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD PROJECT, KALAELOA, HAWAII.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4451) for Kalaeloa, Hawaii, for construction of a Combined Support Maintenance Shop, the Secretary of the Army may construct up to 137,548 square feet of a Combined Support Maintenance Shop.

(e) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD PROJECT, WICHITA, KANSAS.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4451) for Wichita, Kansas, for construction of a Field Maintenance Shop, the Secretary of the Army may construct up to 62,102 square feet of a Field Maintenance Shop.

(f) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD PROJECT, MINDEN, LOUISIANA.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4451) for Minden, Louisiana, for construction of a Readiness Center, the Secretary of the Army may construct up to 90,944 square feet of a Readiness Center.

(g) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD PROJECT, SAINT INIGOE, MARYLAND.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4451) for Saint Inigo, Maryland, for construction of a Tactical Unmanned Aircraft System Facility, the Secretary of the Army may construct up to 10,298 square feet of a Tactical Unmanned Aircraft System Facility.

(h) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD PROJECT, CAMP GRAFTON, NORTH DAKOTA.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4451) for Camp Grafton, North Dakota, for construction of a Readiness Center, the Secretary of the Army may construct up to 68,671 square feet of a Readiness Center.

(i) **AUTHORITY TO CARRY OUT ARMY NATIONAL GUARD PROJECT, WATERTOWN, SOUTH DAKOTA.**—In the case of the authorization contained in the table in section 2601 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4451) for Watertown, South Dakota, for construction of a Readiness Center, the Secretary of the Army may construct up to 97,865 square feet of a Readiness Center.

(j) **AUTHORITY TO CARRY OUT AIR NATIONAL GUARD PROJECT, NASHVILLE, TENNESSEE.**—In the case of the authorization contained in the table in section 2604 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4453) for Nashville International Airport, Tennessee, for renovation of an Intelligence Squadron Facility, the Secretary of the Air Force may convert up to 4,023 square meters of existing facilities to bed down Intelligence Group and Remotely Piloted Aircraft Remote Split Operations Group missions, consistent with the Air National Guard's construction guidelines for these missions.

**SEC. 2613. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2009 PROJECT.**

(a) **EXTENSION.**—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4658), the authorization set forth in the table in subsection (b), as provided in section 2604 of that Act (122 Stat. 4706), shall remain in effect until October 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014, whichever is later.

(b) **TABLE.**—The table referred to in subsection (a) is as follows:

**Air National Guard: Extension of 2009 Project Authorizations**

State	Installation or Location	Project	Amount
Mississippi .....	Gulfport-Biloxi International Airport.	Relocate Munitions Complex .....	\$3,400,000

**SEC. 2614. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2010 PROJECTS.**

(a) **EXTENSION.**—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2627), the authorizations set forth



in the tables in subsection (b), as provided in sections 2602 and 2604 of that Act (123 Stat. 2649, 2651), shall remain in effect until October 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014, whichever is later.

(b) TABLE.—The tables referred to in subsection (a) are as follows:

**Army Reserve: Extension of 2010 Project Authorizations**

State	Installation or Location	Project	Amount
California .....	Camp Pendleton.	Army Reserve Center .....	\$19,500,000
Connecticut .....	Bridgeport .....	Army Reserve Center/Land	\$18,500,000

**Air National Guard: Extension of 2010 Project Authorization**

State	Installation or Location	Project	Amount
Mississippi .....	Gulfport-Biloxi Airport.	Relocate Base Entrance .....	\$6,500,000

## **TITLE XXVII—BASE REALIGNMENT AND CLOSURE ACTIVITIES**

### **Subtitle A—Authorization of Appropriations**

- Sec. 2701. Authorization of appropriations for base realignment and closure activities funded through Department of Defense Base Closure Account 1990.  
 Sec. 2702. Authorization of appropriations for base realignment and closure activities funded through Department of Defense Base Closure Account 2005.

### **Subtitle B—Other Matters**

- Sec. 2711. Consolidation of Department of Defense base closure accounts and authorized uses of base closure account funds.  
 Sec. 2712. Revised base closure and realignment restrictions and Comptroller General assessment of Department of Defense compliance with codified base closure and realignment restrictions.

## **Subtitle A—Authorization of Appropriations**

### **SEC. 2701. AUTHORIZATION OF APPROPRIATIONS FOR BASE REALIGNMENT AND CLOSURE ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for base realignment and closure activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 1990 established by section 2906 of such Act as specified in the funding table in section 4601.

**SEC. 2702. AUTHORIZATION OF APPROPRIATIONS FOR BASE REALIGNMENT AND CLOSURE ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for base realignment and closure activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act as specified in the funding table in section 4601.

## **Subtitle B—Other Matters**

**SEC. 2711. CONSOLIDATION OF DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNTS AND AUTHORIZED USES OF BASE CLOSURE ACCOUNT FUNDS.**

(a) **ESTABLISHMENT OF SINGLE DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT; USE OF FUNDS.**—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking sections 2906 and 2906A and inserting the following new section 2906:

**“SEC. 2906. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT.**

“(a) **ESTABLISHMENT.**—There is hereby established on the books of the Treasury an account to be known as the ‘Department of Defense Base Closure Account’ which shall be administered by the Secretary as a single account.

“(b) **CREDITS TO ACCOUNT.**—There shall be credited to the Account the following:

“(1) Funds authorized for and appropriated to the Account.

“(2) Funds transferred to the Account pursuant to section 2711(b) of the Military Construction Authorization Act for Fiscal Year 2013.

“(3) Funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that funds may be transferred under the authority of this paragraph only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees.

“(4) Proceeds received from the lease, transfer, or disposal of any property at a military installation closed or realigned under this part or the 1988 BRAC law.

“(c) **USE OF ACCOUNT.**—

“(1) **AUTHORIZED PURPOSES.**—The Secretary may use the funds in the Account only for the following purposes:

“(A) To carry out the Defense Environmental Restoration Program under section 2701 of title 10, United States Code, and other environmental restoration and mitigation activities at military installations closed or realigned under this part or the 1988 BRAC law.

“(B) To cover property management, disposal, and caretaker costs incurred at military installations closed or realigned under this part or the 1988 BRAC law.

“(C) To cover costs associated with supervision, inspection, overhead, engineering, and design of military construction projects undertaken under this part or the 1988 BRAC law before September 30, 2013, and subsequent claims, if any, related to such activities.

“(D) To record, adjust, and liquidate obligations properly chargeable to the following accounts:

“(i) The Department of Defense Base Closure Account 2005 established by section 2906A of this part, as in effect on September 30, 2013.

“(ii) The Department of Defense Base Closure Account 1990 established by this section, as in effect on September 30, 2013.

“(iii) The Department of Defense Base Closure Account established by section 207 of the 1988 BRAC law, as in effect on September 30, 2013.

“(2) SOLE SOURCE OF FUNDS.—The Account shall be the sole source of Federal funds for the activities specified in paragraph (1) at a military installation closed or realigned under this part or the 1988 BRAC law.

“(3) PROHIBITION ON USE OF ACCOUNT FOR NEW MILITARY CONSTRUCTION.—Except as provided in paragraph (1), funds in the Account may not be used, directly or by transfer to another appropriations account, to carry out a military construction project, including a minor military construction project, under section 2905(a) or any other provision of law at a military installation closed or realigned under this part or the 1988 BRAC law.

“(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—

“(1) DEPOSIT OF PROCEEDS IN RESERVE ACCOUNT.—If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or non-appropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(7)(C) of the 1988 BRAC law.

“(2) The amount so deposited under paragraph (1) shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary.

“(3) USE OF RESERVE FUNDS.—Subject to the limitation contained in section 204(b)(7)(C)(iii) of the 1988 BRAC law, amounts in the reserve account are hereby made available to the Secretary, without appropriation and until expended, for the purpose of acquiring, constructing, and improving—

“(A) commissary stores; and

“(B) real property and facilities for nonappropriated fund instrumentalities.

“(e) CONSOLIDATED BUDGET JUSTIFICATION DISPLAY FOR ACCOUNT.—

“(1) CONSOLIDATED BUDGET INFORMATION REQUIRED.—The Secretary shall establish a consolidated budget justification display in support of the Account that for each fiscal year—

“(A) details the amount and nature of credits to, and expenditures from, the Account during the preceding fiscal year;

“(B) separately details the caretaker and environmental remediation costs associated with each military installation for which a budget request is made;

“(C) specifies the transfers into the Account and the purposes for which these transferred funds will be further obligated, to include caretaker and environment remediation costs associated with each military installation;

“(D) specifies the closure or realignment recommendation, and the base closure round in which the recommendation was made, that precipitated the inclusion of the military installation; and

“(E) details any intra-budget activity transfers within the Account that exceeded \$1,000,000 during the preceding fiscal year or that are proposed for the next fiscal year and will exceed \$1,000,000.

“(2) SUBMISSION.—The Secretary shall include the information required by paragraph (1) in the materials that the Secretary submits to Congress in support of the budget for a fiscal year submitted by the President pursuant to section 1105 of title 31, United States Code.

“(f) CLOSURE OF ACCOUNT; TREATMENT OF REMAINING FUNDS.—

“(1) CLOSURE.—The Account shall be closed at the time and in the manner provided for appropriation accounts under section 1555 of title 31, United States Code, except that unobligated funds which remain in the Account upon closure shall be held by the Secretary of the Treasury until transferred by law after the congressional defense committees receive the final report transmitted under paragraph (2).

“(2) FINAL REPORT.—No later than 60 days after the closure of the Account under paragraph (1), the Secretary shall transmit to the congressional defense committees a report containing an accounting of—

“(A) all the funds credited to and expended from the Account or otherwise expended under this part or the 1988 BRAC law; and

“(B) any funds remaining in the Account.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘commissary store funds’ means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

“(2) The term ‘nonappropriated funds’ means funds received from a nonappropriated fund instrumentality.

“(3) The term ‘nonappropriated fund instrumentality’ means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

“(4) The term ‘1988 BRAC law’ means title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).”.

(b) CLOSURE OF EXISTING CURRENT ACCOUNTS; TRANSFER OF FUNDS.— 10 USC 2687 note.

(1) CLOSURE.—Subject to paragraph (2), the Secretary of the Treasury shall close, pursuant to section 1555 of title 31, United States Code, the following accounts on the books of the Treasury:

(A) The Department of Defense Base Closure Account 2005 established by section 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as in effect on the effective date of this section.

(B) The Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as in effect on the effective date of this section.

(C) The Department of Defense Base Closure Account established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), as in effect on the effective date of this section.

(2) TRANSFER OF FUNDS.—All amounts remaining in the three accounts specified in paragraph (1) as of the effective date of this section, shall be transferred, effective on that date, to the Department of Defense Base Closure Account established by section 2906 of the Defense Base Closure and Realignment Act of 1990, as added by subsection (a).

(3) CROSS REFERENCES.—Except as provided in this subsection or the context requires otherwise, any reference in a law, regulation, document, paper, or other record of the United States to an account specified in paragraph (1) shall be deemed to be a reference to the Department of Defense Base Closure Account established by section 2906 of the Defense Base Closure and Realignment Act of 1990, as added by subsection (a).

(c) CONFORMING AMENDMENTS.—

(1) REPEAL OF FORMER ACCOUNT.—Section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is repealed.

(2) REPEAL OF OBSOLETE REPORTING REQUIREMENT.—Section 2907 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is repealed.

(3) DEFINITION.—

(A) 1990 LAW.—Section 2910(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by striking “1990 established by section 2906(a)(1)” and inserting “established by section 2906(a)”.

(B) 1988 LAW.—The Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended—

(i) in section 204(b)(7)(A), by striking “established by section 207(a)(1)”; and

(ii) in section 209(1), by striking “established by section 207(a)(1)” and inserting “established by section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)”.

(4) ENVIRONMENTAL RESTORATION.—Chapter 160 of title 10, United States Code, is amended—

(A) in section 2701(d)(2), by striking “Department of Defense Base Closure Account 1990 or the Department of Defense Base Closure Account 2005 established under sections 2906 and 2906A” and inserting “Department of Defense Base Closure Account established by section 2906”;

(B) in section 2703(h)—

(i) by striking “the applicable Department of Defense base closure account” and inserting “the Department of Defense Base Closure Account established under section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)”; and

(ii) by striking “the applicable base closure account” and inserting “such base closure account”; and

(C) in section 2705(g)(2), by striking “Closure Account 1990” and inserting “Closure Account”.

(5) DEPARTMENT OF DEFENSE HOUSING FUNDS.—Section 2883 of such title is amended—

(A) in subsection (c)—

(i) by striking subparagraph (G) of paragraph (1); and

(ii) by striking subparagraph (G) of paragraph (2); and

(B) in subsection (f)—

(i) in the first sentence, by striking “or (G)” both places it appears; and

(ii) by striking the second sentence.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the later of—

(1) October 1, 2013; and

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014.

**SEC. 2712. REVISED BASE CLOSURE AND REALIGNMENT RESTRICTIONS AND COMPTROLLER GENERAL ASSESSMENT OF DEPARTMENT OF DEFENSE COMPLIANCE WITH CODIFIED BASE CLOSURE AND REALIGNMENT RESTRICTIONS.**

(a) CIVILIAN PERSONNEL REDUCTIONS BELOW PRESCRIBED THRESHOLDS.—Section 2687 of title 10, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (g) and moving such subsection to the end of the section;

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

10 USC 2701  
note.

“(c) No action described in subsection (a) with respect to the closure of, or realignment with respect to, any military installation referred to in such subsection may be taken within five years after the date on which a decision is made to reduce the civilian personnel thresholds below the levels prescribed in such subsection.”.

(b) **COMPTROLLER GENERAL ASSESSMENT.**—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report reviewing the process and criteria used by the Department of Defense to make decisions relating to closures and realignments at military installations, including closures and realignments occurring both above and below the threshold levels specified in section 2687 of title 10, United States Code.

Deadline.  
Reports.

(c) **CONFORMING AMENDMENTS RELATING TO REDESIGNATION OF DEFINITIONS SUBSECTION.**—Title 10, United States Code, is amended as follows:

(1) Section 2391(d)(1) is amended by striking “section 2687(e)” and inserting “section 2687”.

(2) Section 2667(i)(3) is amended by striking “section 2687(e)(1)” and inserting “section 2687”.

## **TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS**

### **Subtitle A—Military Construction Program and Military Family Housing Changes**

- Sec. 2801. Authorized cost and scope variations.
- Sec. 2802. Preparation of master plans for major military installations.
- Sec. 2803. Oversight and accountability for military housing privatization projects and related annual reporting requirements.
- Sec. 2804. Extension of temporary, limited authority to use operation and maintenance funds for construction projects in certain areas outside the United States.
- Sec. 2805. Comptroller General report on in-kind payments.

### **Subtitle B—Real Property and Facilities Administration**

- Sec. 2811. Clarification of parties with whom Department of Defense may conduct exchanges of real property at certain military installations.
- Sec. 2812. Identification requirements for access to military installations.
- Sec. 2813. Report on property disposals at certain closed military installations and additional authorities to assist local communities in the vicinity of such installations.
- Sec. 2814. Report on reorganization of Air Force Materiel Command organizations.

### **Subtitle C—Energy Security**

- Sec. 2821. Congressional notification for contracts for the provision and operation of energy production facilities authorized to be located on real property under the jurisdiction of a military department.
- Sec. 2822. Availability and use of Department of Defense energy cost savings to promote energy security.
- Sec. 2823. Continuation of limitation on use of funds for Leadership in Energy and Environmental Design (LEED) gold or platinum certification.
- Sec. 2824. Guidance on financing for renewable energy projects.
- Sec. 2825. Energy savings performance contract report.

### **Subtitle D—Provisions Related to Asia-Pacific Military Realignment**

- Sec. 2831. Certification of military readiness need for a Live Fire Training Range Complex on Guam as condition on establishment of range complex.
- Sec. 2832. Realignment of Marine Corps forces in Asia-Pacific region.

### **Subtitle E—Land Conveyances**

- Sec. 2841. Modification of authorized consideration, Broadway Complex of the Department of the Navy, San Diego, California.

- Sec. 2842. Use of proceeds, land conveyance, Tyndall Air Force Base, Florida.
- Sec. 2843. Land conveyance, John Kunkel Army Reserve Center, Warren, Ohio.
- Sec. 2844. Land conveyance, Castner Range, Fort Bliss, Texas.
- Sec. 2845. Modification of land conveyance, Fort Hood, Texas.
- Sec. 2846. Land conveyance, Local Training Area for Browning Army Reserve Center, Utah.

#### Subtitle F—Other Matters

- Sec. 2851. Modification of notice requirements in advance of permanent reduction of sizable numbers of members of the Armed Forces at military installations.
- Sec. 2852. Acceptance of gifts and services to support military museum programs and use of cooperative agreements with nonprofit entities for military museum and military educational institution programs.
- Sec. 2853. Additional exemptions from certain requirements applicable to funding for data servers and centers.
- Sec. 2854. Redesignation of the Center for Hemispheric Defense Studies as the William J. Perry Center for Hemispheric Defense Studies.
- Sec. 2855. Sense of Congress regarding establishment of military divers memorial at Washington Navy Yard.
- Sec. 2856. Limitation on availability of funds pending report regarding acquisition of land and development of a training range facility adjacent to the Marine Corps Air Ground Combat Center Twentynine Palms, California.
- Sec. 2857. Oversight and maintenance of closed base cemeteries overseas containing the remains of members of the Armed Forces or citizens of the United States.
- Sec. 2858. Report on establishment of joint Armed Forces historical storage and preservation facility.
- Sec. 2859. Establishment of commemorative work to Gold Star Mothers.
- Sec. 2860. Establishment of commemorative work to slaves and free Black persons who served in American Revolution.

## Subtitle A—Military Construction Program and Military Family Housing Changes

### SEC. 2801. AUTHORIZED COST AND SCOPE VARIATIONS.

Section 2853 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “was approved originally” and inserting “was authorized”;

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: “Any reduction in scope of work for a military construction project shall not result in a facility or item of infrastructure that is not complete and useable or does not fully meet the mission requirement contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.”; and

(B) by adding at the end the following new paragraph: “(3) In this subsection, the term ‘scope of work’ refers to the function, size, or quantity of a facility or item of complete and useable infrastructure contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.”;

(3) in subsection (c)(1)(A), by striking “and the reasons therefor, including a description” and inserting “, the reasons therefor, a certification that the mission requirement identified in the justification data provided to Congress can be still be met with the reduced scope, and a description”; and

(4) by adding at the end the following new subsection:

“(e) Notwithstanding the authority under subsections (a) through (d), the Secretary concerned shall ensure compliance of



contracts for military construction projects and for the construction, improvement, and acquisition of military family housing projects with section 1341 of title 31 (commonly referred to as the ‘Anti-Deficiency Act’).”.

**SEC. 2802. PREPARATION OF MASTER PLANS FOR MAJOR MILITARY INSTALLATIONS.**

(a) **MILITARY INSTALLATION MASTER PLANS.**—Subchapter III of chapter 169 of title 10, United States Code, is amended by inserting after section 2863 the following new section:

**“§ 2864. Master plans for major military installations**

“(a) **PLANS REQUIRED.**—At a time interval prescribed by the Secretary concerned (but not less frequently than once every 10 years), the commander of each major military installation under the jurisdiction of the Secretary shall ensure that an installation master plan is developed to address environmental planning, sustainable design and development, sustainable range planning, real property master planning, and transportation planning.

Time period.

“(b) **TRANSPORTATION COMPONENT.**—The transportation component of the master plan for a major military installation shall be developed and updated in consultation with the metropolitan planning organization designated for the metropolitan planning area in which the military installation is located.

“(c) **DEFINITIONS.**—In this section:

“(1) The term ‘major military installation’ has the meaning given to the term ‘large site’ in the most recent version of the Department of Defense Base Structure Report issued before the time interval prescribed for development of installation master plans arises under subsection (a).

“(2) The terms ‘metropolitan planning area’ and ‘metropolitan planning organization’ have the meanings given those terms in section 134(b) of title 23 and section 5303(b) of title 49.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by inserting after the item relating to section 2863 the following new item:

“2864. Master plans for major military installations.”.

**SEC. 2803. OVERSIGHT AND ACCOUNTABILITY FOR MILITARY HOUSING PRIVATIZATION PROJECTS AND RELATED ANNUAL REPORTING REQUIREMENTS.**

(a) **FINANCIAL INTEGRITY AND ACCOUNTABILITY MEASURES FOR SUSTAINMENT OF PRIVATIZATION PROJECTS.**—

(1) **FINANCIAL INTEGRITY AND ACCOUNTABILITY MEASURES REQUIRED.**—Section 2885 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f) **FINANCIAL INTEGRITY AND ACCOUNTABILITY MEASURES.**—

(1) The regulations required by subsection (a) shall address the following requirements for each military housing privatization project upon the completion of the construction or renovation of the housing units:

“(A) The financial health and performance of the privatization project, including the debt-coverage ratio of the project and occupancy rates for the housing units.

“(B) An assessment of the backlog of maintenance and repair of the housing units.

“(2) If the debt service coverage for a military housing privatization project falls below 1.0 or the occupancy rates for the housing units of the project are below 75 percent for more than one year, the Secretary concerned shall require the development of a plan to address the financial risk of the project.”.

(2) CONFORMING AMENDMENT.—Subsection (a) of such section is amended in the matter preceding paragraph (1) by inserting before the period at the end of the first sentence the following: “during the course of the construction or renovation of the housing units”.

(b) ANNUAL REPORTING REQUIREMENTS.—Section 2884 of such title is amended by striking subsection (b) and inserting the following new subsections:

“(b) ANNUAL REPORTS TO ACCOMPANY BUDGET MATERIALS.—The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 the following:

“(1) A separate report on the expenditures and receipts during the preceding fiscal year covering each of the Funds established under section 2883 of this title, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year.

“(2) A report setting forth, by armed force, the following:

“(A) An estimate of the amounts of basic allowance for housing under section 403 of title 37 that will be paid, during the current fiscal year and the fiscal year for which the budget is submitted, to members of the armed forces living in housing provided under the authorities in this subchapter.

“(B) The number of units of military family housing and military unaccompanied housing upon which the estimate under subparagraph (A) for the current fiscal year and the next fiscal year is based.

“(3) A description of the plans for housing privatization activities to be carried out under this subchapter—

“(A) during the fiscal year for which the budget is submitted; and

“(B) during the period covered by the then-current future-years defense plan under section 221 of this title.

“(4) A report identifying each family housing unit acquired or constructed under this subchapter that is used, or intended to be used, as quarters for a general officer or flag officer and for which the total operation, maintenance, and repair costs for the unit exceeded \$50,000. For each housing unit so identified, the report shall also include the total of such operation, maintenance, and repair costs.

“(c) ANNUAL REPORT ON PRIVATIZATION PROJECTS.—The Secretary of Defense shall submit to the congressional defense committees a semi-annual report containing an evaluation of the status of oversight and accountability measures under section 2885 of this title for military housing privatization projects. To the extent

each Secretary concerned has the right to attain the information described in this subsection, each report shall include, at a minimum, the following:

“(1) An assessment of the backlog of maintenance and repair at each military housing privatization project where a significant backlog exists, including an estimation of the cost of eliminating the maintenance and repair backlog.

“(2) If the debt associated with a privatization project exceeds net operating income or the occupancy rates for the housing units are below 75 percent for more than one year, the plan developed to mitigate the financial risk of the project.

“(3) An assessment of any significant project variances between the actual and pro forma deposits in the recapitalization account.

“(4) The details of any significant withdrawals from a recapitalization account, including the purpose and rationale of the withdrawal and, if the withdrawal occurs before the normal recapitalization period, the impact of the early withdrawal on the financial health of the project.

“(5) An assessment of the extent to which the information required to comply with paragraphs (1) through (4) has been requested by the Secretaries, but has not been made available.

“(6) An assessment of cost assessed to members of the armed forces for utilities compared to utility rates in the local area.”.

**SEC. 2804. EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS IN CERTAIN AREAS OUTSIDE THE UNITED STATES.**

Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as most recently amended by section 2804 of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1685), is further amended—

(1) in subsection (c)—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2);

and

(C) in paragraph (2), as so redesignated, by striking the second sentence; and

(2) in subsection (h)—

(A) in paragraph (1), by striking “September 30, 2012” and inserting “September 30, 2013”; and

(B) in paragraph (2), by striking “fiscal year 2013” and inserting “fiscal year 2014”.

**SEC. 2805. COMPTROLLER GENERAL REPORT ON IN-KIND PAYMENTS.**

(a) REPORTS REQUIRED.—

(1) INITIAL REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the construction or renovation of Department of Defense facilities with in-kind payments. The report shall cover construction or renovation projects begun during the preceding two years.

(2) **UPDATES.**—Not later than one year after submitting the report required under paragraph (1), and annually thereafter for three years, the Comptroller General shall submit to the congressional defense committees a report covering projects begun since the most recent report.

(b) **CONTENT.**—Each report required under subsection (a) shall include the following elements:

(1) A listing of each facility constructed or renovated for the Department of Defense as payment in kind.

(2) The value in United States dollars of that construction or renovation.

(3) The source of the in-kind payment.

(4) The agreement pursuant to which the in-kind payment was made.

(5) A description of the purpose and need for the construction or renovation.

## **Subtitle B—Real Property and Facilities Administration**

### **SEC. 2811. CLARIFICATION OF PARTIES WITH WHOM DEPARTMENT OF DEFENSE MAY CONDUCT EXCHANGES OF REAL PROPERTY AT CERTAIN MILITARY INSTALLATIONS.**

Section 2869(a)(1) of title 10, United States Code, is amended—

(1) by striking “any eligible entity” and inserting “any person”;

(2) by striking “the entity” and inserting “the person”; and

(3) by striking “their control” and inserting “the person’s control”.

### 10 USC 113 note. **SEC. 2812. IDENTIFICATION REQUIREMENTS FOR ACCESS TO MILITARY INSTALLATIONS.**

Deadline.  
Publication.

(a) **PROCEDURAL REQUIREMENTS FOR IDENTIFICATION VERIFICATION.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall publish procedural requirements regarding access to military installations in the United States by individuals, including individuals performing work under a contract awarded by the Department of Defense. The procedural requirements may vary between military installations, or parts of installations, depending on the nature of the installation, the nature of the access granted, and the level of security required.

(b) **ISSUES ADDRESSED.**—The procedures required by subsection (a) shall address, at a minimum, the following:

(1) The forms of identification to be required to permit entry.

(2) The measures to be used to verify the authenticity of such identification and identify individuals who seek unauthorized access to a military installation through the use of fraudulent identification or other means.

(3) The measures to be used to notify Department of Defense security personnel of any attempt to gain unauthorized access to a military installation.

**SEC. 2813. REPORT ON PROPERTY DISPOSALS AT CERTAIN CLOSED MILITARY INSTALLATIONS AND ADDITIONAL AUTHORITIES TO ASSIST LOCAL COMMUNITIES IN THE VICINITY OF SUCH INSTALLATIONS.**

(a) **REPORT REQUIRED.**—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the disposition of any closure of an active-duty military installation since 1988 in the United States that—

(1) was not subject to the property disposal provisions contained in the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note); and

(2) for which property disposals have not been completed as of the date of the enactment of this Act.

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) A description of the status of property described in subsection (a).

(2) An assessment of the environmental conditions of, and plans and costs for environmental remediation for, each such property;

(3) The plan and schedule, if currently available, for the disposal of each such property.

(4) A description of additional future financial liability or other policy impacts to the Department of Defense that are likely to be incurred in the event that statutory authorities provided by Congress in connection with the disposition of military installations closed under a base closure law are extended to military installations closed apart from a base closure law and for which property disposals have not been completed as of the date of the enactment of this Act.

(5) Such recommendations, if any, as the Secretary of Defense considers appropriate for additional authorities to assist the Department in expediting the disposal of property at closed military installations in order to facilitate economic redevelopment for local communities.

(c) **DEFINITIONS.**—In this section:

(1) The term “base closure law” has the meaning given that term in section 101(a)(17) of title 10, United States Code.

(2) The term “military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense in the United States.

(3) The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam.

**SEC. 2814. REPORT ON REORGANIZATION OF AIR FORCE MATERIEL COMMAND ORGANIZATIONS.**

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the reorganization of Air Force Materiel Command organizations.

(b) **ELEMENTS.**—The report required under subsection (a) shall include the following elements:

(1) An assessment of the efficiencies and effectiveness associated with the reorganization of Air Force Materiel Command organizations.

(2) An assessment of the organizational construct to determine how institutional synergies that were previously available in a collocated center can be replicated in the new Air Force Materiel Command Center reorganization, including an assessment of the following Air Force Materiel Command capabilities:

(A) Science and Technology, Acquisition.

(B) Developmental Test and Evaluation.

(3) An assessment of synergistic efficiencies associated with capabilities of collocated organizations of other commands, including an assessment of the impact of the reorganization of the Air Force Materiel Command on the responsibilities of other commands regarding the following:

(A) Operational Test and Evaluation.

(B) Follow-on Operational Test and Evaluation.

(4) An assessment of how the Air Force reorganization of Air Force Materiel Command is in adherence with section 2687 of title 10, United States Code.

(5) An analysis of the extent to which the proposed changes in the Air Force management structure were coordinated with the Office of the Secretary of Defense and the degree to which any concerns raised by such Office were addressed in the approach selected by the Air Force.

## Subtitle C—Energy Security

### **SEC. 2821. CONGRESSIONAL NOTIFICATION FOR CONTRACTS FOR THE PROVISION AND OPERATION OF ENERGY PRODUCTION FACILITIES AUTHORIZED TO BE LOCATED ON REAL PROPERTY UNDER THE JURISDICTION OF A MILITARY DEPARTMENT.**

Section 2662(a)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

“(H) Any transaction or contract action for the provision and operation of energy production facilities on real property under the jurisdiction of the Secretary of a military department, as authorized by section 2922a(a)(2) of this title, if the term of the transaction or contract exceeds 20 years.”.

### **SEC. 2822. AVAILABILITY AND USE OF DEPARTMENT OF DEFENSE ENERGY COST SAVINGS TO PROMOTE ENERGY SECURITY.**

Section 2912(b)(1) of title 10, United States Code, is amended by inserting after “additional energy conservation” the following: “and energy security”.

### **SEC. 2823. CONTINUATION OF LIMITATION ON USE OF FUNDS FOR LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) GOLD OR PLATINUM CERTIFICATION.**

(a) **ADDITIONAL REQUIREMENTS FOR REPORT ON ENERGY-EFFICIENCY STANDARDS.**—Subsection (a) of section 2830 of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1695) is amended—

(1) in paragraph (1), by striking “Not later than June 30, 2012, the” and inserting “The”; and

(2) by striking paragraph (3) and inserting the following new paragraph (3):

“(3) DEPARTMENT OF DEFENSE UNIFIED FACILITIES CRITERIA AND RELATED POLICIES.—The report shall also include the Department of Defense Unified Facilities Criteria and related Department of Defense policies, which shall be updated—

“(A) to reflect comprehensive guidance for the pursuit of design and building standards throughout the Department of Defense that specifically address energy- and water-efficient standards and sustainable design attributes for military construction based on the cost-benefit analysis, return on investment, total ownership costs, and demonstrated payback of the design standards specified in subparagraphs (A), (B), (C), and (D) of paragraph (2); and

“(B) to ensure that the building design and certification standards are applied to each military construction project based on geographic location and local circumstances to ensure maximum savings.”.

(b) PROHIBITION ON USE OF FUNDS FOR LEED GOLD OR PLATINUM CERTIFICATION PENDING REPORT.—Subsection (b)(1) of such section is amended—

(1) by striking “for fiscal year 2012” and inserting “for fiscal year 2012 or 2013”; and

(2) by inserting before the period at the end the following: “until the report required by subsection (a) is submitted to the congressional defense committees”.

**SEC. 2824. GUIDANCE ON FINANCING FOR RENEWABLE ENERGY PROJECTS.**

(a) GUIDANCE ON USE OF AVAILABLE FINANCING APPROACHES.—

(1) ISSUANCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—

(A) issue guidance about the use of available financing approaches for financing renewable energy projects; and

(B) direct the Secretaries of the military departments to update their military department-wide guidance accordingly.

(2) ELEMENTS.—The guidance issued pursuant to paragraph (1) should describe the requirements and restrictions applicable to the underlying authorities and any Department of Defense-specific guidelines for using appropriated funds and alternative-financing approaches for renewable energy projects to maximize cost savings and energy efficiency for the Department of Defense.

(b) GUIDANCE ON USE OF BUSINESS CASE ANALYSES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance that establishes and clearly describes the processes used by the military departments to select financing approaches for renewable energy projects to ensure that business case analyses are completed to maximize cost savings and energy efficiency and mitigate drawbacks and risks associated with different financing approaches.

(c) INFORMATION SHARING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall develop a formalized communications process, such as a shared Internet website, that will enable officials at military installations to have timely access on an ongoing basis to information related

Deadlines.  
10 USC 2911  
note.

Web site.

to financing renewable energy projects on other installations, including best practices and lessons that officials at other installations have learned from their experiences in financing renewable energy projects.

(d) CONSULTATION.—The Secretary of Defense shall issue the guidance under subsections (a) and (b) and develop the communications process under subsection (c) in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Deputy Under Secretary of Defense for Installations and Environment. The Secretary of Defense shall also issue the guidance under subsection (b) in consultation with the Secretaries of the military departments.

**SEC. 2825. ENERGY SAVINGS PERFORMANCE CONTRACT REPORT.**

(a) REPORT REQUIRED.—Not later than June 30, 2013, the Secretary of Defense shall submit to the congressional defense committees a report on the use of energy savings performance contracts awarded by the Department of Defense during calendar years 2010, 2011, and 2012.

(b) ELEMENTS OF REPORT.—The report shall include the following (identified for each military department separately):

(1) The amount of appropriated funds that were obligated or expended during calendar years 2010, 2011, and 2012 for energy savings performance contracts and any funds remaining to be obligated or expended for such energy savings performance contracts.

(2) The amount of such funds that have been used for comprehensive retrofits.

(3) The amount of such funds that have been used to leverage private sector capital, including the amount of such capital.

(4) The amount of savings that have been achieved, or that are expected to be achieved, as a result of such energy savings performance contracts.

## **Subtitle D—Provisions Related to Asia-Pacific Military Realignment**

**SEC. 2831. CERTIFICATION OF MILITARY READINESS NEED FOR A LIVE FIRE TRAINING RANGE COMPLEX ON GUAM AS CONDITION ON ESTABLISHMENT OF RANGE COMPLEX.**

A Live Fire Training Range Complex on Guam may not be established (including any construction or lease of lands related to such establishment) in coordination with the realignment of United States Armed Forces in the Pacific until the Secretary of Defense certifies to the congressional defense committees that there is a military training and readiness requirement for the Live Fire Training Range Complex.

**SEC. 2832. REALIGNMENT OF MARINE CORPS FORCES IN ASIA-PACIFIC REGION.**

(a) RESTRICTION ON USE OF FUNDS FOR REALIGNMENT.—Except as provided in subsection (c), none of the funds authorized to be appropriated under this Act, and none of the amounts provided by the Government of Japan for construction activities on land

Plans.



under the jurisdiction of the Department of Defense, may be obligated to implement the realignment of Marine Corps forces from Okinawa to Guam or Hawaii until each of the following occurs:

(1) The Commander of the United States Pacific Command provides to the congressional defense committees an assessment of the strategic and logistical resources needed to ensure the distributed lay-down of members of the Marine Corps in the United States Pacific Command Area of Responsibility meets the contingency operations plans.

Assessment.

(2) The Secretary of Defense submits to the congressional defense committees master plans for the construction of facilities and infrastructure to execute the Marine Corps distributed lay-down on Guam and Hawaii, including a detailed description of costs and the schedule for such construction.

(3) The Secretary of the Navy submits a plan to the congressional defense committees detailing the proposed investments and schedules required to restore facilities and infrastructure at Marine Corps Air Station Futenma.

(4) A plan coordinated by all pertinent Federal agencies is provided to the congressional defense committees detailing descriptions of work, costs, and a schedule for completion of construction, improvements, and repairs to the non-military utilities, facilities, and infrastructure, if any, on Guam affected by the realignment of forces.

(b) RESTRICTION ON DEVELOPMENT OF PUBLIC INFRASTRUCTURE.—If the Secretary of Defense determines that any grant, cooperative agreement, transfer of funds to another Federal agency, or supplement of funds available in fiscal year 2012 or 2013 under Federal programs administered by agencies other than the Department of Defense will result in the development (including repair, replacement, renovation, conversion, improvement, expansion, acquisition, or construction) of public infrastructure on Guam, the Secretary of Defense may not carry out such grant, transfer, cooperative agreement, or supplemental funding unless such grant, transfer, cooperative agreement, or supplemental funding is specifically authorized by law.

Determination.

(c) EXCEPTIONS TO FUNDING RESTRICTION.—The Secretary of Defense may use funds described in subsection (a)—

(1) to complete additional analysis or studies required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for proposed actions on Guam or Hawaii;

(2) to initiate planning and design of construction projects at Andersen Air Force Base and Andersen South; and

(3) to carry out any military construction project for which an authorization of appropriations is provided in section 2204, as specified in the funding table in section 4601.

(d) DEFINITIONS.—In this section:

(1) DISTRIBUTED LAY-DOWN.—The term “distributed lay-down” refers to the planned distribution of members of the Marine Corps in Okinawa, Guam, Hawaii, Australia, and possibly elsewhere that is contemplated in support of the joint statement of the United States–Japan Security Consultative Committee issued April 26, 2012, in the District of Columbia (April 27, 2012, in Tokyo).

(2) PUBLIC INFRASTRUCTURE.—The term “public infrastructure” means any utility, method of transportation, item of equipment, or facility under the control of a public entity or

State or local government that is used by, or constructed for the benefit of, the general public.

(e) REPEAL OF SUPERSEDED LAW.—Section 2207 of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112-81; 125 Stat. 1668) is repealed.

## Subtitle E—Land Conveyances

### SEC. 2841. MODIFICATION OF AUTHORIZED CONSIDERATION, BROADWAY COMPLEX OF THE DEPARTMENT OF THE NAVY, SAN DIEGO, CALIFORNIA.

Section 2732(b)(1)(A) of the Military Construction Authorization Act, 1987 (division B of Public 99-661; 100 Stat. 4046) is amended by striking “constructed on such real property by the lessees.” and inserting the following: “constructed by the lessees—

“(i) on such real property; or

“(ii) on other real property within the boundaries of the metropolitan San Diego, California, area.”.

### SEC. 2842. USE OF PROCEEDS, LAND CONVEYANCE, TYNDALL AIR FORCE BASE, FLORIDA.

Section 2862(c) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 869) is amended by striking “construct or improve military family housing units” and all that follows through the period at the end and inserting “improve or repair facilities at Tyndall Air Force Base.”.

### SEC. 2843. LAND CONVEYANCE, JOHN KUNKEL ARMY RESERVE CENTER, WARREN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Village of Lordstown, Ohio (in this section referred to as the “Village”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 6.95 acres and containing the John Kunkel Army Reserve Center located at 4967 Tod Avenue in Warren, Ohio, for the purpose of permitting the Village to use the parcel for public purposes.

(b) INTERIM LEASE.—Until such time as the real property described in subsection (a) is conveyed to the Village, the Secretary may lease the property to the Village.

Determination.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in subsection (a) or that the Village has violated a condition imposed by subsection (e), all right, title, and interest in and to such real property, including any improvements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Village to cover costs (except costs for environmental remediation of the property) to be incurred by the Secretary, or to

reimburse the Secretary for such costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs for environmental documentation, and any other administrative costs related to the conveyance. If amounts are collected from the Village in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Village.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover those costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) CONDITIONS OF CONVEYANCE.—The conveyance of the real property under subsection (a) shall be subject to the following conditions:

(1) That the Village not use any Federal funds to cover any portion of the conveyance costs required by subsection (d) to be paid by the Village or to cover the costs for the design or construction of any facility on the property.

(2) That the Village begin using the property for public purposes before the end of the five-year period beginning on the date of conveyance.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

#### **SEC. 2844. LAND CONVEYANCE, CASTNER RANGE, FORT BLISS, TEXAS.**

(a) CONVEYANCE AUTHORIZED.—

(1) CONVEYANCE AUTHORITY.—The Secretary of the Army may convey, without consideration, to the Parks and Wildlife Department of the State of Texas (in this section referred to as the “Department”) all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 7,081 acres at Fort Bliss, Texas, for the purpose of permitting the Department to establish and operate a park as an element of the Franklin Mountains State Park.

(2) PIECEMEAL CONVEYANCES.—In anticipation of the conveyance of the entire parcel of real property described in paragraph (1), the Secretary may subdivide the parcel and convey to the Department portions of the real property as the Secretary determines that the condition of the real property is compatible with the Department’s intended use of the property.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance, all right, title, and interest in and to such real property, including

Determination.

any improvements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) **PAYMENT OF COSTS OF CONVEYANCES.**—

(1) **PAYMENT REQUIRED.**—The Secretary shall require the Department to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the land conveyance under this section, including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Department in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the land exchange, the Secretary shall refund the excess amount to Department. This paragraph does not apply to costs associated with the environmental remediation of the property to be conveyed.

(2) **TREATMENT OF AMOUNTS RECEIVED.**—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the land exchange. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal descriptions of the parcels of real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2845. MODIFICATION OF LAND CONVEYANCE, FORT HOOD, TEXAS.**

Section 2848(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2140) is amended by striking “for the sole purpose” and all that follows through “Central Texas.” and inserting the following: “for the purpose of permitting the University System to use the property—

“(1) for the establishment of a State-supported university, separate from other universities of the University System, designated as Texas A&M University, Central Texas; and

“(2) for such other educational purposes as the University System considers to be appropriate and the Secretary of the Army determines to be compatible with military activities in the vicinity of the property.”.

**SEC. 2846. LAND CONVEYANCE, LOCAL TRAINING AREA FOR BROWNING ARMY RESERVE CENTER, UTAH.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the State of Utah Department of Veterans Affairs (in this section referred to as the “Department”) all right, title, and interest of the United States in and to a parcel

of unimproved real property consisting of approximately five acres of the Local Training Area for the Browning Army Reserve Center, Utah, for the purpose of constructing and operating a Community Based Outpatient Clinic adjacent to the George E. Wahlen Veterans Home in Ogden, Utah.

(b) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary may require the Department to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts paid to the Secretary in advance exceed the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Department.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Department. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

## **Subtitle F—Other Matters**

### **SEC. 2851. MODIFICATION OF NOTICE REQUIREMENTS IN ADVANCE OF PERMANENT REDUCTION OF SIZABLE NUMBERS OF MEMBERS OF THE ARMED FORCES AT MILITARY INSTALLATIONS.**

(a) CALCULATION OF NUMBER OF AFFECTED MEMBERS.—Subsection (a) of section 993 of title 10, United States Code, is amended by adding at the end the following new sentence: “In calculating the number of members to be reduced, the Secretary shall take into consideration both direct reductions and indirect reductions.”.

(b) NOTICE REQUIREMENTS.—Subsection (b) of such section is amended by striking paragraphs (1) through (3) and inserting the following new paragraphs:

“(1) the Secretary of Defense or the Secretary of the military department concerned—

“(A) submits to Congress a notice of the proposed reduction and the number of military and civilian personnel assignments affected, including reductions in base operations support services and personnel to occur because of the proposed reduction; and

“(B) includes in the notice a justification for the reduction and an evaluation of the costs and benefits of the reduction and of the local economic, strategic, and operational consequences of the reduction; and

Time period.

“(2) a period of 90 days expires following the day on which the notice is submitted to Congress.”.

(c) DEFINITIONS.—Such section is further amended by adding at the end the following new subsection:

“(d) DEFINITIONS.—In this section:

“(1) The term ‘indirect reduction’ means subsequent planned reductions or relocations in base operations support services and personnel able to occur due to the direct reductions.

“(2) The term ‘military installation’ means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.”.

**SEC. 2852. ACCEPTANCE OF GIFTS AND SERVICES TO SUPPORT MILITARY MUSEUM PROGRAMS AND USE OF COOPERATIVE AGREEMENTS WITH NONPROFIT ENTITIES FOR MILITARY MUSEUM AND MILITARY EDUCATIONAL INSTITUTION PROGRAMS.**

(a) ACCEPTANCE OF GIFTS AND SERVICES.—

(1) IN GENERAL.—Subsection (a) of section 2601 of title 10, United States Code, is amended—

(A) by striking “Subject to subsection (d)(2), the” and inserting “(1) The”; and

(B) by adding at the end the following new paragraph:

“(2)(A) Notwithstanding section 1342 of title 31, the Secretary concerned may accept a gift of services for a military museum program from a nonprofit entity established for the purpose of supporting a military museum program. Employees or personnel of a nonprofit entity who provide a gift of services under this subparagraph may not be considered to be employees of the United States.

“(B) For the use and benefit of a military museum program, the Secretary concerned may solicit from a bona fide collector a gift of books, manuscripts, works of art, historical artifacts, drawings, plans, models, or condemned or obsolete combat materiel.”.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in subsection (b)(1), by striking “Subject to subsection (d)(2), the” and inserting “The”;

(B) in subsection (d)—

(i) in paragraph (1), by striking “subsection (b)” and inserting “such subsections”; and

(ii) in paragraph (2), by striking “and money may not be accepted under subsection (a) and property, money, and services may not be accepted under subsection (a) or”; and

(C) in subsection (f), by striking “or money accepted under subsection (a) and any property, money, or services

accepted under subsection” and inserting “, money, or services accepted under subsection (a) or”.

(b) AUTHORITY FOR COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—Chapter 155 of such title is amended by adding at the end the following new section:

**“§ 2615. Military museums and military education programs: cooperative agreement authority**

“(a) USE AUTHORIZED.—The Secretary concerned may enter into a cooperative agreement with a nonprofit entity for purposes related to—

“(1) a military museum program; or

“(2) the support of a military educational institution program.

“(b) COOPERATIVE AGREEMENT DESCRIBED.—For purposes of subsection (a), an authorized cooperative agreement is described in section 6305 of title 31, except that the use of a cooperative agreement by the Secretary concerned is limited to nonprofit entities.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2615. Military museums and military education programs: cooperative agreement authority.”.

**SEC. 2853. ADDITIONAL EXEMPTIONS FROM CERTAIN REQUIREMENTS APPLICABLE TO FUNDING FOR DATA SERVERS AND CENTERS.**

Section 2867(c) of the Military Construction Authorization Act for Fiscal Year 2012 (division B of Public Law 112–81; 125 Stat. 1706; 10 U.S.C. 2223a note) is amended—

(1) by striking “EXCEPTION.—The Chief” and inserting the following: “EXCEPTIONS.—

“(1) INTELLIGENCE COMPONENTS.—The Chief”; and

(2) by inserting at the end the following new paragraph:

“(2) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PROGRAMS.—The Chief Information Officer of the Department may exempt from the applicability of this section research, development, test, and evaluation programs that use authorization of appropriations for the High Performance Computing Modernization Program (Program Element 0603461A) if the Chief Information Officer determines that the exemption is in the best interest of national security.”.

**SEC. 2854. REDESIGNATION OF THE CENTER FOR HEMISPHERIC DEFENSE STUDIES AS THE WILLIAM J. PERRY CENTER FOR HEMISPHERIC DEFENSE STUDIES.**

(a) REDESIGNATION.—The Department of Defense regional center for security studies known as the Center for Hemispheric Defense Studies is hereby renamed the “William J. Perry Center for Hemispheric Defense Studies”. 10 USC 184 note.

(b) CONFORMING AMENDMENTS.—

(1) REFERENCE TO REGIONAL CENTERS FOR STRATEGIC STUDIES.—Section 184 of title 10, United States Code, is amended—

(A) in subsection (b)(2)(C), by striking “The Center for Hemispheric Defense Studies” and inserting “The William J. Perry Center for Hemispheric Defense Studies”; and

(B) in subsection (f)(5), by striking “the Center for Hemispheric Defense Studies” and inserting “the William J. Perry Center for Hemispheric Defense Studies”.

(2) ACCEPTANCE OF GIFTS AND DONATIONS.—Section 2611(a)(2)(C) of such title is amended by striking “Center for Hemispheric Defense Studies.” and inserting “William J. Perry Center for Hemispheric Defense Studies.”.

10 USC 184 note.

(c) REFERENCES.—Any reference to the Department of Defense Center for Hemispheric Defense Studies in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the William J. Perry Center for Hemispheric Defense Studies.

**SEC. 2855. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF MILITARY DIVERS MEMORIAL AT WASHINGTON NAVY YARD.**

It is the sense of Congress that the Secretary of the Navy should provide an appropriate site at the former Navy Dive School at the Washington Navy Yard for a memorial to honor the members of the Armed Forces who have served as divers and whose service in defense of the United States has been carried out beneath the waters of the world, subject to the conditions that—

(1) the memorial be paid for with private funds; and

(2) the Secretary of the Navy retain exclusive authority to approve the design and site of the memorial.

**SEC. 2856. LIMITATION ON AVAILABILITY OF FUNDS PENDING REPORT REGARDING ACQUISITION OF LAND AND DEVELOPMENT OF A TRAINING RANGE FACILITY ADJACENT TO THE MARINE CORPS AIR GROUND COMBAT CENTER TWENTYNINE PALMS, CALIFORNIA.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Marine Corps has studied the feasibility of acquiring land and developing a training range facility to conduct Marine Expeditionary Brigade level live-fire training on or near the West Coast.

(2) The Bureau of Land Management estimates on national economic impact show \$261,500,000 in commerce at risk.

(3) Economic impact on the local community is estimated to be \$71,100,000.

(b) LIMITATION OF FUNDS PENDING REPORT.—

(1) IN GENERAL.—The Secretary of the Navy may not obligate or expend funds for the transfer of land or development of a new training range on land adjacent to the Marine Corps Air Ground Combat Center Twentynine Palms, California, until the Secretary of the Navy has provided the congressional defense committees a report on the Marine Corps’ efforts with respect to the proposed training range.

(2) ELEMENTS OF REPORT.—The report required under paragraph (1) shall be submitted not later than 90 days after the date of the enactment of this Act and shall include the following:



(A) A description of the actual training requirements for the proposed range and where those training requirements are currently being met to support combat deployments.

(B) Identification of the impact on off-road vehicle recreational users of the land, the economic impact on the local economy, the recreation industry, and any other stakeholders.

(C) Identification of any concerns discussed with the Bureau of Land Management regarding their assessments of the impact on other users.

(D) Identification of the impact on the State of California's 1980 Desert Conservation Plan regarding allocation of the Off Highway Vehicle Recreation Areas.

(E) An evaluation of the potential to use the same land without transfer, but under specific permits for use provided by the Bureau of Land Management (as such permits are used at other locations from the Forest Service and Bureau of Land Management).

(F) An evaluation of any potential impacts on other Bureau of Land Management lands proximate to Marine Corps Air Ground Combat Center Twentynine Palms or other locations in the geographic region.

(3) SECRETARY OF DEFENSE WAIVER.—In the event of urgent national need, the Secretary of Defense may notify the congressional defense committees and waive the requirement for the report required under paragraph (1).

**SEC. 2857. OVERSIGHT AND MAINTENANCE OF CLOSED BASE CEMETERIES OVERSEAS CONTAINING THE REMAINS OF MEMBERS OF THE ARMED FORCES OR CITIZENS OF THE UNITED STATES.**

(a) OVERSIGHT AND MAINTENANCE PLAN REQUIRED.—Not later than 30 days after the closure of a United States military installation located outside of the United States that includes a cemetery containing the remains of members of the Armed Forces or citizens of the United States, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a plan to ensure the oversight and continued operation and maintenance of the cemetery.

Deadline.  
Reports.

(b) PLAN ELEMENTS.—The plan for a military installation cemetery outside of the United States required by subsection (a) shall—

(1) specify the Federal agency or private entity that will assume responsibility for the operation and maintenance of the cemetery following the closure of the installation; and

(2) describe the information with regard to the cemetery that has been provided to the responsible agency or private entity.

**SEC. 2858. REPORT ON ESTABLISHMENT OF JOINT ARMED FORCES HISTORICAL STORAGE AND PRESERVATION FACILITY.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth an assessment of the feasibility and advisability of establishing a joint Armed Forces historical storage and preservation facility. The report shall include a description and assessment of the current capacities and qualities

of the historical storage and preservation installations of each of the Armed Forces, including the following:

(1) An identification of any excess capacity at any such installation.

(2) An identification of any shortfalls in the capacity or quality of such installations of any Armed Force, and a description of possible actions to address such shortfalls.

40 USC 8903  
note.

**SEC. 2859. ESTABLISHMENT OF COMMEMORATIVE WORK TO GOLD STAR MOTHERS.**

(a) **ELIGIBLE FEDERAL LAND.**—In this section, the term “eligible Federal land” means Federal land depicted as “Area I” or “Area II” on the map numbered 869/86501 B and dated June 24, 2003. The term does not include the Reserve (as defined in section 8902(a) of title 40, United States Code).

(b) **COMMEMORATIVE WORK AUTHORIZED.**—The Gold Star Mothers National Monument Foundation may establish a commemorative work on eligible Federal land to commemorate the sacrifices made by mothers, and made by their sons and daughters who as members of the Armed Forces make the ultimate sacrifice, in defense of the United States.

Applicability.

(c) **COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.**—Chapter 89 of title 40, United States Code, and other applicable Federal laws and regulations shall apply to the establishment of the commemorative work authorized by this section.

(d) **PROHIBITION ON USE OF FEDERAL FUNDS.**—The Gold Star Mothers National Monument Foundation may not use Federal funds to establish the commemorative work authorized by this section.

(e) **DEPOSIT OF EXCESS FUNDS.**—

(1) **UPON ESTABLISHMENT OF COMMEMORATIVE WORK.**—If, upon payment of all expenses for the establishment of the commemorative work authorized by this section (including the maintenance and preservation amounts required by section 8906(b)(1) of title 40, United States Code), there remains a balance of funds received for the establishment of the commemorative work, the Gold Star Mothers National Monument Foundation shall transmit the amount of the balance to the account provided for in section 8906(b)(3) of such title.

(2) **UPON EXPIRATION OF AUTHORITY TO ESTABLISH COMMEMORATIVE WORK.**—If, upon expiration of the authority for the commemorative work under section 8903(e) of title 40, United States Code, there remains a balance of funds received for the establishment of the commemorative work, the Gold Star Mothers National Monument Foundation shall transmit the amount of the balance to a separate account with the National Park Foundation for memorials, to be available to the Secretary of the Interior or Administrator of General Services (as appropriate) following the process provided in section 8906(b)(4) of such title for accounts established under section 8906(b)(3) of such title.

40 USC 8903  
note.

**SEC. 2860. ESTABLISHMENT OF COMMEMORATIVE WORK TO SLAVES AND FREE BLACK PERSONS WHO SERVED IN AMERICAN REVOLUTION.**

(a) **ELIGIBLE FEDERAL LAND.**—In this section, the term “eligible Federal land” means Federal land depicted as “Area I” or “Area II” on the map numbered 869/86501 B and dated June 24, 2003.

The term does not include the Reserve (as defined in section 8902(a) of title 40, United States Code).

(b) **COMMEMORATIVE WORK AUTHORIZED.**—The National Mall Liberty Fund D.C. may establish a memorial on eligible Federal land to honor the more than 5,000 courageous slaves and free Black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution.

(c) **COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.**—Chapter 89 of title 40, United States Code, and other applicable Federal laws and regulations shall apply to the establishment of the commemorative work authorized by this section.

Applicability.

(d) **PROHIBITION ON USE OF FEDERAL FUNDS.**—The National Mall Liberty Fund D.C. may not use Federal funds to establish the commemorative work authorized by this section.

(e) **DEPOSIT OF EXCESS FUNDS.**—

(1) **UPON ESTABLISHMENT OF COMMEMORATIVE WORK.**—If, upon payment of all expenses for the establishment of the commemorative work authorized by this section (including the maintenance and preservation amounts required by section 8906(b)(1) of title 40, United States Code), there remains a balance of funds received for the establishment of the commemorative work, the National Mall Liberty Fund D.C. shall transmit the amount of the balance to the account provided for in section 8906(b)(3) of such title.

(2) **UPON EXPIRATION OF AUTHORITY TO ESTABLISH COMMEMORATIVE WORK.**—If, upon expiration of the authority for the commemorative work under section 8903(e) of title 40, United States Code, there remains a balance of funds received for the establishment of the commemorative work, the National Mall Liberty Fund D.C. shall transmit the amount of the balance to a separate account with the National Park Foundation for memorials, to be available to the Secretary of the Interior or Administrator of General Services (as appropriate) following the process provided in section 8906(b)(4) of such title for accounts established under section 8906(b)(3) of such title.

(f) **REPEAL OF JOINT RESOLUTIONS.**—Public Law 99-558 (110 Stat. 3144; 40 U.S.C. 8903 note) and Public Law 100-265 (102 Stat. 39; 40 U.S.C. 8903 note) are repealed.

## **TITLE XXIX—OVERSEAS CONTINGENCY OPERATIONS MILITARY CONSTRUCTION**

Sec. 2901. Authorized Navy construction and land acquisition project.

### **SEC. 2901. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECT.**

(a) **OUTSIDE THE UNITED STATES.**—The Secretary of the Navy may acquire real property and carry out the military construction project for the installation outside the United States, and in the amount, set forth in the following table:

**Navy: Outside the United States**

Country	Installation	Amount
Djibouti .....	Camp Lemonier .....	\$99,420,000

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2012, for the military construction project outside the United States authorized by subsection (a) as specified in the funding table in section 4602.

## **DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZA- TIONS AND OTHER AUTHORIZATIONS**

### **TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

#### Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.  
Sec. 3102. Defense environmental cleanup.  
Sec. 3103. Other defense activities.

#### Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Authorized personnel levels of the Office of the Administrator.  
Sec. 3112. Budget justification materials.  
Sec. 3113. National Nuclear Security Administration Council.  
Sec. 3114. Replacement project for Chemistry and Metallurgy Research Building, Los Alamos National Laboratory, New Mexico.  
Sec. 3115. Design and use of prototypes of nuclear weapons.  
Sec. 3116. Two-year extension of schedule for disposition of weapons-usable plutonium at Savannah River Site, Aiken, South Carolina.  
Sec. 3117. Transparency in contractor performance evaluations by the National Nuclear Security Administration leading to award fees.  
Sec. 3118. Modification and extension of authority on acceptance of contributions for acceleration of removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide.  
Sec. 3119. Limitation on availability of funds for Center of Excellence on Nuclear Security.  
Sec. 3120. Improvement and streamlining of the missions and operations of the Department of Energy and National Nuclear Security Administration.  
Sec. 3121. Cost-benefit analyses for competition of management and operating contracts.  
Sec. 3122. Program on scientific engagement for nonproliferation.  
Sec. 3123. Cost containment for Uranium Capabilities Replacement Project.

#### Subtitle C—Improvements to National Security Energy Laws

Sec. 3131. Improvements to the Atomic Energy Defense Act.  
Sec. 3132. Improvements to the National Nuclear Security Administration Act.  
Sec. 3133. Consolidated reporting requirements relating to nuclear stockpile stewardship, management, and infrastructure.  
Sec. 3134. Repeal of certain reporting requirements.

#### Subtitle D—Reports

Sec. 3141. Reports on lifetime extension programs.  
Sec. 3142. Notification of nuclear criticality and non-nuclear incidents.  
Sec. 3143. Quarterly reports to Congress on financial balances for atomic energy defense activities.  
Sec. 3144. National Academy of Sciences study on peer review and design competition related to nuclear weapons.  
Sec. 3145. Report on defense nuclear nonproliferation programs.

- Sec. 3146. Study on reuse of plutonium pits.
- Sec. 3147. Assessment of nuclear weapon pit production requirement.
- Sec. 3148. Study on a multiagency governance model for national security laboratories.
- Sec. 3149. Report on efficiencies in facilities and functions of the National Nuclear Security Administration.
- Sec. 3150. Study on regional radiological security zones.
- Sec. 3151. Report on abandoned uranium mines.

#### Subtitle E—Other Matters

- Sec. 3161. Use of probabilistic risk assessment to ensure nuclear safety.
- Sec. 3162. Submittal to Congress of selected acquisition reports and independent cost estimates on life extension programs and new nuclear facilities.
- Sec. 3163. Classification of certain restricted data.
- Sec. 3164. Advice to President and Congress regarding safety, security, and reliability of United States nuclear weapons stockpile and nuclear forces.
- Sec. 3165. Pilot program on technology commercialization.
- Sec. 3166. Congressional advisory panel on the governance of the nuclear security enterprise.

#### Subtitle F—American Medical Isotopes Production

- Sec. 3171. Short title.
- Sec. 3172. Definitions.
- Sec. 3173. Improving the reliability of domestic medical isotope supply.
- Sec. 3174. Exports.
- Sec. 3175. Report on disposition of exports.
- Sec. 3176. Domestic medical isotope production.
- Sec. 3177. Annual Department reports.
- Sec. 3178. National Academy of Sciences report.

## Subtitle A—National Security Programs Authorizations

### SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2013 for the activities of the National Nuclear Security Administration in carrying out programs as specified in the funding table in section 4701.

(b) **AUTHORIZATION OF NEW PLANT PROJECTS.**—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for the National Nuclear Security Administration as follows:

Project 13–D–301, Electrical Infrastructure Upgrades, Lawrence Livermore National Laboratory, Livermore, California, and Los Alamos National Laboratory, Los Alamos, New Mexico, \$23,000,000.

Project 13–D–903, Kesselring Site Prototype Staff Building, Kesselring Site, West Milton, New York, \$14,000,000.

Project 13–D–904, Kesselring Site Radiological Work and Storage Building, Kesselring Site, West Milton, New York, \$2,000,000.

Project 13–D–905, Remote-Handled Low-Level Waste Disposal Project, Idaho National Laboratory, \$8,890,000.

### SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2013 for defense environmental cleanup activities in carrying out programs as specified in the funding table in section 4701.

**SEC. 3103. OTHER DEFENSE ACTIVITIES.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2013 for other defense activities in carrying out programs as specified in the funding table in section 4701.

## **Subtitle B—Program Authorizations, Restrictions, and Limitations**

**SEC. 3111. AUTHORIZED PERSONNEL LEVELS OF THE OFFICE OF THE ADMINISTRATOR.**

(a) CAP ON FULL-TIME EQUIVALENT POSITIONS.—

(1) IN GENERAL.—Subtitle C of the National Nuclear Security Administration Act (50 U.S.C. 2441 et seq.) is amended by inserting after section 3241 the following new section:

50 USC 2441a. **“SEC. 3241A. AUTHORIZED PERSONNEL LEVELS OF THE OFFICE OF THE ADMINISTRATOR.**

“(a) FULL-TIME EQUIVALENT PERSONNEL LEVELS.—

Deadline. “(1) TOTAL NUMBER.—By October 1, 2014, the total number of employees of the Office of the Administrator may not exceed 1,825.

Reports. “(2) EXCESS.—For fiscal year 2015 and each fiscal year thereafter, the Administrator may not exceed the total number of employees authorized under paragraph (1) unless, during each fiscal year in which such total number exceeds 1,825, the Administrator submits to the congressional defense committees a report justifying such excess.

Determination. “(b) COUNTING RULE.—(1) A determination of the number of employees in the Office of the Administrator under subsection (a) shall be expressed on a full-time equivalent basis.

“(2) Except as provided by paragraph (3), in determining the total number of employees in the Office of the Administrator under subsection (a), the Administrator shall count each employee of the Office without regard to whether the employee is located at the headquarters of the Administration, a site office of the Administration, a service or support center of the Administration, or any other location.

“(3) The following employees may not be counted for purposes of determining the total number of employees in the Office of the Administrator under subsection (a):

“(A) Employees of the Office of Naval Reactors.

“(B) Employees of the Office of Secure Transportation.

“(C) Members of the Armed Forces detailed to the Administration.

“(D) Personnel supporting the Office of the Administrator pursuant to the mobility program under subchapter VI of chapter 33 of title 5, United States Code (commonly referred to as the ‘Intergovernmental Personnel Act Mobility Program’).

“(c) VOLUNTARY EARLY RETIREMENT.—In accordance with section 3523 of title 5, United States Code, the Administrator may offer voluntary separation or retirement incentives to meet the total number of employees authorized under subsection (a).

“(d) USE OF IPA.—The Administrator shall ensure that the expertise of the national security laboratories and the nuclear

weapons production facilities is made available to the Administration, the Department of Energy, the Department of Defense, other Federal agencies, and Congress through the temporary assignment of personnel from such laboratories and facilities pursuant to the Intergovernmental Personnel Act Mobility Program and other similar programs.”.

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 3241 the following new item:

“Sec. 3241A. Authorized personnel levels of the Office of the Administrator.”.

(b) INCREASE IN EXCEPTED POSITIONS.—

(1) IN GENERAL.—Section 3241 of the National Nuclear Security Administration Act (50 U.S.C. 2441) is amended—

(A) by striking “300” and inserting “600”;

(B) by inserting “contracting, program management,” before “scientific”; and

(C) by adding at the end the following new sentence: “To ensure that the excepted positions established under this section are used, the Administrator, to the extent practicable, shall appoint an individual to such an excepted position to replace the vacancy of a nonexcepted position.”.

Appointment.

(2) CONFORMING AMENDMENT.—The heading of such section is amended by inserting “**CONTRACTING, PROGRAM MANAGEMENT,**” before “**SCIENTIFIC**”.

(3) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by striking the item relating to section 3241 and inserting the following new item:

“Sec. 3241. Authority to establish certain contracting, program management, scientific, engineering, and technical positions.”.

#### **SEC. 3112. BUDGET JUSTIFICATION MATERIALS.**

Section 3251(b) of the National Nuclear Security Administration Act (50 U.S.C. 2451(b)) is amended—

(1) by striking “In the” and inserting “(1) In the”; and

(2) by adding at the end the following new paragraph:

“(2) In the budget justification materials submitted to Congress in support of each such budget, the Administrator shall include an assessment of how the budget maintains the core nuclear weapons skills of the Administration, including nuclear weapons design, engineering, production, testing, and prediction of stockpile aging.”.

Assessment.

#### **SEC. 3113. NATIONAL NUCLEAR SECURITY ADMINISTRATION COUNCIL.**

(a) NNSA COUNCIL.—Section 4102 of the Atomic Energy Defense Act (50 U.S.C. 2512) is amended to read as follows:

##### **“SEC. 4102. MANAGEMENT STRUCTURE FOR NUCLEAR SECURITY ENTERPRISE.**

“(a) IN GENERAL.—The Administrator shall establish a management structure for the nuclear security enterprise in accordance with the National Nuclear Security Administration Act (50 U.S.C. 2401 et seq.).

“(b) NATIONAL NUCLEAR SECURITY ADMINISTRATION COUNCIL.—

(1) The Administrator shall establish a council to be known as the ‘National Nuclear Security Administration Council’. The Council may advise the Administrator on—

Establishment.

“(A) scientific and technical issues relating to policy matters;

“(B) operational concerns;

“(C) strategic planning;

“(D) the development of priorities relating to the mission and operations of the Administration and the nuclear security enterprise; and

“(E) such other matters as the Administrator determines appropriate.

“(2) The Council shall be composed of the directors of the national security laboratories and the nuclear weapons production facilities.

“(3) The Council may provide the Administrator or the Secretary of Energy recommendations for improving the—

“(A) governance, management, effectiveness, and efficiency of the Administration; and

“(B) any other matter in accordance with paragraph (1).

Deadline.

“(4) Not later than 60 days after the date on which any recommendation under paragraph (3) is received, the Administrator or the Secretary, as the case may be, shall respond to the Council with respect to whether such recommendation will be implemented and the reasoning for implementing or not implementing such recommendation.”.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by striking the item relating to section 4102 and inserting the following new item:

“Sec. 4102. Management structure for nuclear security enterprise.”.

**SEC. 3114. REPLACEMENT PROJECT FOR CHEMISTRY AND METALLURGY RESEARCH BUILDING, LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.**

(a) PROJECT REQUIRED.—

(1) IN GENERAL.—Subtitle A of title XLII of the Atomic Energy Defense Act (50 U.S.C. 2521 et seq.) is amended by adding at the end the following new section:

50 USC 2535.

**“SEC. 4215. REPLACEMENT PROJECT FOR CHEMISTRY AND METALLURGY RESEARCH BUILDING, LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.**

“(a) REPLACEMENT BUILDING REQUIRED.—The Secretary of Energy shall construct at Los Alamos National Laboratory, New Mexico, a building to replace the functions of the existing Chemistry and Metallurgy Research Building at Los Alamos National Laboratory associated with Department of Energy Hazard Category 2 special nuclear material operations.

Determination.

“(b) LIMITATION ON COST.—The cost of the building constructed under subsection (a) may not exceed \$3,700,000,000. If the Secretary determines the cost will exceed such amount, the Secretary shall submit a detailed justification for such increase to the congressional defense committees.

“(c) PROJECT BASIS.—The construction authorized by subsection (a) shall use as its basis the facility project in the Department of Energy Readiness and Technical Base designated 04-D-125 (chemistry and metallurgy facility replacement project at Los Alamos National Laboratory).

Contracts.

“(d) ASSISTANCE.—(1) In carrying out this section, the Secretary shall procure the services of the Commander of the Naval Facilities



Engineering Command to assist the Secretary with respect to the program management, oversight, and design activities of the project authorized by subsection (a).

“(2) The Secretary shall carry out this subsection using funds made available for the National Nuclear Security Administration.

“(e) DEADLINE FOR COMMENCEMENT OF OPERATIONS.—The building constructed under subsection (a) shall commence operations by not later than December 31, 2026.”.

(2) CLERICAL AND TECHNICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 4214, as added by section 3131(g)(2), the following new item:

“Sec. 4215. Replacement project for Chemistry and Metallurgy Research Building, Los Alamos National Laboratory, New Mexico.”.

(b) FUNDING.—

(1) FISCAL YEAR 2013 FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), of the amounts authorized to be appropriated by this Act for fiscal year 2013 for the National Nuclear Security Administration, \$70,000,000 shall be available for the construction of the building authorized by section 4215 of the Atomic Energy Defense Act, as added by subsection (a).

(B) EXCEPTION.—The following amounts authorized to be appropriated by this Act for fiscal year 2013 for the National Nuclear Security Administration shall not be available for the construction of the building:

(i) Amounts available for Directed Stockpile Work.

(ii) Amounts available for Naval Reactors.

(iii) Amounts available for the facility project in the Department of Energy Readiness and Technical Base designated 06-D-141.

(2) PRIOR FISCAL YEAR FUNDS.—Amounts authorized to be appropriated for the Department of Energy for a fiscal year before fiscal year 2013 and available for the facility project in the Department of Energy Readiness and Technical Base designated 04-D-125 (chemistry and metallurgy facility replacement project at Los Alamos National Laboratory, New Mexico) shall be available for the construction of the building authorized by section 4215 of the Atomic Energy Defense Act, as added by subsection (a).

(c) LIMITATION ON ALTERNATIVE PLUTONIUM STRATEGY.—No funds authorized to be appropriated by this Act or any other Act may be obligated or expended on any activities associated with a plutonium strategy for the National Nuclear Security Administration that does not include achieving full operational capability of the replacement project by December 31, 2026, as required by section 4215(e) of the Atomic Energy Defense Act, as added by subsection (a).

Deadline.  
50 USC 2535  
note.

(d) NAVAL REACTOR STUDY.—

(1) IN GENERAL.—The Deputy Administrator for Naval Reactors shall conduct a study of the replacement project, including an analysis of the cost, benefits, and risks with respect to nuclear safety.

50 USC 2535  
note.

(2) SUBMISSION.—Not later than 18 months after the date of the enactment of this Act, the Deputy Administrator shall

Deadline.  
Reports.  
Recommendations.

submit to the congressional defense committees a report on the study under paragraph (1), including recommendations of the Deputy Administrator with respect to the project structure, oversight model, and potential cost savings of the replacement project.

(3) CONSIDERATION OF RECOMMENDATIONS.—In carrying out the replacement project, the Secretary of Energy shall consider the recommendations made by the Deputy Administrator in the report under paragraph (2) and incorporate such recommendations into the project as the Secretary considers appropriate.

(4) FUNDING.—The Secretary of Energy and the Deputy Administrator shall carry out this subsection using funds authorized to be appropriated by this Act or otherwise made available for the National Nuclear Security Administration that are not made available for the Naval Nuclear Propulsion Program.

50 USC 2535  
note.

(e) REPLACEMENT PROJECT DEFINED.—In this section, the term “replacement project” means the replacement project for the Chemistry and Metallurgy Research Building authorized by section 4215 of the Atomic Energy Defense Act, as added by subsection (a).

**SEC. 3115. DESIGN AND USE OF PROTOTYPES OF NUCLEAR WEAPONS.**

(a) PROTOTYPES.—Subtitle A of title XLV of the Atomic Energy Defense Act (50 U.S.C. 2651 et seq.) is amended by adding at the end the following new section:

50 USC 2660.

**“SEC. 4509. DESIGN AND USE OF PROTOTYPES OF NUCLEAR WEAPONS FOR INTELLIGENCE PURPOSES.**

Plans.

“(a) PROTOTYPES.—The Administrator shall develop and carry out a plan for the national security laboratories and nuclear weapons production facilities to design and build prototypes of nuclear weapons to further intelligence estimates with respect to foreign nuclear weapons activities.

“(b) PROHIBITION ON PRODUCTION OF NUCLEAR YIELDS.—In carrying out subsection (a), the Administrator may not conduct any experiments that produce a nuclear yield.”.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 4508 the following new item:

“Sec. 4509. Design and use of prototypes of nuclear weapons for intelligence purposes.”.

**SEC. 3116. TWO-YEAR EXTENSION OF SCHEDULE FOR DISPOSITION OF WEAPONS-USABLE PLUTONIUM AT SAVANNAH RIVER SITE, AIKEN, SOUTH CAROLINA.**

Section 4306 of the Atomic Energy Defense Act (50 U.S.C. 2566) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (C), by striking “2012” and inserting “2014”; and

(B) in subparagraph (D), by striking “2017” and inserting “2019”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “by January 1, 2012”; and

(B) in paragraph (5), by striking “2012” and inserting “2014”;

(3) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “2012” and inserting “2014”;

(B) in paragraph (1), by striking “2014” and inserting “2016”; and

(C) in paragraph (2), by striking “2020” each place it appears and inserting “2022”;

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by striking “2014” and inserting “2016”; and

(ii) by striking “2019” and inserting “2021”; and

(B) in paragraph (2)(A), by striking “2020” each place it appears and inserting “2022”; and

(5) in subsection (e), by striking “2023” and inserting “2025”.

**SEC. 3117. TRANSPARENCY IN CONTRACTOR PERFORMANCE EVALUATIONS BY THE NATIONAL NUCLEAR SECURITY ADMINISTRATION LEADING TO AWARD FEES.**

(a) PUBLICATION REQUIRED.—

(1) IN GENERAL.—Subtitle A of title XLVIII of the Atomic Energy Defense Act (50 U.S.C. 2781 et seq.) is amended by adding at the end the following new section:

**“SEC. 4805. PUBLICATION OF CONTRACTOR PERFORMANCE EVALUATIONS LEADING TO AWARD FEES.**

50 USC 2785.

“(a) IN GENERAL.—The Administrator shall take appropriate actions to make available to the public, to the maximum extent practicable, contractor performance evaluations conducted by the Administration of management and operating contractors of the nuclear security enterprise that results in the award of an award fee to the contractor concerned.

Public information.

“(b) FORMAT.—Performance evaluations shall be made public under this section in a common format that facilitates comparisons of performance evaluations between and among similar management and operating contracts.”.

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 4803 the following new items:

“Sec. 4804. Notice-and-wait requirement applicable to certain third-party financing arrangements.

“Sec. 4805. Publication of contractor performance evaluations leading to award fees.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to contractor performance evaluations conducted by the National Nuclear Security Administration on or after that date.

Applicability.  
50 USC 2785  
note.

**SEC. 3118. MODIFICATION AND EXTENSION OF AUTHORITY ON ACCEPTANCE OF CONTRIBUTIONS FOR ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.**

(a) PROGRAMS FOR WHICH FUNDS MAY BE ACCEPTED.—Paragraph (2) of section 3132(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2569(f)) is amended to read as follows:

“(2) PROGRAMS COVERED.—The programs described in this paragraph are any programs within the Office of Defense Nuclear Nonproliferation of the National Nuclear Security Administration.”.

(b) EXTENSION.—Paragraph (7) of such section is amended by striking “December 31, 2013” and inserting “December 31, 2018”.

**SEC. 3119. LIMITATION ON AVAILABILITY OF FUNDS FOR CENTER OF EXCELLENCE ON NUCLEAR SECURITY.**

(a) LIMITATION.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the National Nuclear Security Administration, not more than \$7,000,000 may be obligated or expended for the United States-China Center of Excellence on Nuclear Security until the date on which the Secretary of Energy submits to the appropriate congressional committees the report under subsection (b)(2).

(b) NUCLEAR SECURITY.—

(1) REVIEW.—The Secretary of Energy, in coordination with the Secretary of Defense, shall conduct a review of the existing and planned nonproliferation activities with the People's Republic of China as of the date of the enactment of this Act to determine if the engagement is directly or indirectly supporting the proliferation of nuclear weapons development and technology to other nations.

(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the appropriate congressional committees a report certifying that the activities reviewed under paragraph (1) are not contributing to the proliferation of nuclear weapons development and technology to other nations.

(c) FORM.—The report under subsection (b)(2) may be submitted in unclassified form and may include a classified annex.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

42 USC 7251.

**SEC. 3120. IMPROVEMENT AND STREAMLINING OF THE MISSIONS AND OPERATIONS OF THE DEPARTMENT OF ENERGY AND NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

Review.  
Revisions.

(a) IN GENERAL.—The Secretary of Energy and the Administrator for Nuclear Security shall review and, to the extent practicable, revise the Department of Energy Acquisition Regulation and other regulations, rules, directives, orders, and policies that apply to the administration, execution, and oversight of the missions and operations of the Department of Energy and the National Nuclear Security Administration to improve and streamline such administration, execution, and oversight.

Review.

(b) IMPROVEMENT AND STREAMLINING.—In carrying out subsection (a), the Secretary and the Administrator shall review and, to the extent practicable, carry out the following actions:

(1) Streamline business processes and structures to reduce unnecessary, burdensome, or duplicative approvals.

(2) Delegate approval for work for others agreements and cooperative research and development agreements (except those

that the Secretary or Administrator determine are high value or unique) to the lowest appropriate officials and streamline the approval processes.

(3) Establish processes for ensuring routine or low-risk procurement and subcontracting decisions are made at the discretion of the management and operating contractors while ensuring that the Secretary or Administrator apply appropriate oversight.

(4) Assess procurement thresholds as of the date of the enactment of this Act and take steps as appropriate to adjust such thresholds.

(5) Eliminate duplicative or low-value reports and data calls and ensure consistency in management and cost-accounting data.

(6) Actions to otherwise streamline, clarify, and eliminate redundancy in the regulations, rules, directives, orders, and policies described by subsection (a).

(c) BRIEFING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Administrator shall provide to the appropriate congressional committees a briefing on the review conducted under subsection (a), including the status of such review and any actions taken or planned to be taken to improve and streamline the regulations, rules, directives, orders, and policies described in such subsection.

Deadline.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

#### SEC. 3121. COST-BENEFIT ANALYSES FOR COMPETITION OF MANAGEMENT AND OPERATING CONTRACTS.

(a) REPORTS REQUIRED.—The Administrator for Nuclear Security shall submit to the congressional defense committees a report described in subsection (b) by not later than 30 days after the date on which the Administrator awards a contract to manage and operate a facility of the National Nuclear Security Administration.

(b) REPORT DESCRIBED.—A report described in this subsection is a report on a contract described by subsection (a) that includes—

(1) the expected cost savings resulting from the competition for the contract over the life of the contract;

(2) the costs of the competition for the contract, including the immediate costs of conducting the competition and any increased costs over the life of the contract;

(3) a description of—

(A) any disruption or delay in mission activities or deliverables resulting from the competition for the contract; and

(B) any benefits of the competition to mission performance or operations;

- (4) how the competition for the contract complied with the Federal Acquisition Regulation regarding federally funded research and development centers, if applicable; and
- (5) any other matters the Administrator considers appropriate.
- Deadline. (c) GAO REVIEW.—Not later than 90 days after each report is submitted to the congressional defense committees under subsection (a) or (d)(2), the Comptroller General of the United States shall submit to such committees a review of such report.
- Time period. (d) APPLICABILITY.—
- (1) IN GENERAL.—The requirement for reports under subsection (a) shall apply with respect to a contract described by such subsection that is awarded by the Administrator during fiscal years 2013 through 2017.
- Reports. (2) FISCAL YEARS 2012 AND 2013 CONTRACTS.—For each contract described by subsection (a) that is awarded by the Administrator during fiscal years 2012 or 2013 before the date of the enactment of this Act, the Administrator shall submit to the congressional defense committees a report described in subsection (b) by not later than 90 days after the date of such enactment.
- Deadline.

50 USC 2562.

**SEC. 3122. PROGRAM ON SCIENTIFIC ENGAGEMENT FOR NON-PROLIFERATION.**

(a) PROGRAM REQUIRED.—

(1) SCIENTIFIC ENGAGEMENT.—The Secretary of Energy, acting through the Administrator for Nuclear Security, shall carry out a program on scientific engagement in countries selected by the Secretary for purposes of the program to advance global nonproliferation and nuclear security efforts.

(2) ELEMENTS.—The program under paragraph (1) shall include the following elements:

(A) Training and capacity-building to strengthen nonproliferation and security best practices.

(B) Engagement of scientists of the United States with foreign counterparts to advance nonproliferation goals.

(3) DISTINCT PROGRAM.—The program required by this subsection shall be a distinct program from the Global Initiatives for Proliferation Prevention program.

(b) LIMITATION.—

(1) REPORT ON COMMENCEMENT OF PROGRAM.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 or any fiscal year thereafter for the National Nuclear Security Administration, not more than 50 percent may be obligated or expended under the program under subsection (a) until the date on which the Administrator submits to the appropriate congressional committees a report setting forth the following:

(A) For each country selected for the program as of the date of such report—

(i) a proliferation threat assessment prepared by the Director of National Intelligence; and

(ii) metrics for evaluating the effectiveness of the program.

(B) Accounting standards for the conduct of the program approved by the Comptroller General of the United States.

(2) FORM.—The report under paragraph (1) may be submitted in unclassified form and may include a classified annex.

(c) REPORTS ON MODIFICATION OF PROGRAM.—

(1) IN GENERAL.—Not later than 15 days before making any modification in the program under subsection (a) (including selecting a new country for the program, ceasing the selection of a country for the program, or modifying an element of the program), the Administrator shall submit to the appropriate congressional committees a report on the modification.

(2) NEW COUNTRY.—If the modification covered by a report under paragraph (1) consists of the selection for the program of a country not previously selected for the program, the report shall include, for each such country, the matters described in subsection (b)(1)(A).

(3) FORM.—The report under paragraph (1) may be submitted in unclassified form and may include a classified annex.

(d) REPORT ON COORDINATION WITH OTHER U.S. NONPROLIFERATION PROGRAMS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to the appropriate congressional committees a report describing the manner in which the program under subsection (a) coordinates with and complements, but does not duplicate, other nonproliferation programs of the Federal Government.

(e) COMPTROLLER GENERAL REPORT.—

(1) IN GENERAL.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the program under subsection (a).

(2) MATTERS INCLUDED.—The report under paragraph (1) shall include the following:

(A) An assessment by the Comptroller General of the effectiveness of the program, as determined in accordance with the metrics described in subsection (b)(1)(A)(ii).

(B) An assessment of how the program coordinates with, complements, or duplicates other nonproliferation programs of the Federal Government.

(C) Such other matters on the program as the Comptroller General considers appropriate.

(f) TERMINATION.—The authority to carry out the program under subsection (a) shall expire on September 30, 2016.

(g) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means the following:

(1) The congressional defense committees.

(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

**SEC. 3123. COST CONTAINMENT FOR URANIUM CAPABILITIES REPLACEMENT PROJECT.**

(a) EXECUTION PHASES FOR PROJECT.—Project 06-D-141 for the Y-12 Uranium Processing Facility, Y-12 National Security Complex, Oak Ridge, Tennessee, shall be hereafter known as the “Uranium Capabilities Replacement Project”. The project shall be broken into separate execution phases as follows:

(1) Phase I, which shall consist of—

(A) processes and capabilities associated with building 9212, including uranium casting and uranium chemical processing; and

(B) the support, administration, and logistics facilities and the building structure and building-level utilities needed to carry out Phases II and III.

(2) Phase II, which shall consist of processes and capabilities associated with buildings 9215 and 9998, including uranium metal-working, machining, and inspection.

(3) Phase III, which shall consist of processes and capabilities associated with building 9204-2E, including radiography, assembly, disassembly, quality evaluation, and production certification operations of nuclear weapon secondaries.

(b) BUDGETING AND AUTHORIZATION FOR EACH PHASE.—

(1) BUDGETING FOR EACH PHASE REQUIRED.—The Secretary of Energy shall budget separately for each Phase under subsection (a) of the project referred to in that subsection.

(2) FUNDING PURSUANT TO SEPARATE AUTHORIZATIONS OF APPROPRIATIONS.—Except as provided by paragraph (3), the Secretary may not proceed with a Phase under subsection (a) of the project referred to in that subsection except with funds expressly authorized to be appropriated for that Phase by law.

Notification.

(3) UNUSED FUNDING FROM PHASE I.—After Phase I under subsection (a) is completed, the Secretary may use any unobligated funds made available for such Phase for Phase II or Phase III if the Secretary notifies the congressional defense committees before using such funds for Phase II or Phase III.

(c) COMPLIANCE OF PHASES WITH DOE ORDER ON PROGRAM AND PROJECT MANAGEMENT.—Each Phase under subsection (a) of the project referred to in that subsection shall comply with Department of Energy Order 413.3, relating to Program Management and Project Management for the Acquisition of Capital Assets.

Determination.

(d) LIMITATION ON COST OF PHASE I.—The total cost of Phase I under subsection (a) of the project referred to in that subsection may not exceed \$4,200,000,000. If the Administrator determines the total cost of Phase I will exceed \$4,200,000,000, the Administrator shall submit to the congressional defense committees a detailed justification for such increase.

(e) ASSISTANCE.—

Contracts.

(1) NAVFAC.—In carrying out this section, the Secretary shall procure the services of the Commander of the Naval Facilities Engineering Command to assist the Secretary with respect to the program management, oversight, and design activities of the project referred to in subsection (a).

(2) SOURCE OF FUNDING.—The Secretary shall carry out paragraph (1) using funds made available for the National Nuclear Security Administration.

(f) GAO QUARTERLY REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and quarterly thereafter until the date on which the project referred to in subsection (a) is completed, the Comptroller General of the United States shall submit to the congressional defense committees a report on all Phases under such subsection.

(2) MATTERS INCLUDED.—The reports under paragraph (1) shall include—



(A) the progress on adhering to cost projections for the project referred to in subsection (a) and the progress on meeting the requirements of section 4713 of the Atomic Energy Defense Act (50 U.S.C. 2753);

(B) the status of the technology readiness levels for equipment and processes that will accompany each Phase under subsection (a);

(C) independent cost estimates of such Phases;

(D) the programmatic structure of the relationship between the prime contractor and subcontractors; and

(E) any other issue that the Comptroller General determines appropriate with respect to the requirements, cost, schedule, or technology readiness levels of such project.

(g) NAVAL REACTOR STUDY.—

(1) IN GENERAL.—The Deputy Administrator for Naval Reactors shall conduct a study of the project referred to in subsection (a), including an analysis of the cost, benefits, and risks with respect to nuclear safety.

(2) SUBMISSION.—Not later than one year after the date of the enactment of this Act, the Deputy Administrator shall submit to the congressional defense committees a report on the study under paragraph (1), including recommendations of the Deputy Administrator with respect to the project structure, oversight model, and potential cost savings of the project referred to in subsection (a).

Deadline.  
Reports.  
Recommendations.

(3) CONSIDERATION OF RECOMMENDATIONS.—In carrying out the project referred to in subsection (a), the Secretary of Energy shall consider the recommendations made by the Deputy Administrator in the report under paragraph (2) and incorporate such recommendations into the project as the Secretary considers appropriate.

(4) FUNDING.—The Secretary and the Deputy Administrator shall carry out this subsection using funds authorized to be appropriated by this Act or otherwise made available for the National Nuclear Security Administration that are not made available for the Naval Nuclear Propulsion Program.

(h) CAPE REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Director of Cost Assessment and Program Evaluation of the Department of Defense shall submit to the congressional defense committees a review of the cost and schedule of the project referred to in subsection (a).

## Subtitle C—Improvements to National Security Energy Laws

### SEC. 3131. IMPROVEMENTS TO THE ATOMIC ENERGY DEFENSE ACT.

(a) DEFINITIONS.—

(1) IN GENERAL.—Section 4002 of the Atomic Energy Defense Act (50 U.S.C. 2501) is amended to read as follows:

#### “SEC. 4002. DEFINITIONS.

“In this division:

“(1) The term ‘Administration’ means the National Nuclear Security Administration.

“(2) The term ‘Administrator’ means the Administrator for Nuclear Security.

“(3) The term ‘classified information’ means any information that has been determined pursuant to Executive Order No. 12333 of December 4, 1981 (50 U.S.C. 401 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 435 note), or successor orders, to require protection against unauthorized disclosure and that is so designated.

“(4) The term ‘congressional defense committees’ means—

“(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

“(5) The term ‘nuclear security enterprise’ means the physical facilities, technology, and human capital of the national security laboratories and the nuclear weapons production facilities.

“(6) The term ‘national security laboratory’ means any of the following:

“(A) Los Alamos National Laboratory, Los Alamos, New Mexico.

“(B) Sandia National Laboratories, Albuquerque, New Mexico, and Livermore, California.

“(C) Lawrence Livermore National Laboratory, Livermore, California.

“(7) The term ‘nuclear weapons production facility’ means any of the following:

“(A) The Kansas City Plant, Kansas City, Missouri.

“(B) The Pantex Plant, Amarillo, Texas.

“(C) The Y-12 National Security Complex, Oak Ridge, Tennessee.

“(D) The Savannah River Site, Aiken, South Carolina.

“(E) The Nevada National Security Site, Nevada.

“(F) Any facility of the Department of Energy that the Secretary of Energy, in consultation with the Administrator and Congress, determines to be consistent with the mission of the Administration.

“(8) The term ‘restricted data’ has the meaning given such term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).”.

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4002 and inserting the following new item:

“Sec. 4002. Definitions.”.

(b) STOCKPILE STEWARDSHIP.—Section 4201(b)(5)(E) of the Atomic Energy Defense Act (50 U.S.C. 2521(b)(5)(E)) is amended by striking “(as defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471))”.

(c) ANNUAL ASSESSMENTS.—Section 4205 of the Atomic Energy Defense Act (50 U.S.C. 2525) is amended by striking subsection (i).

(d) TESTING OF NUCLEAR WEAPONS.—

(1) IN GENERAL.—Section 4210 of the Atomic Energy Defense Act (50 U.S.C. 2530) is amended to read as follows:

**“SEC. 4210. TESTING OF NUCLEAR WEAPONS.**

“(a) **UNDERGROUND TESTING.**—No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

“(b) **ATMOSPHERIC TESTING.**—None of the funds appropriated pursuant to the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1547) or any other Act for any fiscal year may be available to maintain the capability of the United States to conduct atmospheric testing of a nuclear weapon.”.

(2) **CLERICAL AMENDMENT.**—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the items relating to sections 4210 and 4211 and inserting the following new item:

“Sec. 4210. Testing of nuclear weapons.”.

(3) **CONFORMING AMENDMENT.**—Section 4211 of the Atomic Energy Defense Act (50 U.S.C. 2531) is repealed. Repeal.

(e) **MANUFACTURING INFRASTRUCTURE.**—Section 4212 of the Atomic Energy Defense Act (50 U.S.C. 2532) is amended by striking subsections (d) and (e).

(f) **CRITICAL DIFFICULTIES REPORT.**—

(1) **IN GENERAL.**—Section 4213 of the Atomic Energy Defense Act (50 U.S.C. 2533) is amended—

(A) in the heading, by striking “**NUCLEAR WEAPONS LABORATORIES AND NUCLEAR WEAPONS PRODUCTION PLANTS**” and inserting “**NATIONAL SECURITY LABORATORIES AND NUCLEAR WEAPONS PRODUCTION FACILITIES**”;

(B) in subsection (a)—

(i) by striking “Assistant Secretary of Energy for Defense Programs” and inserting “Administrator”;

(ii) by striking “nuclear weapons laboratory” and inserting “national security laboratory”; and

(iii) by striking “production plant” and inserting “production facility”;

(C) in subsection (b)—

(i) in the heading, by striking “**ASSISTANT SECRETARY**” and inserting “**ADMINISTRATOR**”; and

(ii) by striking “Assistant Secretary” each place it appears and inserting “Administrator”; and

(D) by striking subsection (e).

(2) **CLERICAL AMENDMENT.**—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4213 and inserting the following new item:

“Sec. 4213. Reports on critical difficulties at national security laboratories and nuclear weapons production facilities.”.

(g) **PLAN FOR TRANSFORMATION.**—

(1) **IN GENERAL.**—Section 4214 of the Atomic Energy Defense Act (50 U.S.C. 2534) is amended—

(A) by striking “nuclear weapons complex” each place it appears (including the section heading) and inserting “nuclear security enterprise”;

(B) by striking subsections (b) and (d); and

(C) by redesignating subsection (c) as subsection (b).

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by inserting after the item relating to section 4213, as inserted by subsection (f)(2), the following new item:

“Sec. 4214. Plan for transformation of National Nuclear Security Administration nuclear security enterprise.”.

(h) TRITIUM PRODUCTION PROGRAM.—Section 4231 of the Atomic Energy Defense Act (50 U.S.C. 2541) is amended to read as follows:

**“SEC. 4231. TRITIUM PRODUCTION PROGRAM.**

“(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a tritium production program that is capable of meeting the tritium requirements of the United States for nuclear weapons.

“(b) LOCATION OF TRITIUM PRODUCTION FACILITY.—The Secretary shall locate any new tritium production facility of the Department of Energy at the Savannah River Site, South Carolina.”.

(i) TRITIUM RECYCLING FACILITIES.—Section 4234 of the Atomic Energy Defense Act (50 U.S.C. 2544) is amended—

(1) by striking “(a) IN GENERAL.—The Secretary of Energy” and inserting “The Secretary of Energy”; and

(2) by striking subsection (b).

(j) RESTRICTED DATA.—Section 4501 of the Atomic Energy Defense Act (50 U.S.C. 2651) is amended by striking subsection (c).

(k) FOREIGN VISITORS.—

(1) IN GENERAL.—Section 4502 of the Atomic Energy Defense Act (50 U.S.C. 2652) is amended—

(A) in the heading, by striking “**NATIONAL LABORATORIES**” and inserting “**NATIONAL SECURITY LABORATORIES**”;

(B) by striking “national laboratory” each place it appears and inserting “national security laboratory”; and

(C) in subsection (g), by striking paragraphs (3) and

(4).

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4502 and inserting the following new item:

“Sec. 4502. Restrictions on access to national security laboratories by foreign visitors from sensitive countries.”.

(l) BACKGROUND INVESTIGATIONS.—Section 4503 of the Atomic Energy Defense Act (50 U.S.C. 2653) is amended—

(1) by striking “(a) IN GENERAL.—”;

(2) by striking subsections (b) and (c); and

(3) by striking “national laboratory” and inserting “national security laboratory”.

(m) NUCLEAR DEFENSE INTELLIGENCE LOSSES.—

(1) IN GENERAL.—Section 4505 of the Atomic Energy Defense Act (50 U.S.C. 2656) is amended—

(A) in the heading, by striking “**NUCLEAR**” and inserting “**ATOMIC**”;

(B) in the heading of subsection (b), by striking “**NUCLEAR**” and inserting “**ATOMIC ENERGY**”; and

(C) by striking “nuclear defense” each place it appears and inserting “atomic energy defense”.

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4505 and inserting the following new item:

“Sec. 4505. Notice to congressional committees of certain security and counterintelligence failures within atomic energy defense programs.”.

(n) COUNTERINTELLIGENCE REPORT.—

(1) IN GENERAL.—Section 4507 of the Atomic Energy Defense Act (50 U.S.C. 2658) is amended—

(A) in the heading, by striking “**NATIONAL LABORATORIES**” and inserting “**NATIONAL SECURITY LABORATORIES**”;

(B) in subsection (a), by striking “national laboratories” and inserting “national security laboratories”;

(C) in subsection (b), by striking “national laboratory” and inserting “national security laboratory”; and

(D) by striking subsection (c).

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4507 and inserting the following new item:

“Sec. 4507. Report on counterintelligence and security practices at national security laboratories.”.

(o) COMPUTER SECURITY REPORT.—

(1) IN GENERAL.—Section 4508 of the Atomic Energy Defense Act (50 U.S.C. 2659)—

(A) in the heading, by striking “**NATIONAL LABORATORY**” and inserting “**NATIONAL SECURITY LABORATORY**”;

(B) in subsection (a) and (b), by striking “national laboratories” each place it appears and inserting “national security laboratories”; and

(C) by striking subsections (e) and (f).

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4508 and inserting the following new item:

“Sec. 4508. Report on security vulnerabilities of national security laboratory computers.”.

(p) DOCUMENT REVIEW.—Section 4521 of the Atomic Energy Defense Act (50 U.S.C. 2671) is amended by striking subsection (c).

(q) REPORTS ON LOCAL IMPACT ASSISTANCE.—

(1) IN GENERAL.—Section 4604(f) of the Atomic Energy Defense Act (50 U.S.C. 2704(f)) is amended by adding at the end the following new paragraph:

“(3) In addition to the plans submitted under paragraph (1), the Secretary shall submit to Congress every six months a report setting forth a description of, and the amount or value of, all local impact assistance provided during the preceding six months under subsection (c)(6).”.

(2) CONFORMING AMENDMENT.—Section 4851 of the Atomic Energy Defense Act (50 U.S.C. 2821) is repealed. Repeal.

(3) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4851.

(r) RECRUITMENT AND TRAINING.—Section 4622 of the Atomic Energy Defense Act (50 U.S.C. 2722) is amended—

(1) in subsection (b)—

(A) by striking “(1) As part of” and inserting “As part of”; and

(B) by striking paragraph (2); and

(2) by striking subsection (d).

(s) FELLOWSHIP PROGRAM.—

(1) IN GENERAL.—Section 4623 of the Atomic Energy Defense Act (50 U.S.C. 2723) is amended—

(A) in the heading, by striking “**DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX**” and inserting “**NUCLEAR SECURITY ENTERPRISE**”;

(B) in subsection (a), by striking “Department of Energy nuclear weapons complex” each place it appears and inserting “nuclear security enterprise”;

(C) in subsection (c), by striking “following” and all that follows through the period at the end and inserting “national security laboratories and nuclear weapons production facilities.”; and

(D) in subsection (f)(2), by striking “the Department of Energy for” and inserting “the nuclear security enterprise for”.

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4623 and inserting the following new item:

“Sec. 4623. Fellowship program for development of skills critical to the nuclear security enterprise.”.

(t) COST OVERRUNS.—Section 4713(a)(1)(A) of the Atomic Energy Defense Act (50 U.S.C. 2753(a)(1)(A)) is amended—

(1) by striking “for Nuclear Security”; and

(2) by striking “National Nuclear Security”.

(u) BUDGET REQUEST.—

(1) IN GENERAL.—Section 4731 of the Atomic Energy Defense Act (50 U.S.C. 2771) is repealed.

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4731.

(v) CONTRACTOR BONUSES.—Section 4802 of the Atomic Energy Defense Act (50 U.S.C. 2782) is amended—

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(w) FUNDS FOR RESEARCH AND DEVELOPMENT.—Section 4812 of the Atomic Energy Defense Act (50 U.S.C. 2792) is amended—

(1) by striking subsections (b) through (d); and

(2) by redesignating subsection (e) as subsection (b).

(x) TECHNOLOGY PARTNERSHIPS.—Section 4813(c) of the Atomic Energy Defense Act (50 U.S.C. 2794(c)) is amended by striking paragraph (5).

Repeal.

(y) **UNIVERSITY COLLABORATION.**—Section 4814 of the Atomic Energy Defense Act (50 U.S.C. 2795) is amended by striking subsection (c).

(z) **ENGINEERING AND MANUFACTURING RESEARCH.**—Section 4832 of the Atomic Energy Defense Act (50 U.S.C. 2812) is amended—

(1) in subsection (b), by striking “nuclear weapons complex” and inserting “nuclear security enterprise”; and

(2) by striking subsections (c) through (e).

(aa) **PILOT PROGRAM REPORT.**—Section 4833 of the Atomic Energy Defense Act (50 U.S.C. 2813) is amended by striking subsection (e).

(bb) **TECHNICAL AMENDMENTS.**—

(1) **IN GENERAL.**—The Atomic Energy Defense Act (50 U.S.C. 2501 et seq.) is amended as follows:

(A) In section 4604(g)(3) (50 U.S.C. 2704(g)(3)), by striking “; the Pinnellas Plant, Florida;”.

(B) In the heading of section 4852 (50 U.S.C. 2822), by striking “**NEVADA TEST SITE**” and inserting “**NEVADA NATIONAL SECURITY SITE**”.

(C) By striking “Nevada Test Site” each place it appears and inserting “Nevada National Security Site”. 50 USC 2521, 2704, 2822.

(D) By striking “Director of Central Intelligence” each place it appears and inserting “Director of National Intelligence”. 50 USC 2562, 2652, 2656.

(2) **CLERICAL AMENDMENT.**—The table of contents at the beginning of the Atomic Energy Defense Act is further amended by striking the item relating to section 4852 and inserting the following new item:

“Sec. 4852. Payment of costs of operation and maintenance of infrastructure at Nevada National Security Site.”.

**SEC. 3132. IMPROVEMENTS TO THE NATIONAL NUCLEAR SECURITY ADMINISTRATION ACT.**

(a) **NUCLEAR SECURITY ENTERPRISE REFERENCE.**—

(1) **FUTURE-YEARS NUCLEAR SECURITY PROGRAM.**—Section 3253(b) of the National Nuclear Security Administration Act (50 U.S.C. 2453(b)) is amended by striking “nuclear weapons complex” each place it appears and inserting “nuclear security enterprise”.

(2) **GAO REPORTS.**—Section 3255 of the National Nuclear Security Administration Act (50 U.S.C. 2455) is amended—

(A) in subsection (a), by striking “nuclear security complex” each place it appears and inserting “nuclear security enterprise”; and

(B) in subsection (b), by striking paragraph (3).

(3) **DEFINITION.**—Section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471) is amended by adding at the end the following new paragraph:

“(6) The term ‘nuclear security enterprise’ means the physical facilities, technology, and human capital of the national security laboratories and the nuclear weapons production facilities.”.

(b) **TRANSFER OF FUNCTIONS.**—

(1) **FUNDS AND PERSONNEL.**—Section 3291 of the National Nuclear Security Administration Act (50 U.S.C. 2481) is amended—

(A) in subsection (c), by striking “specified in subsection (a)” and inserting “of the Administration”; and

(B) by adding at the end the following new subsections:

“(d) TRANSFER OF FUNDS.—(1) Any balance of appropriations that the Secretary of Energy determines is available and needed to finance or discharge a function, power, or duty or an activity that is transferred to the Administration shall be transferred to the Administration and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

“(A) be credited to any applicable appropriation account of the Administration; or

“(B) be credited to a new account that may be established on the books of the Department of the Treasury; and shall be merged with the funds already credited to that account and accounted for as one fund.

“(2) Balances of appropriations credited to an account under paragraph (1)(A) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under paragraph (1)(B) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

“(e) PERSONNEL.—(1) With respect to any function, power, or duty or activity of the Department of Energy that is transferred to the Administration, those employees of the element of the Department of Energy from which the transfer is made that the Secretary of Energy determines are needed to perform that function, power, or duty, or for that activity, as the case may be, shall be transferred to the Administration.

“(2) The authorized strength in civilian employees of any element of the Department of Energy from which employees are transferred under this section is reduced by the number of employees so transferred.”

(2) APPLICABILITY OF EXISTING LAWS AND REGULATIONS.—

Section 3296 of the National Nuclear Security Administration Act (50 U.S.C. 2484) is amended to read as follows:

**“SEC. 3296. APPLICABILITY OF PREEXISTING LAWS AND REGULATIONS.**

“With respect to any facility, mission, or function of the Department of Energy that the Secretary of Energy transfers to the Administrator under section 3291, unless otherwise provided in this title, all provisions of law and regulations in effect immediately before the date of the transfer that are applicable to such facility, mission, or function shall continue to apply to the corresponding functions of the Administration.”

(3) RULE OF CONSTRUCTION.—Nothing in section 3291 of the National Nuclear Security Administration Act (50 U.S.C. 2481), as amended by paragraph (1), may be construed to affect any function or activity transferred by the Secretary of Energy to the Administrator for Nuclear Security before the date of the enactment of this Act.

(c) REPEAL OF EXPIRED PROVISIONS.—

(1) IN GENERAL.—The following sections of the National Nuclear Security Administration Act (50 U.S.C. 2401 et seq.) are repealed:

(A) Section 3242 (50 U.S.C. 2442).

(B) Section 3292 (50 U.S.C. 2482).



(C) Section 3295 (50 U.S.C. 2483).

(D) Section 3297 (50 U.S.C. 2401 note).

(2) CLERICAL AMENDMENTS.—The table of contents at the beginning of the National Nuclear Security Administration Act is amended by striking the items relating to sections 3242, 3292, 3295, and 3297.

(d) TECHNICAL AMENDMENTS TO THE NNSA ACT.—The National Nuclear Security Administration Act (50 U.S.C. 2401 et seq.) is amended as follows:

(1) In section 3212(a)(2) (50 U.S.C. 2402(a)(2)), by striking “as added by section 3202 of this Act,”.

(2) In section 3253(b)(3) (50 U.S.C. 2453(b)(3)), by striking “section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (42 U.S.C. 2121 note)” and inserting “section 4202(a) of the Atomic Energy Defense Act (50 U.S.C. 2522(a))”.

(3) In section 3281(2) (50 U.S.C. 2471(2))—

(A) in subparagraph (C), by striking “Y–12 Plant” and inserting “Y–12 National Security Complex”; and

(B) in subparagraph (D), by striking “tritium operations facilities at the”.

(4) By striking “Nevada Test Site” each place it appears and inserting “Nevada National Security Site”.

50 USC 2455,  
2471.

(e) TECHNICAL AMENDMENT TO THE DOE ORGANIZATION ACT.—Section 643 of the Department of Energy Organization Act (42 U.S.C. 7253) is amended by redesignating the second subsection (b) as subsection (c).

**SEC. 3133. CONSOLIDATED REPORTING REQUIREMENTS RELATING TO NUCLEAR STOCKPILE STEWARDSHIP, MANAGEMENT, AND INFRASTRUCTURE.**

(a) CONSOLIDATED PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN THE NUCLEAR WEAPONS STOCKPILE.—

(1) IN GENERAL.—Section 4203 of the Atomic Energy Defense Act (50 U.S.C. 2523) is amended to read as follows:

**“SEC. 4203. NUCLEAR WEAPONS STOCKPILE STEWARDSHIP, MANAGEMENT, AND INFRASTRUCTURE PLAN.**

“(a) PLAN REQUIREMENT.—The Administrator, in consultation with the Secretary of Defense and other appropriate officials of the departments and agencies of the Federal Government, shall develop and annually update a plan for sustaining the nuclear weapons stockpile. The plan shall cover, at a minimum, stockpile stewardship, stockpile management, stockpile surveillance, program direction, infrastructure modernization, human capital, and nuclear test readiness. The plan shall be consistent with the programmatic and technical requirements of the most recent annual Nuclear Weapons Stockpile Memorandum.

Consultation.  
Deadline.

“(b) SUBMISSIONS TO CONGRESS.—(1) In accordance with subsection (c), not later than March 15 of each even-numbered year, the Administrator shall submit to the congressional defense committees a summary of the plan developed under subsection (a).

Deadlines.  
Reports.

“(2) In accordance with subsection (d), not later than March 15 of each odd-numbered year, the Administrator shall submit to the congressional defense committees a detailed report on the plan developed under subsection (a).

“(3) The summaries and reports required by this subsection shall be submitted in unclassified form, but may include a classified annex.

“(c) ELEMENTS OF BIENNIAL PLAN SUMMARY.—Each summary of the plan submitted under subsection (b)(1) shall include, at a minimum, the following:

“(1) A summary of the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type.

“(2) A summary of the status, plans, budgets, and schedules for warhead life extension programs and any other programs to modify, update, or replace warhead types.

“(3) A summary of the methods and information used to determine that the nuclear weapons stockpile is safe and reliable, as well as the relationship of science-based tools to the collection and interpretation of such information.

“(4) A summary of the status of the nuclear security enterprise, including programs and plans for infrastructure modernization and retention of human capital, as well as associated budgets and schedules.

“(5) Identification of any modifications or updates to the plan since the previous summary or detailed report was submitted under subsection (b).

“(6) Such other information as the Administrator considers appropriate.

“(d) ELEMENTS OF BIENNIAL DETAILED REPORT.—Each detailed report on the plan submitted under subsection (b)(2) shall include, at a minimum, the following:

“(1) With respect to stockpile stewardship and management—

“(A) the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type;

“(B) for each five-year period occurring during the period beginning on the date of the report and ending on the date that is 20 years after the date of the report—

“(i) the planned number of nuclear warheads (including active and inactive) for each warhead type in the nuclear weapons stockpile; and

“(ii) the past and projected future total lifecycle cost of each type of nuclear weapon;

“(C) the status, plans, budgets, and schedules for warhead life extension programs and any other programs to modify, update, or replace warhead types;

“(D) a description of the process by which the Administrator assesses the lifetimes, and requirements for life extension or replacement, of the nuclear and non-nuclear components of the warheads (including active and inactive warheads) in the nuclear weapons stockpile;

“(E) a description of the process used in recertifying the safety, security, and reliability of each warhead type in the nuclear weapons stockpile;

“(F) any concerns of the Administrator that would affect the ability of the Administrator to recertify the safety, security, or reliability of warheads in the nuclear weapons stockpile (including active and inactive warheads);

“(G) mechanisms to provide for the manufacture, maintenance, and modernization of each warhead type in the nuclear weapons stockpile, as needed;

“(H) mechanisms to expedite the collection of information necessary for carrying out the stockpile management program required by section 4204, including information relating to the aging of materials and components, new manufacturing techniques, and the replacement or substitution of materials;

“(I) mechanisms to ensure the appropriate assignment of roles and missions for each national security laboratory and nuclear weapons production facility, including mechanisms for allocation of workload, mechanisms to ensure the carrying out of appropriate modernization activities, and mechanisms to ensure the retention of skilled personnel;

“(J) mechanisms to ensure that each national security laboratory has full and complete access to all weapons data to enable a rigorous peer-review process to support the annual assessment of the condition of the nuclear weapons stockpile required under section 4205;

“(K) mechanisms for allocating funds for activities under the stockpile management program required by section 4204, including allocations of funds by weapon type and facility; and

“(L) for each of the five fiscal years following the fiscal year in which the report is submitted, an identification of the funds needed to carry out the program required under section 4204.

“(2) With respect to science-based tools—

“(A) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable;

“(B) for each science-based tool used to collect information described in subparagraph (A), the relationship between such tool and such information and the effectiveness of such tool in providing such information based on the criteria developed pursuant to section 4202(a); and

“(C) the criteria developed under section 4202(a) (including any updates to such criteria).

“(3) An assessment of the stockpile stewardship program under section 4201 by the Administrator, in consultation with the directors of the national security laboratories, which shall set forth—

“(A) an identification and description of—

“(i) any key technical challenges to the stockpile stewardship program; and

“(ii) the strategies to address such challenges without the use of nuclear testing;

“(B) a strategy for using the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory to ensure that the nuclear weapons stockpile is safe, secure, and reliable without the use of nuclear testing;

“(C) an assessment of the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory that exist at the time of the

assessment compared with the science-based tools expected to exist during the period covered by the future-years nuclear security program; and

“(D) an assessment of the core scientific and technical competencies required to achieve the objectives of the stockpile stewardship program and other weapons activities and weapons-related activities of the Administration, including—

“(i) the number of scientists, engineers, and technicians, by discipline, required to maintain such competencies; and

“(ii) a description of any shortage of such individuals that exists at the time of the assessment compared with any shortage expected to exist during the period covered by the future-years nuclear security program.

“(4) With respect to the nuclear security infrastructure—

“(A) a description of the modernization and refurbishment measures the Administrator determines necessary to meet the requirements prescribed in—

“(i) the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a) if such strategy has been submitted as of the date of the plan;

“(ii) the most recent quadrennial defense review if such strategy has not been submitted as of the date of the plan; and

“(iii) the most recent Nuclear Posture Review as of the date of the plan;

“(B) a schedule for implementing the measures described under subparagraph (A) during the 10-year period following the date of the plan; and

“(C) the estimated levels of annual funds the Administrator determines necessary to carry out the measures described under subparagraph (A), including a discussion of the criteria, evidence, and strategies on which such estimated levels of annual funds are based.

“(5) With respect to the nuclear test readiness of the United States—

“(A) an estimate of the period of time that would be necessary for the Administrator to conduct an underground test of a nuclear weapon once directed by the President to conduct such a test;

“(B) a description of the level of test readiness that the Administrator, in consultation with the Secretary of Defense, determines to be appropriate;

“(C) a list and description of the workforce skills and capabilities that are essential to carrying out an underground nuclear test at the Nevada National Security Site;

“(D) a list and description of the infrastructure and physical plants that are essential to carrying out an underground nuclear test at the Nevada National Security Site; and

“(E) an assessment of the readiness status of the skills and capabilities described in subparagraph (C) and the

infrastructure and physical plants described in subparagraph (D).

“(6) Identification of any modifications or updates to the plan since the previous summary or detailed report was submitted under subsection (b).

“(e) NUCLEAR WEAPONS COUNCIL ASSESSMENT.—(1) For each detailed report on the plan submitted under subsection (b)(2), the Nuclear Weapons Council established by section 179 of title 10, United States Code, shall conduct an assessment that includes the following:

“(A) An analysis of the plan, including—

“(i) whether the plan supports the requirements of the national security strategy of the United States or the most recent quadrennial defense review, as applicable under subsection (d)(4)(A), and the Nuclear Posture Review; and

“(ii) whether the modernization and refurbishment measures described under subparagraph (A) of subsection (d)(4) and the schedule described under subparagraph (B) of such subsection are adequate to support such requirements.

“(B) An analysis of whether the plan adequately addresses the requirements for infrastructure recapitalization of the facilities of the nuclear security enterprise.

“(C) If the Nuclear Weapons Council determines that the plan does not adequately support modernization and refurbishment requirements under subparagraph (A) or the nuclear security enterprise facilities infrastructure recapitalization requirements under subparagraph (B), a risk assessment with respect to—

“(i) supporting the annual certification of the nuclear weapons stockpile; and

“(ii) maintaining the long-term safety, security, and reliability of the nuclear weapons stockpile.

“(2) Not later than 180 days after the date on which the Administrator submits the plan under subsection (b)(2), the Nuclear Weapons Council shall submit to the congressional defense committees a report detailing the assessment required under paragraph (1).

Deadline.  
Reports.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘budget’, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31, United States Code.

“(2) The term ‘future-years nuclear security program’ means the program required by section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453).

“(3) The term ‘nuclear security budget materials’, with respect to a fiscal year, means the materials submitted to Congress by the Administrator in support of the budget for that fiscal year.

“(4) The term ‘quadrennial defense review’ means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of title 10, United States Code.

“(5) The term ‘weapons activities’ means each activity within the budget category of weapons activities in the budget of the Administration.

“(6) The term ‘weapons-related activities’ means each activity under the Department of Energy that involves nuclear weapons, nuclear weapons technology, or fissile or radioactive materials, including activities related to—

“(A) nuclear nonproliferation;

“(B) nuclear forensics;

“(C) nuclear intelligence;

“(D) nuclear safety; and

“(E) nuclear incident response.”.

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4203 and inserting the following new item:

“Sec. 4203. Nuclear weapons stockpile stewardship, management, and infrastructure plan.”.

(b) REPEAL OF REQUIREMENT FOR BIENNIAL REPORT ON STOCKPILE STEWARDSHIP CRITERIA.—

(1) IN GENERAL.—Section 4202 of the Atomic Energy Defense Act (50 U.S.C. 2522) is amended by striking subsections (c) and (d).

(2) TECHNICAL AMENDMENT.—The heading of such section is amended to read as follows: “**STOCKPILE STEWARDSHIP CRITERIA**”.

(3) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by striking the item relating to section 4202 and inserting the following new item:

“Sec. 4202. Stockpile stewardship criteria.”.

(c) REPEAL OF REQUIREMENT FOR BIENNIAL PLAN ON MODERNIZATION AND REFURBISHMENT OF THE NUCLEAR SECURITY COMPLEX.—

(1) IN GENERAL.—Section 4203A of the Atomic Energy Defense Act (50 U.S.C. 2523A) is repealed.

(2) CLERICAL AMENDMENT.—The table of contents for the Atomic Energy Defense Act is amended by striking the item relating to section 4203A.

(d) REPEAL OF REQUIREMENT FOR ANNUAL UPDATE TO STOCKPILE MANAGEMENT PROGRAM PLAN.—Section 4204 of the Atomic Energy Defense Act (50 U.S.C. 2524) is amended—

(1) in subsection (b)(2)(B), by striking “nuclear complex” and inserting “nuclear security enterprise”;

(2) by striking subsections (c) and (d); and

(3) by redesignating subsection (e) as subsection (c).

(e) REPEAL OF REQUIREMENT FOR REPORTS ON NUCLEAR TEST READINESS.—

(1) AEDA.—

(A) IN GENERAL.—Section 4208 of the Atomic Energy Defense Act (50 U.S.C. 2528) is repealed.

(B) CLERICAL AMENDMENT.—The table of contents for the Atomic Energy Defense Act is amended by striking the item relating to section 4208.

(2) NDAA FISCAL YEAR 1996.—Section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623) is repealed.

50 USC 2528.

**SEC. 3134. REPEAL OF CERTAIN REPORTING REQUIREMENTS.**

(a) GAO ENVIRONMENTAL MANAGEMENT REPORTS.—Section 3134 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2713) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking “The Comptroller” and all that follows through “(2),” and inserting “Beginning on the date on which the report under subsection (b)(2) is submitted, the Comptroller General shall conduct a review”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “the end of the period described in paragraph (2)” and inserting “August 30, 2012”; and

(2) in subsection (d)—

(A) in paragraph (1), by striking “subsection (c)(3)” and inserting “subsection (c)(2)”; and

(B) in paragraph (2), by striking “90 days” and all that follows through “(c)(3)” and inserting “April 30, 2016, or the date that is 210 days after the date on which the Secretary of Energy notifies the Comptroller General that all American Recovery and Reinvestment Act funds have been expended, whichever is earlier”.

(b) WORKFORCE RESTRUCTURING PLAN UPDATES.—

(1) IN GENERAL.—Section 4604 of the Atomic Energy Defense Act (50 U.S.C. 2704), as amended by section 3131(q), is amended—

(A) in subsection (b)(1), by striking “and any updates of the plan under subsection (e)”;

(B) by striking subsection (e);

(C) in subsection (f)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3), as added by such section 3131(q), as paragraph (2); and

(D) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(2) CONFORMING AMENDMENT.—Section 4643(d)(1) of the Atomic Energy Defense Act (50 U.S.C. 2733(d)(1)) is amended by striking “section 4604(g)” and inserting “section 4604(f)”.

(c) UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION QUARTERLY REPORT.—Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by striking subsection e.

## Subtitle D—Reports

**SEC. 3141. REPORTS ON LIFETIME EXTENSION PROGRAMS.**

(a) PROTOTYPES.—Subtitle A of title XLII of the Atomic Energy Defense Act (50 U.S.C. 2521 et seq.) is amended by inserting after section 4215, as added by section 3114(a)(1), the following new section:

50 USC 2536.

**“SEC. 4216. REPORTS ON LIFETIME EXTENSION PROGRAMS.**

“(a) **REPORTS REQUIRED.**—Before proceeding beyond phase 6.2 activities with respect to any lifetime extension program, the Nuclear Weapons Council established by section 179 of title 10, United States Code, shall submit to the congressional defense committees a report on such phase 6.2 activities, including—

“(1) an assessment of the lifetime extension options considered for the phase 6.2 activities, including whether the subsystems and components in each option are considered to be a refurbishment, reuse, or replacement of such subsystem or component; and

“(2) an assessment of the option selected for the phase 6.2 activities, including—

“(A) whether the subsystems and components will be refurbished, reused, or replaced; and

“(B) the advantages and disadvantages of refurbishment, reuse, and replacement for each such subsystem and component.

“(b) **PHASE 6.2 ACTIVITIES DEFINED.**—In this section, the term ‘phase 6.2 activities’ means, with respect to a lifetime extension program, the phase 6.2 feasibility study and option down-select.”.

(b) **CLERICAL AMENDMENT.**—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 4215, as added by section 3114(a)(2), the following new item:

“Sec. 4216. Reports on lifetime extension programs.”.

**SEC. 3142. NOTIFICATION OF NUCLEAR CRITICALITY AND NON-NUCLEAR INCIDENTS.**

(a) **NOTIFICATION.**—

(1) **IN GENERAL.**—Subtitle C of title XLVI of the Atomic Energy Defense Act (50 U.S.C. 2731 et seq.), as amended by section 3161(a), is amended by adding at the end the following new section:

50 USC 2736.

**“SEC. 4646. NOTIFICATION OF NUCLEAR CRITICALITY AND NON-NUCLEAR INCIDENTS.**

“(a) **NOTIFICATION.**—The Secretary of Energy and the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of a nuclear criticality incident resulting from a covered program that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility by not later than 15 days after the date of such incident.

“(b) **ELEMENTS OF NOTIFICATION.**—Each notification submitted under subsection (a) shall include the following:

“(1) A description of the incident, including the cause of the incident.

“(2) In the case of a criticality incident, whether the incident caused a facility, or part of a facility, to be shut down.

“(3) The effect, if any, on the mission of the Administration or the Office of Environmental Management of the Department of Energy.

“(4) Any corrective action taken in response to the incident.

“(c) **DATABASE.**—(1) The Secretary shall maintain a record of incidents described in paragraph (2).



“(2) An incident described in this paragraph is any of the following incidents resulting from a covered program:

“(A) A nuclear criticality incident that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility.

“(B) A non-nuclear incident that results in serious bodily injury or fatality at a covered facility.

“(d) COOPERATION.—In carrying out this section, the Secretary and the Administrator shall ensure that each management and operating contractor of a covered facility cooperates in a timely manner.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘appropriate congressional committees’ means—

“(A) the congressional defense committees; and

“(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

“(2) The term ‘covered facility’ means—

“(A) a facility of the nuclear security enterprise; and

“(B) a facility conducting activities for the defense environmental cleanup program of the Office of Environmental Management of the Department of Energy.

“(3) The term ‘covered program’ means—

“(A) programs of the Administration; and

“(B) defense environmental cleanup programs of the Office of Environmental Management of the Department of Energy.”.

(2) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 4645, as added by section 3161(b), the following new item:

“Sec. 4646. Notification of nuclear criticality and non-nuclear incidents.”.

(b) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy and the Administrator for Nuclear Security shall each submit to the appropriate congressional committees a report detailing any incidents described in paragraph (2) that occurred during the 10-year period before the date of the report.

(2) INCIDENTS DESCRIBED.—An incident described in this paragraph is any of the following incidents that occurred as a result of programs of the National Nuclear Security Administration or defense environmental cleanup programs of the Office of Environmental Management of the Department of Energy:

(A) A nuclear criticality incident that resulted in an injury or fatality or resulted in the shutdown, or partial shutdown, of a facility of the nuclear security enterprise or a facility conducting activities for such defense environmental cleanup programs.

(B) A non-nuclear incident that results in serious bodily injury or fatality at such a facility.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

**SEC. 3143. QUARTERLY REPORTS TO CONGRESS ON FINANCIAL BALANCES FOR ATOMIC ENERGY DEFENSE ACTIVITIES.**

(a) **REPORTS REQUIRED.**—Subtitle C of title XLVII of the Atomic Energy Defense Act (50 U.S.C. 2771 et seq.) is amended by adding at the end the following new section:

50 USC 2772.

**“SEC. 4732. QUARTERLY REPORTS ON FINANCIAL BALANCES FOR ATOMIC ENERGY DEFENSE ACTIVITIES.**

“(a) **REPORTS REQUIRED.**—Not later than 15 days after the end of each fiscal year quarter, the Secretary of Energy shall submit to the congressional defense committees a report on the financial balances for each atomic energy defense program at the budget control levels used in the report accompanying the most current Act appropriating funds for energy and water development.

“(b) **ELEMENTS.**—Each report under subsection (a) shall set forth, for each program covered by such report, the following as of the end of the fiscal year quarter covered by such report:

“(1) The total amount authorized to be appropriated, including amounts authorized to be appropriated in the current fiscal year and amounts authorized to be appropriated for prior fiscal years.

“(2) The amount unobligated.

“(3) The amount unobligated but committed.

“(4) The amount obligated but uncosted.

“(c) **PRESENTATION.**—Each report under subsection (a) shall present information as follows:

“(1) For each program, in summary form and by fiscal year.

“(2) With financial balances in connection with funding under recurring DOE national security authorizations (as that term is defined in section 4701(1)) presented separately from balances in connection with funding under any other provisions of law.”.

(b) **CLERICAL AMENDMENT.**—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 4731, as in effect before the amendment made by section 3131(u)(2) takes effect, the following new item:

“Sec. 4732. Quarterly reports on financial balances for atomic energy defense activities.”.

**SEC. 3144. NATIONAL ACADEMY OF SCIENCES STUDY ON PEER REVIEW AND DESIGN COMPETITION RELATED TO NUCLEAR WEAPONS.**

(a) **STUDY.**—Not later than 60 days after the date of the enactment of this Act, the Administrator for Nuclear Security shall enter into an agreement with the National Academy of Sciences to conduct a study of peer review and design competition related to nuclear weapons.

(b) **ELEMENTS.**—The study required by subsection (a) shall include an assessment of—

(1) the quality and effectiveness of peer review of designs, development plans, engineering and scientific activities, and priorities related to both nuclear and non-nuclear aspects of nuclear weapons;

(2) incentives for effective peer review;

(3) the potential effectiveness, efficiency, and cost of alternative methods of conducting peer review and design competition related to both nuclear and non-nuclear aspects of nuclear weapons, as compared to current methods;

(4) the known instances where current peer review practices and design competition succeeded or failed to find problems or potential problems; and

(5) such other matters related to peer review and design competition related to nuclear weapons as the Administrator considers appropriate.

(c) COOPERATION AND ACCESS TO INFORMATION AND PERSONNEL.—The Administrator shall ensure that the National Academy of Sciences receives full and timely cooperation, including full access to information and personnel, from the National Nuclear Security Administration and the management and operating contractors of the Administration for the purposes of conducting the study under subsection (a).

(d) REPORT.—

(1) IN GENERAL.—The National Academy of Sciences shall submit to the Administrator a report containing the results of the study conducted under subsection (a) and any recommendations resulting from the study.

(2) SUBMITTAL TO CONGRESS.—Not later than September 30, 2014, the Administrator shall submit to the Committees on Armed Services of the House of Representatives and the Senate the report submitted under paragraph (1) and any comments or recommendations of the Administrator with respect to the report.

(3) FORM.—The report submitted under paragraph (1) shall be in unclassified form, but may include a classified annex.

Recommendations.

#### SEC. 3145. REPORT ON DEFENSE NUCLEAR NONPROLIFERATION PROGRAMS.

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than March 1 of each year from 2013 through 2015, the Administrator for Nuclear Security shall submit to the appropriate congressional committees a report on the budget, objectives, and metrics of the defense nuclear nonproliferation programs of the National Nuclear Security Administration.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) An identification and explanation of uncommitted balances that are more than the acceptable carryover thresholds, as determined by the Secretary of Energy, on a program-by-program basis.

(B) An identification of foreign countries that are sharing the cost of implementing defense nuclear nonproliferation programs, including an explanation of such cost sharing.

(C) A description of objectives and measurements for each defense nuclear nonproliferation program.

(D) A description of the proliferation of nuclear weapons threat and how each defense nuclear nonproliferation program activity counters the threat.

(E) A description and assessment of nonproliferation activities coordinated with the Department of Defense to maximize efficiency and avoid redundancies.

(F) A description of how the defense nuclear nonproliferation programs are prioritized to meet the most urgent nonproliferation requirements.

(b) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(c) **FORM.**—The report required by subsection (a)(1) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 3146. STUDY ON REUSE OF PLUTONIUM PITS.**

(a) **STUDY.**—Not later than 270 days after the date of the enactment of this Act, the Administrator for Nuclear Security, in coordination with the Nuclear Weapons Council established by section 179 of title 10, United States Code, shall submit to the congressional defense committees a study of plutonium pits, including—

(1) the availability of plutonium pits—

(A) as of the date of the report; and

(B) after such date as a result of the dismantlement of nuclear weapons; and

(2) an assessment of the potential for reusing plutonium pits in future life extension programs.

(b) **MATTERS INCLUDED.**—The study submitted under subsection (a) shall include the following:

(1) The feasibility and practicability of potential full or partial reuse options with respect to plutonium pits.

(2) The benefits and risks of reusing plutonium pits.

(3) A list of technical challenges that must be resolved to certify aged plutonium under dynamic loading conditions and the full stockpile-to-target sequence of weapons, including a program plan and timeline for resolving such technical challenges and an assessment of the importance of resolving outstanding materials issues on certifying aged plutonium pits.

(4) A list of the facilities that will perform the testing and experiments required to resolve the technical challenges identified under paragraph (3).

(5) The potential costs and cost savings of such reuse.

(6) The effects of such reuse on the requirements for plutonium pit manufacturing.

(7) An assessment of how such reuse affects plans to build a responsive nuclear weapons infrastructure.

**SEC. 3147. ASSESSMENT OF NUCLEAR WEAPON PIT PRODUCTION REQUIREMENT.**

(a) **ASSESSMENT.**—The Secretary of Defense, in coordination with the Secretary of Energy and the Commander of the United States Strategic Command, shall assess the annual plutonium pit production requirement needed to sustain a safe, secure, and reliable nuclear weapon arsenal.

(b) **REPORTS.**—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of Energy and the Commander of the United States Strategic Command, shall submit to the congressional defense committees a report regarding the assessment conducted under subsection (a), including—

(A) an explanation of the rationale and assumptions that led to the current 50 to 80 plutonium pit production requirement, including the factors considered in determining such requirement;

(B) an analysis of whether there are any changes to the current 50 to 80 plutonium pit production requirement, including the reasons for any such changes;

(C) the cost and implications for national security of various smaller and larger pit production capacities, including with respect to—

(i) the ability to respond to geopolitical and technical risks;

(ii) the sustainment of the nuclear weapons stockpile, including options available for life extension programs; and

(iii) impacts on the requirements for the inactive and reserve nuclear weapons stockpile.

(2) UPDATE.—If the report under paragraph (1) does not incorporate the results of the Nuclear Posture Review Implementation Study, the Secretary of Defense, in coordination with the Secretary of Energy and the Commander of the United States Strategic Command, shall submit to the congressional defense committees an update to the report under paragraph (1) that incorporates the results of such study by not later than 90 days after the date on which such committees receive such study.

(c) FORM.—The reports under paragraphs (1) and (2) of subsection (b) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 3148. STUDY ON A MULTIAGENCY GOVERNANCE MODEL FOR NATIONAL SECURITY LABORATORIES.**

(a) INDEPENDENT ASSESSMENT.—

(1) IN GENERAL.—The Administrator for Nuclear Security shall commission an independent assessment regarding the transition of the national security laboratories to multiagency federally funded research and development centers with direct sustainment and sponsorship by multiple national security agencies. The organization selected to conduct the independent assessment shall have recognized credentials and expertise in national security science and engineering laboratories.

(2) BACKGROUND MATERIAL.—The assessment shall leverage previous studies, including—

(A) the report published in 2009 by the Stimson Center titled “Leveraging Science for Security: A Strategy for the Nuclear Weapons Laboratories in the 21st Century”; and

(B) the Phase 1 report published in 2012 by the National Academy of Sciences titled “Managing for High-Quality Science and Engineering at the NNSA National Security laboratories”.

(3) ELEMENTS.—The assessment conducted pursuant to paragraph (1) shall include the following elements:

(A) An assessment of a new governance structure that—

(i) gives multiple national security agencies, including the Department of Defense, the Department of Homeland Security, the Department of Energy, and the intelligence community, direct sponsorship of the national security laboratories as federally funded research and development centers so that such agencies have more direct and rapid access to the assets available at the laboratories and the responsibility to provide sustainable support for the science and technology needs of the agencies at the laboratories;

(ii) reduces costs to the Federal Government for the use of the resources of the laboratories, while enhancing the stewardship of these national resources and maximizing their service to the Nation;

(iii) enhances the overall quality of the scientific research and engineering capability of the laboratories, including their ability to recruit and retain top scientists and engineers; and

(iv) maintains as paramount the capabilities required to support the nuclear stockpile stewardship and related nuclear missions.

(B) A recommendation as to which, if any, other laboratories associated with any national security agency should be included in the new governance structure.

(C) Options for implementing the new governance structure that minimize disruption of performance and costs to the government while rapidly achieving anticipated gains.

(D) Legislative changes and executive actions that would need to be made in order to implement the new governance structure.

(b) REPORT.—

(1) IN GENERAL.—Not later than January 1, 2014, the organization selected to conduct the independent assessment under subsection (a)(1) shall submit to the Administrator and the congressional defense committees a report that contains the findings of the assessment.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITION.—In this section, the term “national security laboratory” has the meaning given that term in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).

**SEC. 3149. REPORT ON EFFICIENCIES IN FACILITIES AND FUNCTIONS OF THE NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Nuclear Weapons Council established by section 179 of title 10, United States Code, shall submit to the congressional defense committees a report setting forth the assessment of the Council as to the feasibility of finding further efficiencies in the facilities and functions of the National Nuclear Security Administration in order to reduce costs.

(b) **PROCESS.**—If the assessment of the Council in the report under subsection (a) is that excess facilities or duplicative functions exist and seeking efficiencies in the facilities and functions of the Administration is feasible and would reduce cost, the report shall include recommendations for a process to determine the manner in which such efficiencies should be accomplished, including an estimate of the time required to complete the process.

(c) **LIMITATION ON AVAILABILITY OF CERTAIN FUNDS PENDING REPORT.**—Amounts authorized to be appropriated by this title and available for the facility projects in the Department of Energy Readiness and Technical Base designated 04-D-125 and 06-D-141 may not be obligated or expended for CD-3, Start of Construction (as found in Department of Energy Order 413.3 B Program and Project Management for the Acquisition of Capital Assets), until the submittal under subsection (a) of the report required by that subsection.

**SEC. 3150. STUDY ON REGIONAL RADIOLOGICAL SECURITY ZONES.**

(a) **STUDY.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a study in accordance with paragraph (3).

(2) **CONSULTATION.**—The Comptroller General may, in conducting the study required under paragraph (1), consult with the Secretary of Energy, the Secretary of Homeland Security, the Secretary of State, the Nuclear Regulatory Commission, and such other departments and agencies of the United States Government as the Comptroller General considers appropriate.

(3) **MATTERS INCLUDED.**—The study under paragraph (1) shall include the following:

(A) An assessment of the radioactive isotopes and associated activity levels that present the greatest risk to national and international security.

(B) A review of current efforts by the Federal Government to secure radiological materials abroad, including coordination with foreign governments, the European Union, the International Atomic Energy Agency, other international programs, and nongovernmental organizations that identify, register, secure, remove, and provide for the disposition of high-risk radiological materials worldwide.

(C) A review of current efforts of the Federal Government to secure radiological materials domestically at civilian sites, including hospitals, industrial sites, and other locations.

(D) A definition of regional radiological security zones, including the subset of the materials of concern to be the immediate focus and the security best practices required to achieve that goal.

(E) An assessment of the feasibility, cost, desirability, and added benefit of establishing regional radiological security zones in high priority areas worldwide in order to facilitate regional collaboration in—

(i) identifying and inventorying high-activity radiological sources at high-risk sites;

(ii) reviewing national level regulations, inspections, transportation security, and security upgrade options; and

(iii) assessing opportunities for the harmonization of regulations and security practices among the nations of the region.

(F) An assessment of the feasibility, cost, desirability, and added benefit of establishing remote regional monitoring centers that would receive real-time data from radiological security sites, would be staffed by trained personnel from the countries in the region, and would alert local law enforcement in the event of a potential or actual terrorist incident or other emergency.

(G) An assessment of the feasibility and cost of securing radiological materials in the United States and through regional monitoring centers, taking into account the threat and consequences of a terrorist attack using fissile materials as compared to the threat and consequences of a terrorist attack using radiological materials.

(H) A list and assessment of the best practices used in the United States that are most critical in enhancing domestic radiological material security and could be used to enhance radiological security worldwide.

(I) An assessment of the United States entity or entities that would be best suited to lead efforts to establish a radiological security zone program.

(J) An estimate of the costs associated with the implementation of a radiological security zone program.

(K) An assessment of the known locations outside the United States housing high-risk radiological materials in excess of 1,000 curies.

(L) An assessment of how efforts to secure radiological materials might impact the available resources, capabilities, and capacity of the United States that would be used to secure fissile materials.

(4) FORM.—The study required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Foreign Affairs of the House of Representatives.

#### **SEC. 3151. REPORT ON ABANDONED URANIUM MINES.**

(a) REPORT.—

(1) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall undertake a review of, and prepare a report on, abandoned uranium mines in the United States that provided uranium ore for atomic energy defense activities of the United States.



(2) MATTERS TO BE ADDRESSED.—The report shall describe and analyze—

(A) the location of the abandoned uranium mines described in paragraph (1) on Federal, State, tribal, and private land, taking into account any existing inventories undertaken by Federal agencies, States, and Indian tribes, and any additional information available to the Secretary;

(B) the extent to which the abandoned uranium mines—

(i) pose, or may pose, a significant radiation hazard or other significant threat to public health and safety; and

(ii) have caused, or may cause, significant water quality degradation or other environmental degradation;

(C) a ranking of priority by category for the remediation and reclamation of the abandoned uranium mines;

(D) the potential cost and feasibility of remediating and reclaiming, in accordance with applicable Federal law, each category of abandoned uranium mines; and

(E) the status of any efforts to remediate and reclaim abandoned uranium mines.

(b) CONSULTATION.—In preparing the report under subsection (a), the Secretary shall consult with any other relevant Federal agencies, affected States and Indian tribes, and interested members of the public.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees the report under subsection (a)(1).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means—

(A) the Committees on Armed Services of the Senate and the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Natural Resources of the House of Representatives.

(d) CONSTRUCTION.—Nothing in this section may be construed to affect any responsibility or liability of the Federal Government, a State, an Indian tribe, or a person with respect to the remediation of an abandoned uranium mine.

## Subtitle E—Other Matters

### SEC. 3161. USE OF PROBABILISTIC RISK ASSESSMENT TO ENSURE NUCLEAR SAFETY.

(a) IN GENERAL.—Subtitle C of title XLVI of the Atomic Energy Defense Act (50 U.S.C. 2731 et seq.) is amended by adding at the end the following new section:

50 USC 2735.

**“SEC. 4645. USE OF PROBABILISTIC RISK ASSESSMENT TO ENSURE NUCLEAR SAFETY OF FACILITIES OF THE ADMINISTRATION AND THE OFFICE OF ENVIRONMENTAL MANAGEMENT.**

“(a) NUCLEAR SAFETY AT NNSA AND DOE FACILITIES.—The Administrator and the Secretary of Energy shall ensure that the methods for assessing, certifying, and overseeing nuclear safety at the facilities specified in subsection (c) use national and international standards and nuclear industry best practices, including probabilistic or quantitative risk assessment if sufficient data exist.

“(b) ADEQUATE PROTECTION.—The use of probabilistic or quantitative risk assessment under subsection (a) shall be to support, rather than replace, the requirement under section 182 of the Atomic Energy Act of 1954 (42 U.S.C. 2232) that the utilization or production of special nuclear material will be in accordance with the common defense and security and will provide adequate protection to the health and safety of the public.

Applicability.

“(c) FACILITIES SPECIFIED.—Subsection (a) shall apply—

“(1) to the Administrator with respect to the national security laboratories and the nuclear weapons production facilities; and

“(2) to the Secretary of Energy with respect to defense nuclear facilities of the Office of Environmental Management of the Department of Energy.”.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended by inserting after the item relating to section 4644 the following new item:

“Sec. 4645. Use of probabilistic risk assessment to ensure nuclear safety of facilities of the Administration and the Office of Environmental Management.”.

**SEC. 3162. SUBMITTAL TO CONGRESS OF SELECTED ACQUISITION REPORTS AND INDEPENDENT COST ESTIMATES ON LIFE EXTENSION PROGRAMS AND NEW NUCLEAR FACILITIES.**

(a) SUBMITTAL REQUIRED.—Subtitle A of title XLII of the Atomic Energy Defense Act (50 U.S.C. 2521 et seq.) is amended by inserting after section 4216, as added by section 3141(a), the following new section:

50 USC 2537.

**“SEC. 4217. SELECTED ACQUISITION REPORTS AND INDEPENDENT COST ESTIMATES ON LIFE EXTENSION PROGRAMS AND NEW NUCLEAR FACILITIES.**

“(a) SELECTED ACQUISITION REPORTS.—(1) At the end of each fiscal-year quarter, the Secretary of Energy, acting through the Administrator, shall submit to the congressional defense committees a report on each nuclear weapon system undergoing life extension. The reports shall be known as Selected Acquisition Reports for the weapon system concerned.

“(2) The information contained in the Selected Acquisition Report for a fiscal-year quarter for a nuclear weapon system shall be the information contained in the Selected Acquisition Report for such fiscal-year quarter for a major defense acquisition program under section 2432 of title 10, United States Code, expressed in terms of the nuclear weapon system.

“(b) INDEPENDENT COST ESTIMATES.—(1) The Secretary, acting through the Administrator, shall submit to the congressional defense committees and the Nuclear Weapons Council established

under section 179 of title 10, United States Code, an independent cost estimate of the following:

“(A) Each nuclear weapon system undergoing life extension at the completion of phase 6.2A, relating to design definition and cost study.

“(B) Each nuclear weapon system undergoing life extension before initiation of phase 6.5, relating to first production.

“(C) Each new nuclear facility within the nuclear security enterprise that is estimated to cost more than \$500,000,000 before such facility achieves critical decision 2 in the acquisition process.

“(2) A cost estimate for purposes of this subsection may not be prepared by the Department of Energy or the Administration.

“(c) **AUTHORITY FOR FURTHER ASSESSMENTS.**—Upon the request of the Administrator, the Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation and in consultation with the Administrator, may conduct an independent cost assessment of any initiative or program of the Administration that is estimated to cost more than \$500,000,000.”

(b) **CLERICAL AMENDMENT.**—The table of contents at the beginning of such Act is amended by inserting after the item relating to 4216, as added by section 3141(b), the following new item:

“Sec. 4217. Selected Acquisition Reports and independent cost estimates on life extension programs and new nuclear facilities.”

#### **SEC. 3163. CLASSIFICATION OF CERTAIN RESTRICTED DATA.**

Section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162) is amended—

(1) in subsection d.—

(A) by inserting “(1)” before “The Commission”; and

(B) by adding at the end the following:

“(2) The Commission may restore to the Restricted Data category any information related to the design of nuclear weapons removed under paragraph (1) if the Commission and the Department of Defense jointly determine that—

“(A) the programmatic requirements that caused the information to be removed from the Restricted Data category are no longer applicable or have diminished;

“(B) the information would be more appropriately protected as Restricted Data; and

“(C) restoring the information to the Restricted Data category is in the interest of national security.

“(3) In carrying out paragraph (2), information related to the design of nuclear weapons shall be restored to the Restricted Data category in accordance with regulations prescribed for purposes of such paragraph.”; and

(2) in subsection e.—

(A) by inserting “(1)” before “The Commission”;

(B) by striking “Central” and inserting “National”; and

(C) by adding at the end the following:

“(2) The Commission may restore to the Restricted Data category any information concerning atomic energy programs of other nations removed under paragraph (1) if the Commission and the Director of National Intelligence jointly determine that—

“(A) the programmatic requirements that caused the information to be removed from the Restricted Data category are no longer applicable or have diminished;

“(B) the information would be more appropriately protected as Restricted Data; and

“(C) restoring the information to the Restricted Data category is in the interest of national security.

“(3) In carrying out paragraph (2), information concerning atomic energy programs of other nations shall be restored to the Restricted Data category in accordance with regulations prescribed for purposes of such paragraph.”.

**SEC. 3164. ADVICE TO PRESIDENT AND CONGRESS REGARDING SAFETY, SECURITY, AND RELIABILITY OF UNITED STATES NUCLEAR WEAPONS STOCKPILE AND NUCLEAR FORCES.**

(a) IN GENERAL.—Section 1305 of the National Defense Authorization Act for Fiscal Year 1998 (42 U.S.C. 7274p) is—

(1) transferred to the Atomic Energy Defense Act (50 U.S.C. 2501 et seq.);

(2) inserted after section 4217 of such Act, as added by section 3162(a);

(3) redesignated as section 4218; and

(4) amended by amending subsection (f) to read as follows:

“(f) EXPRESSION OF INDIVIDUAL VIEWS.—

“(1) IN GENERAL.—No individual, including representatives of the President, may take any action against, or otherwise constrain, a director of a national security laboratory or a nuclear weapons production facility, a member of the Nuclear Weapons Council established under section 179 of title 10, United States Code, or the Commander of the United States Strategic Command from presenting the professional views of the director, member, or Commander, as the case may be, to the President, the National Security Council, or Congress regarding—

“(A) the safety, security, reliability, or credibility of the nuclear weapons stockpile and nuclear forces; or

“(B) the status of, and plans for, the capabilities and infrastructure that support and sustain the nuclear weapons stockpile and nuclear forces.

“(2) CONSTRUCTION.—Nothing in paragraph (1)(B) may be construed to affect the interagency budget process.”.

(b) CONFORMING AMENDMENTS.—Section 4218 of the Atomic Energy Defense Act, as added by subsection (a), is amended—

(1) by striking “nuclear weapons laboratories” each place it appears and inserting “national security laboratories”;

(2) by striking “nuclear weapons laboratory” each place it appears and inserting “national security laboratory”;

(3) by striking “nuclear weapons production plants” each place it appears and inserting “nuclear weapons production facilities”;

(4) by striking “nuclear weapons production plant” each place it appears and inserting “nuclear weapons production facility”; and

(5) by amending subsection (g) to read as follows:

“(g) REPRESENTATIVE OF THE PRESIDENT DEFINED.—In this section, the term ‘representative of the President’ means the following:

“(1) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.

“(2) Any member or official of the National Security Council.

“(3) Any member or official of the Joint Chiefs of Staff.

“(4) Any official of the Office of Management and Budget.”.

(c) CLERICAL AMENDMENT.—The table of contents at the beginning of the Atomic Energy Defense Act is amended by inserting after the item relating to section 4217, as added by section 3162(b), the following new item:

“Sec. 4218. Advice to President and Congress regarding safety, security, and reliability of United States nuclear weapons stockpile.”.

**SEC. 3165. PILOT PROGRAM ON TECHNOLOGY COMMERCIALIZATION.** 50 USC 2794.

(a) PILOT PROGRAM.—The Secretary of Energy, in consultation with the Technology Transfer Coordinator appointed under section 1001(a) of the Energy Policy Act of 2005 (42 U.S.C. 16391(a)), may carry out a pilot program at a national security laboratory for the purpose of accelerating technology transfer from such laboratories to the marketplace with respect to technologies that directly advance the mission of the National Nuclear Security Administration. Consultation.

(b) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate on the date that is two years after the date of the enactment of this Act.

(c) REPORTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the pilot program under subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) An identification of opportunities for accelerating technology transfer from national security laboratories to the marketplace.

(B) If the Secretary chooses to carry out the pilot program under subsection (a), a description of the plan to carry out such program.

(C) If the Secretary chooses not to carry out the pilot program under subsection (a), a description of why the program will not be carried out.

(d) DEFINITIONS.—In this section:

(1) The term “appropriate congressional committees” means the following:

(A) The Committees on Armed Services of the Senate and House of Representatives.

(B) The Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(C) The Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(2) The term “national security laboratory” has the meaning given that term in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).

**SEC. 3166. CONGRESSIONAL ADVISORY PANEL ON THE GOVERNANCE OF THE NUCLEAR SECURITY ENTERPRISE.**

(a) **ESTABLISHMENT.**—There is established a congressional advisory panel to be known as the “Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise” (in this section referred to as the “advisory panel”). The purpose of the advisory panel is to examine options and make recommendations for revising the governance structure, mission, and management of the nuclear security enterprise.

(b) **COMPOSITION AND MEETINGS.**—

(1) **MEMBERSHIP.**—The advisory panel shall be composed of 12 members appointed as follows:

(A) Two by the chairman of the Committee on Armed Services of the House of Representatives.

(B) Two by the ranking minority member of the Committee on Armed Services of the House of Representatives.

(C) Two by the chairman of the Committee on Armed Services of the Senate.

(D) Two by the ranking minority member of the Committee on Armed Services of the Senate.

(E) One by the Speaker of the House of Representatives.

(F) One by the minority leader of the House of Representatives.

(G) One by the majority leader of the Senate.

(H) One by the minority leader of the Senate.

(2) **CO-CHAIRMEN.**—Two members of the advisory panel shall serve as co-chairmen of the advisory panel. The co-chairmen shall be designated as follows:

(A) The chairman of the Committee on Armed Services of the House of Representatives and the ranking minority member of the Committee on Armed Services of the Senate, in consultation with the Speaker of the House of Representatives and the minority leader of the Senate, shall jointly designate one member of the advisory panel to serve as co-chairman of the advisory panel.

(B) The chairman of the Committee on Armed Services of the Senate and the ranking minority member of the Committee on Armed Services of the House of Representatives, in consultation with the majority leader of the Senate and the minority leader of the House of Representatives, shall jointly designate one member of the advisory panel to serve as co-chairman of the advisory panel.

(3) **SECURITY CLEARANCE REQUIRED.**—Each individual appointed as a member of the advisory panel shall possess (or have recently possessed before the date of such appointment) the appropriate security clearance necessary to carry out the duties of the advisory panel.

(4) **PERIOD OF APPOINTMENT; VACANCIES.**—Each member of the advisory panel shall be appointed for the life of the advisory panel. Any vacancy in the advisory panel shall be filled in the same manner as the original appointment.

(5) **MEETINGS.**—The advisory panel shall commence its first meeting by not later than March 1, 2013, so long as at least two members have been appointed under paragraph (1) by such date.

(c) **COOPERATION FROM GOVERNMENT.**—

Deadline.

(1) COOPERATION.—The advisory panel shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, and any other Federal official in providing the advisory panel with analyses, briefings, and other information, including access to classified information, necessary for the advisory panel to carry out its duties under this section. With respect to access to classified information, the Director of National Intelligence may determine which information is necessary under this paragraph.

(2) LIAISON.—The following heads of Federal agencies shall each designate at least one officer or employee of the respective agency to serve as a liaison officer between the agency and the advisory panel:

- (A) The Secretary of State.
- (B) The Secretary of Defense.
- (C) The Secretary of Energy.
- (D) The Secretary of Homeland Security.
- (E) The Director of National Intelligence.

(d) REPORTS REQUIRED.—

(1) INTERIM REPORT.—Not later than 180 days after the date of the enactment of this Act, the advisory panel shall submit to the President, the Secretary of Defense, the Secretary of Energy, the Committees on Armed Services and Energy and Natural Resources of the Senate, and the Committees on Armed Services and Energy and Commerce of the House of Representatives an interim report on the initial findings, conclusions, and recommendations of the advisory panel. To the extent practicable, the interim report shall address the matters described in paragraph (2) and focus on the immediate, near-term actions the advisory panel recommends be taken.

(2) REPORT.—Not later than February 1, 2014, the advisory panel shall submit to the President, the Secretary of Defense, the Secretary of Energy, the Committees on Armed Services and Energy and Natural Resources of the Senate, and the Committees on Armed Services and Energy and Commerce of the House of Representatives a report on the findings, conclusions, and recommendations of the advisory panel. The report shall include the following:

(A) An assessment of each option considered by the advisory panel for revising the governance structure, mission, and management of the nuclear security enterprise, including the advantages, disadvantages, costs, risks, and benefits of each such option.

(B) The recommendation of the advisory panel with respect to the most appropriate governance structure, mission, and management of the nuclear security enterprise.

(C) Recommendations of the advisory panel with respect to—

(i) the appropriate missions of the nuclear security enterprise, including how complementary missions should be managed while ensuring focus on core missions;

(ii) the organization and structure of the nuclear security enterprise and the Federal agency responsible for such enterprise;

(iii) the roles, responsibilities, and authorities of Federal agencies, Federal officials, the national security laboratories and nuclear weapons production facilities, and the directors of such laboratories and facilities, including mechanisms for holding such officials and directors accountable;

(iv) the allocation of roles and responsibilities with respect to the mission, operations, safety, and security of the nuclear security enterprise;

(v) the relationships among the Federal agency responsible for the nuclear security enterprise and the National Security Council, the Nuclear Weapons Council, the Department of Energy, the Department of Defense, and other Federal agencies;

(vi) the interagency planning, programming, and budgeting process for the nuclear security enterprise;

(vii) the appropriate means for managing and overseeing the nuclear security enterprise, including the role of federally funded research and development centers, the role and impact of various contracting and fee structures, the appropriate role of contract competition and nonprofit and for-profit contractors, and the use of performance-based and transactional oversight;

(viii) the appropriate means for ensuring the health of the intellectual capital of the nuclear security enterprise, including recruitment and retention of personnel and enhancement of a robust professional culture of excellence;

(ix) the appropriate means for ensuring the health and sustainment of the critical capabilities and physical infrastructure of the nuclear security enterprise;

(x) infrastructure, rules, regulations, best practices, standards, and appropriate oversight mechanisms to ensure robust protection of the health and safety of workers and the public while also providing such workers the ability to effectively and efficiently carry out their mission;

(xi) the appropriate congressional committee structure for oversight of the nuclear security enterprise;

(xii) the length of the terms and suggested qualifications for senior officials of the Federal agency responsible for the nuclear security enterprise;

(xiii) contracting, budget planning, program management, and regulatory changes to reduce the cost of programs and administration without eroding mission effectiveness or requirements and ensuring robust protection of the health and safety of workers and the public; and

(xiv) statutory, regulatory, and policy changes necessary for implementing the recommendations of the advisory panel.

(D) An assessment of if and how the recommendations of the advisory panel will lead to greater mission focus and more effective and efficient program management for the nuclear security enterprise.



(E) Any other information or recommendations relating to the future of the nuclear security enterprise that the advisory panel considers appropriate.

(e) FUNDING.—Of the amounts authorized to be appropriated by this Act or otherwise made available for fiscal year 2013 for the Department of Defense, not more than \$3,000,000 shall be made available to the advisory panel to carry out this section.

(f) TERMINATION.—The advisory panel shall terminate not later than June 1, 2014.

(g) DEFINITIONS.—In this section:

(1) The term “national security laboratory” has the meaning given that term in section 4002(6) of the Atomic Energy Defense Act, as amended by section 3131(a).

(2) The term “nuclear security enterprise” has the meaning given that term in section 4002(5) of the Atomic Energy Defense Act, as amended by section 3131(a).

(3) The term “nuclear weapons production facility” has the meaning given that term in section 4002(7) of the Atomic Energy Defense Act, as amended by section 3131(a).

## Subtitle F—American Medical Isotopes Production

American  
Medical Isotopes  
Production Act  
of 2012.

### SEC. 3171. SHORT TITLE.

This subtitle may be cited as the “American Medical Isotopes Production Act of 2012”.

42 USC 2011  
note.

### SEC. 3172. DEFINITIONS.

In this subtitle:

(1) DEPARTMENT.—The term “Department” means the Department of Energy.

(2) HIGHLY ENRICHED URANIUM.—The term “highly enriched uranium” means uranium enriched to 20 percent or greater in the isotope U–235.

(3) LOW ENRICHED URANIUM.—The term “low enriched uranium” means uranium enriched to less than 20 percent in the isotope U–235.

(4) SECRETARY.—The term “Secretary” means the Secretary of Energy.

42 USC 2065  
note.

### SEC. 3173. IMPROVING THE RELIABILITY OF DOMESTIC MEDICAL ISOTOPE SUPPLY.

42 USC 2065.

(a) MEDICAL ISOTOPE DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out a technology-neutral program—

(A) to evaluate and support projects for the production in the United States, without the use of highly enriched uranium, of significant quantities of molybdenum-99 for medical uses;

(B) to be carried out in cooperation with non-Federal entities; and

(C) the costs of which shall be shared in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(2) CRITERIA.—Projects shall be evaluated against the following primary criteria:

(A) The length of time necessary for the proposed project to begin production of molybdenum-99 for medical uses within the United States.

(B) The capability of the proposed project to produce a significant percentage of United States demand for molybdenum-99 for medical uses.

(C) The capability of the proposed project to produce molybdenum-99 in a cost-effective manner.

(D) The cost of the proposed project.

(3) EXEMPTION.—An existing reactor in the United States fueled with highly enriched uranium shall not be disqualified from the program if the Secretary determines that—

(A) there is no alternative nuclear reactor fuel, enriched in the isotope U-235 to less than 20 percent, that can be used in that reactor;

(B) the reactor operator has provided assurances that, whenever an alternative nuclear reactor fuel, enriched in the isotope U-235 to less than 20 percent, can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(C) the reactor operator has provided a current report on the status of its efforts to convert the reactor to an alternative nuclear reactor fuel enriched in the isotope U-235 to less than 20 percent, and an anticipated schedule for completion of conversion.

(4) PUBLIC PARTICIPATION AND REVIEW.—The Secretary shall—

(A) develop a program plan and annually update the program plan through public workshops; and

(B) use the Nuclear Science Advisory Committee to conduct annual reviews of the progress made in achieving the program goals and make recommendations to improve program effectiveness.

(b) DEVELOPMENT ASSISTANCE.—The Secretary shall carry out a program to provide assistance for—

(1) the development of fuels, targets, and processes for domestic molybdenum-99 production that do not use highly enriched uranium; and

(2) commercial operations using the fuels, targets, and processes described in paragraph (1).

(c) URANIUM LEASE AND TAKE-BACK.—

(1) IN GENERAL.—The Secretary shall establish a program to make low enriched uranium available, through lease contracts, for irradiation for the production of molybdenum-99 for medical uses.

(2) TITLE.—The lease contracts shall provide for the producers of the molybdenum-99 to take title to and be responsible for the molybdenum-99 created by the irradiation, processing, or purification of uranium leased under this section.

(3) DUTIES.—

(A) SECRETARY.—The lease contracts shall require the Secretary—

(i) to retain responsibility for the final disposition of spent nuclear fuel created by the irradiation, processing, or purification of uranium leased under this section for the production of medical isotopes; and

Plan.  
Deadlines.  
Recommendations.

(ii) to take title to and be responsible for the final disposition of radioactive waste created by the irradiation, processing, or purification of uranium leased under this section for which the Secretary determines the producer does not have access to a disposal path.

(B) PRODUCER.—The producer of the spent nuclear fuel and radioactive waste shall accurately characterize, appropriately package, and transport the spent nuclear fuel and radioactive waste prior to acceptance by the Department.

(4) COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the lease contracts shall provide for compensation in cash amounts equivalent to prevailing market rates for the sale of comparable uranium products and for compensation in cash amounts equivalent to the net present value of the cost to the Federal Government for—

(i) the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); and

(ii) other costs associated with carrying out the uranium lease and take-back program authorized by this subsection.

(B) DISCOUNT RATE.—The discount rate used to determine the net present value of costs described in subparagraph (A)(ii) shall be not greater than the average interest rate on marketable Treasury securities.

(5) AUTHORIZED USE OF FUNDS.—Subject to the availability of appropriations, the Secretary may obligate and expend funds received under leases entered into under this subsection, which shall remain available until expended, for the purpose of carrying out the activities authorized by this subtitle, including activities related to the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3).

(6) EXCHANGE OF URANIUM FOR SERVICES.—The Secretary shall not barter or otherwise sell or transfer uranium in any form in exchange for—

(A) services related to the final disposition of the spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); or

(B) any other services associated with carrying out the uranium lease and take-back program authorized by this subsection.

(d) COORDINATION OF ENVIRONMENTAL REVIEWS.—The Department and the Nuclear Regulatory Commission shall ensure to the maximum extent practicable that environmental reviews for the production of the medical isotopes shall complement and not duplicate each review.

(e) OPERATIONAL DATE.—The Secretary shall establish a program as described in subsection (c)(3) not later than 3 years after the date of enactment of this Act.

Deadline.

(f) RADIOACTIVE WASTE.—Notwithstanding section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101), radioactive material resulting from the production of medical isotopes that has been permanently removed from a reactor or subcritical assembly and for which there is no further use shall be considered

low-level radioactive waste if the material is acceptable under Federal requirements for disposal as low-level radioactive waste.

**SEC. 3174. EXPORTS.**

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended by striking subsection c. and inserting the following:

Time period.

“c. **MEDICAL PRODUCTION LICENSE SUNSET.**—Effective 7 years after the date of enactment of the American Medical Isotopes Production Act of 2012, the Commission may not issue a license for the export of highly enriched uranium from the United States for the purposes of medical isotope production.

“d. **MEDICAL PRODUCTION LICENSE EXTENSION.**—The period referred to in subsection c. may be extended for no more than 6 years if, no earlier than 6 years after the date of enactment of the American Medical Isotopes Production Act of 2012, the Secretary of Energy certifies to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that—

“(1) there is insufficient global supply of molybdenum-99 produced without the use of highly enriched uranium available to satisfy the domestic United States market; and

“(2) the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the most effective temporary means to increase the supply of molybdenum-99 to the domestic United States market.

Federal Register,  
publication.

“e. **PUBLIC NOTICE.**—To ensure public review and comment, the development of the certification described in subsection d. shall be carried out through announcement in the Federal Register.

“f. **JOINT CERTIFICATION.**—

“(1) **IN GENERAL.**—In accordance with paragraph (2), the ban on the export of highly enriched uranium for purposes of medical isotope production referred to in subsections c. and d. shall not go into effect unless the Secretary of Energy and the Secretary of Health and Human Services have jointly certified that—

“(A) there is a sufficient supply of molybdenum-99 produced without the use of highly enriched uranium available to meet the needs of patients in the United States; and

“(B) it is not necessary to export United States-origin highly enriched uranium for the purposes of medical isotope production in order to meet United States patient needs.

Deadline.  
Time period.  
Extension.

“(2) **TIME OF CERTIFICATION.**—The joint certification under paragraph (1) shall be made not later than 7 years after the date of enactment of the American Medical Isotopes Production Act of 2012, except that, if the period referred to in subsection c. is extended under subsection d., the 7-year deadline under this paragraph shall be extended by a period equal to the period of such extension under subsection d.

Time period.

“g. **SUSPENSION OF MEDICAL PRODUCTION LICENSE.**—At any time after the restriction of export licenses provided for in subsection c. becomes effective, if there is a critical shortage in the supply of molybdenum-99 available to satisfy the domestic United States medical isotope needs, the restriction of export licenses may be suspended for a period of no more than 12 months, if—

Certification.

“(1) the Secretary of Energy certifies to the Congress that the export of United States-origin highly enriched uranium

for the purposes of medical isotope production is the only effective temporary means to increase the supply of molybdenum-99 necessary to meet United States medical isotope needs during that period; and

“(2) the Congress enacts a Joint Resolution approving the temporary suspension of the restriction of export licenses.

“h. DEFINITIONS.—As used in this section—

“(1) the term ‘alternative nuclear reactor fuel or target’ means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

“(2) the term ‘highly enriched uranium’ means uranium enriched to 20 percent or more in the isotope U-235;

“(3) a fuel or target ‘can be used’ in a nuclear research or test reactor if—

“(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

“(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor; and

“(4) the term ‘medical isotope’ includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.”.

#### SEC. 3175. REPORT ON DISPOSITION OF EXPORTS.

Not later than 1 year after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium used as fuel or targets in a nuclear research or test reactor, including—

- (1) their location;
- (2) whether they are irradiated;
- (3) whether they have been used for the purpose stated in their export license;
- (4) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission;
- (5) the year of export, and reimportation, if applicable;
- (6) their current physical and chemical forms; and
- (7) whether they are being stored in a manner which adequately protects against theft and unauthorized access.

#### SEC. 3176. DOMESTIC MEDICAL ISOTOPE PRODUCTION.

(a) IN GENERAL.—Chapter 10 of the Atomic Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amended by adding at the end the following:

“a. The Commission may issue a license, or grant an amendment to an existing license, for the use in the United States of highly enriched uranium as a target for medical isotope production in a nuclear reactor, only if, in addition to any other requirement of this Act—

42 USC 2142.

“(1) the Commission determines that—

Determination.

“(A) there is no alternative medical isotope production target that can be used in that reactor; and

- “(B) the proposed recipient of the medical isotope production target has provided assurances that, whenever an alternative medical isotope production target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and
- Certification.      “(2) the Secretary of Energy has certified that the United States Government is actively supporting the development of an alternative medical isotope production target that can be used in that reactor.
- Definitions.      “b. As used in this section—
- “(1) the term ‘alternative medical isotope production target’ means a nuclear reactor target which is enriched to less than 20 percent of the isotope U-235;
- “(2) a target ‘can be used’ in a nuclear research or test reactor if—
- “(A) the target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and
- “(B) use of the target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor;
- “(3) the term ‘highly enriched uranium’ means uranium enriched to 20 percent or more in the isotope U-235; and
- “(4) the term ‘medical isotope’ includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.”.
- (b) TABLE OF CONTENTS.—The table of contents for the Atomic Energy Act of 1954 is amended by inserting the following new item at the end of the items relating to chapter 10 of title I:

“Sec. 112. Domestic medical isotope production.”.

#### **SEC. 3177. ANNUAL DEPARTMENT REPORTS.**

- (a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for 5 years, the Secretary shall report to Congress on Department actions to support the production in the United States, without the use of highly enriched uranium, of molybdenum-99 for medical uses.
- (b) CONTENTS.—The reports shall include the following:
- (1) For medical isotope development projects—
- (A) the names of any recipients of Department support under section 3173;
- (B) the amount of Department funding committed to each project;
- (C) the milestones expected to be reached for each project during the year for which support is provided;
- (D) how each project is expected to support the increased production of molybdenum-99 for medical uses;
- (E) the findings of the evaluation of projects under section 3173(a)(2); and
- (F) the ultimate use of any Department funds used to support projects under section 3173.
- (2) A description of actions taken in the previous year by the Secretary to ensure the safe disposition of spent nuclear

fuel and radioactive waste for which the Department is responsible under section 3173(c).

**SEC. 3178. NATIONAL ACADEMY OF SCIENCES REPORT.**

(a) **IN GENERAL.**—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study of the state of molybdenum-99 production and utilization, to be provided to Congress not later than 5 years after the date of enactment of this Act.

(b) **CONTENTS.**—The report shall include the following:

(1) For molybdenum-99 production—

(A) a list of all facilities in the world producing molybdenum-99 for medical uses, including an indication of whether these facilities use highly enriched uranium in any way;

(B) a review of international production of molybdenum-99 over the previous 5 years, including—

(i) whether any new production was brought online;

(ii) whether any facilities halted production unexpectedly; and

(iii) whether any facilities used for production were decommissioned or otherwise permanently removed from service; and

(C) an assessment of progress made in the previous 5 years toward establishing domestic production of molybdenum-99 for medical uses, including the extent to which other medical isotopes that have been produced with molybdenum-99, such as iodine-131 and xenon-133, are being used for medical purposes.

(2) An assessment of the progress made by the Department and others to eliminate all worldwide use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities.

## **TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

Sec. 3201. Authorization.

Sec. 3202. Improvements to the Defense Nuclear Facilities Safety Board.

**SEC. 3201. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 2013, \$29,415,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

**SEC. 3202. IMPROVEMENTS TO THE DEFENSE NUCLEAR FACILITIES  
SAFETY BOARD.**

(a) **ESTABLISHMENT.**—Section 311 of the Atomic Energy Act of 1954 (42 U.S.C. 2286) is amended—

(1) in subsection (b), by striking paragraph (4);

(2) in subsection (c)—

(A) in the heading, by striking “AND VICE CHAIRMAN” and inserting “, VICE CHAIRMAN, AND MEMBERS”;

(B) in paragraph (2), by striking “The Chairman” and inserting “In accordance with paragraph (5), the Chairman”; and

(C) by adding at the end the following new paragraph:

“(5) Each member of the Board, including the Chairman and Vice Chairman, shall—

“(A) have equal responsibility and authority in establishing decisions and determining actions of the Board;

“(B) have full access to all information relating to the performance of the Board’s functions, powers, and mission; and

“(C) have one vote.”.

(b) MISSION AND FUNCTIONS.—

(1) IN GENERAL.—Section 312 of the Atomic Energy Act of 1954 (42 U.S.C. 2286a) is amended—

(A) in the heading, by inserting “MISSION AND” before “FUNCTIONS”;

(B) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(C) by inserting before subsection (b), as redesignated by subparagraph (B), the following new subsection (a):

“(a) MISSION.—The mission of the Board shall be to provide independent analysis, advice, and recommendations to the Secretary of Energy to inform the Secretary, in the role of the Secretary as operator and regulator of the defense nuclear facilities of the Department of Energy, in providing adequate protection of public health and safety at such defense nuclear facilities.”; and

(D) in subsection (b), as so redesignated—

(i) in the heading, by striking “IN GENERAL” and inserting “FUNCTIONS”; and

(ii) in paragraph (5), by inserting “, and specifically assess risk (whenever sufficient data exists),” after “shall consider”.

(2) CLERICAL AMENDMENT.—The table of contents for the Atomic Energy Act of 1954 is amended by striking the item relating to section 312 and inserting the following new item:

“Sec. 312. Mission and functions of the Board.”.

(c) BOARD RECOMMENDATIONS.—

(1) IN GENERAL.—Section 315 of the Atomic Energy Act of 1954 (42 U.S.C. 2286d) is amended—

(A) by redesignating subsections (a) through (h) as subsections (b) through (i), respectively;

(B) by inserting before subsection (b), as redesignated by subparagraph (A), the following new subsection:

“(a) SUBMISSION OF RECOMMENDATIONS.—(1) Subject to subsections (h) and (i), not later than 30 days before the date on which the Board transmits a recommendation to the Secretary of Energy under section 312, the Board shall transmit to the Secretary in writing a draft of such recommendation and any related findings, supporting data, and analyses to ensure the Secretary is adequately informed of a formal recommendation and to provide the Secretary an opportunity to provide input to the Board before such recommendation is finalized.

“(2) The Secretary may provide to the Board comments on a draft recommendation transmitted by the Board under paragraph (1) by not later than 30 days after the date on which the Secretary

Deadlines.



receives the draft recommendation. The Board may grant, upon request by the Secretary, additional time for the Secretary to transmit comments to the Board.

“(3) After the period of time in which the Secretary may provide comments under paragraph (2) elapses, the Board may transmit a final recommendation to the Secretary.”; and

(C) by amending subsection (b), as so redesignated, to read as follows:

“(b) PUBLIC AVAILABILITY AND COMMENT.—Subject to subsections (h) and (i), after the Secretary of Energy receives a recommendation from the Board under subsection (a)(3), the Board shall promptly make available to the public such recommendation and any related correspondence from the Secretary by—

“(1) providing such recommendation and correspondence to the public in the regional public reading rooms of the Department of Energy; and

“(2) publishing in the Federal Register—

“(A) such recommendation and correspondence; and

“(B) a request for the submission to the Board of public comments on such recommendation that provides interested persons with 30 days after the date of the publication in which to submit comments, data, views, or arguments to the Board concerning the recommendation.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Such section 315 is further amended—

(A) in subsection (c), as redesignated by paragraph

(1)(A)—

(i) in paragraph (1), by striking “subsection (a)” and inserting “subsection (b)”;

(ii) in paragraph (2), by striking “subsection (h)” and inserting “subsection (i)”;

(B) in subsection (d), as so redesignated, by striking “subsection (a) or (b)” and inserting “subsection (b) or (c)”;

(C) in subsection (e), as so redesignated—

(i) by striking “subsection (b)(1)” and inserting “subsection (c)(1)”;

(ii) by striking “subsection (h)” and inserting “subsection (i)”;

(D) in subsection (g), as so redesignated—

(i) in paragraph (1), as so redesignated, by striking “subsection (e)” and inserting “subsection (f)”;

(ii) in paragraph (2), by striking “, to the Committees on Armed Services and on Appropriations of the Senate, and to the Speaker of the House of Representatives” and inserting “and to such committees”;

(E) in subsection (h), as so redesignated—

(i) in paragraph (1), as so redesignated, by striking “through (d)” and inserting “through (e)”;

(ii) in paragraph (3), by striking “and the Speaker”; and

(F) by striking “Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives” each place it appears and inserting “Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate”.

Federal Register,  
publication.

(d) **REPORTS.**—Section 316 of the Atomic Energy Act of 1954 (42 U.S.C. 2286e) is amended by striking “Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives” each place it appears and inserting “Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate”.

(e) **INFORMATION TO CONGRESS.**—Section 320 of the Atomic Energy Act of 1954 (42 U.S.C. 2286h-1) is amended—

(1) by striking “submitted to the Congress” and inserting “submitted to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate”; and

(2) by striking “the Congress.” and inserting “such committees.”.

(f) **INSPECTOR GENERAL.**—

(1) **IN GENERAL.**—Chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.) is amended by adding at the end the following new section:

42 USC 2286k.

**“SEC. 322. INSPECTOR GENERAL.**

Deadline.  
Contracts.

“(a) **IN GENERAL.**—Not later than October 1, 2013, the Board shall enter into an agreement with an agency of the Federal Government to procure the services of the Inspector General of such agency for the Board, in accordance with the Inspector General Act of 1978 (5 U.S.C. App.). Such Inspector General shall have expertise relating to the mission of the Board.

“(b) **BUDGET.**—In the budget materials submitted to the President by the Board in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for each fiscal year, the Board shall ensure that a separate, dedicated procurement line item is designated for the services of an Inspector General under subsection (a).”.

(2) **CLERICAL AMENDMENT.**—The table of contents for the Atomic Energy Act of 1954 is amended by inserting after the item relating to section 321 the following new item:

“Sec. 322. Inspector General.”.

(g) **TECHNICAL AMENDMENT.**—Section 313(j)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2286b) is amended by striking “section” and all that follows through “implementation” and inserting “section 312(b)(1), the implementation”.

42 USC 2286  
note.

(h) **SAFETY STANDARDS.**—Nothing in this section or in the amendments made by this section shall be construed to cause a reduction in nuclear safety standards.

## TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

**SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

(a) **AMOUNT.**—There are hereby authorized to be appropriated to the Secretary of Energy \$14,909,000 for fiscal year 2013 for

the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

## **TITLE XXXV—MARITIME ADMINISTRATION**

- Sec. 3501. Authorization of appropriations for national security aspects of the merchant marine for fiscal year 2013.
- Sec. 3502. Application of the Federal Acquisition Regulation.
- Sec. 3503. Limitation of National Defense Reserve Fleet vessels to those over 1,500 gross tons.
- Sec. 3504. Donation of excess fuel to maritime academies.
- Sec. 3505. Clarification of heading.
- Sec. 3506. Transfer of vessels to the National Defense Reserve Fleet.
- Sec. 3507. Amendments relating to the National Defense Reserve Fleet.
- Sec. 3508. Extension of Maritime Security Fleet program.
- Sec. 3509. Container-on-barge transportation.
- Sec. 3510. Short sea transportation.
- Sec. 3511. Maritime environmental and technical assistance.
- Sec. 3512. Identification of actions to enable qualified United States flag capacity to meet national defense requirements.
- Sec. 3513. Maritime workforce study.
- Sec. 3514. Maritime administration vessel recycling contract award practices.
- Sec. 3515. Requirement for barge design.
- Sec. 3516. Eligibility to receive surplus training equipment.
- Sec. 3517. Coordination with other laws.

### **SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL SECURITY ASPECTS OF THE MERCHANT MARINE FOR FISCAL YEAR 2013.**

Funds are hereby authorized to be appropriated for fiscal year 2013, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for Maritime Administration programs associated with maintaining national security aspects of the merchant marine, as follows:

- (1) For expenses necessary for operations of the United States Merchant Marine Academy, \$77,253,000, of which—
  - (A) \$67,253,000 shall remain available until expended for Academy operations; and
  - (B) \$10,000,000 shall remain available until expended for capital asset management at the Academy.
- (2) For expenses necessary to support the State maritime academies, \$16,045,000, of which—
  - (A) \$2,400,000 shall remain available until expended for student incentive payments;
  - (B) \$2,545,000 shall remain available until expended for direct payments to such academies; and
  - (C) \$11,100,000 shall remain available until expended for maintenance and repair of State maritime academy training vessels.
- (3) For expenses necessary to dispose of vessels in the National Defense Reserve Fleet, \$12,717,000, to remain available until expended.
- (4) For expenses to maintain and preserve a United States-flag merchant marine to serve the national security needs of the United States under chapter 531 of title 46, United States Code, \$186,000,000.

(5) For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of loan guarantees under the program authorized by chapter 537 of title 46, United States Code, \$3,750,000, all of which shall remain available until expended for administrative expenses of the program.

**SEC. 3502. APPLICATION OF THE FEDERAL ACQUISITION REGULATION.**

16 USC 5405  
note.

Section 3502(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106-398 (114 Stat. 1654A-490), is amended by striking “the enactment of this Act” and inserting “contract award”.

**SEC. 3503. LIMITATION OF NATIONAL DEFENSE RESERVE FLEET VESSELS TO THOSE OVER 1,500 GROSS TONS.**

Section 57101(a) of title 46, United States Code, is amended by inserting “of 1,500 gross tons or more or such other vessels as the Secretary of Transportation shall determine are appropriate” after “Administration”.

**SEC. 3504. DONATION OF EXCESS FUEL TO MARITIME ACADEMIES.**

Section 51103(b) of title 46, United States Code, is amended by striking so much as precedes paragraph (2) and inserting the following:

“(b) PROPERTY FOR INSTRUCTIONAL PURPOSES.—

“(1) IN GENERAL.—The Secretary of Transportation may cooperate with and assist the institutions named in paragraph (2) by making vessels, fuel, shipboard equipment, and other marine equipment, owned by the United States Government and determined by the entity having custody and control of such property to be excess or surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms and conditions the Secretary considers appropriate. The consent of the Secretary of the Navy shall be obtained with respect to any property from National Defense Reserve Fleet vessels (50 U.S.C. App. 1744) where such vessels are either Ready Reserve Force vessels or other National Defense Reserve Fleet vessels determined to be of sufficient value to the Navy to warrant their further preservation and retention.”.

**SEC. 3505. CLARIFICATION OF HEADING.**

(a) IN GENERAL.—The section designation and heading for section 57103 of title 46, United States Code, is amended to read as follows:

**“§ 57103. Donation of nonretention vessels in the National Defense Reserve Fleet”.**

(b) CLERICAL AMENDMENT.—The analysis for chapter 571 of title 46, United States Code, is amended by striking the item relating to section 57103 and inserting the following:

“57103. Donation of nonretention vessels in the National Defense Reserve Fleet.”.

**SEC. 3506. TRANSFER OF VESSELS TO THE NATIONAL DEFENSE RESERVE FLEET.**

Section 57101 of title 46, United States Code, is amended by adding at the end the following:

“(c) AUTHORITY OF FEDERAL ENTITIES TO TRANSFER VESSELS.—All Federal entities are authorized to transfer vessels to the

National Defense Reserve Fleet without reimbursement subject to the approval of the Secretary of Transportation and the Secretary of the Navy with respect to Ready Reserve Force vessels and the Secretary of Transportation with respect to all other vessels.”.

**SEC. 3507. AMENDMENTS RELATING TO THE NATIONAL DEFENSE RESERVE FLEET.**

Subparagraphs (B), (C), and (D) of section 11(c)(1) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744(c)(1)) are amended to read as follows:

“(B) activate and conduct sea trials on each vessel at a frequency that is deemed necessary;

“(C) maintain and adequately crew, as necessary, in an enhanced readiness status those vessels that are scheduled to be activated in 5 or less days;

“(D) locate those vessels that are scheduled to be activated near embarkation ports specified for those vessels; and”.

**SEC. 3508. EXTENSION OF MARITIME SECURITY FLEET PROGRAM.**

(a) **DEFINITIONS.**—Section 53101 of title 46, United States Code, is amended—

(1) by amending paragraph (4) to read as follows:

“(4) **FOREIGN COMMERCE.**—The term ‘foreign commerce’ means—

“(A) commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country; and

“(B) commerce or trade between foreign countries.”;

(2) by striking paragraph (5);

(3) by redesignating paragraphs (6) through (13) as paragraphs (5) through (12), respectively; and

(4) by amending paragraph (5), as so redesignated, to read as follows:

“(5) **PARTICIPATING FLEET VESSEL.**—The term ‘participating fleet vessel’ means any vessel that—

“(A) on October 1, 2015—

“(i) meets the requirements of paragraph (1), (2), (3), or (4) of section 53102(c); and

“(ii) is less than 20 years of age if the vessel is a tank vessel, or is less than 25 years of age for all other vessel types; and

“(B) on December 31, 2014, is covered by an operating agreement under this chapter.”.

(b) **VESSEL ELIGIBILITY.**—Section 53102(b) of such title is amended to read as follows:

“(b) **VESSEL ELIGIBILITY.**—A vessel is eligible to be included in the Fleet if—

“(1) the vessel meets the requirements of paragraph (1), (2), (3), or (4) of subsection (c);

“(2) the vessel is operated (or in the case of a vessel to be constructed, will be operated) in providing transportation in foreign commerce;

“(3) the vessel is self-propelled and—

“(A) is a tank vessel that is 10 years of age or less on the date the vessel is included in the Fleet; or

“(B) is any other type of vessel that is 15 years of age or less on the date the vessel is included in the Fleet;

“(4) the vessel—

“(A) is suitable for use by the United States for national defense or military purposes in time of war or national emergency, as determined by the Secretary of Defense; and

“(B) is commercially viable, as determined by the Secretary; and

“(5) the vessel—

“(A) is a United States-documented vessel; or

“(B) is not a United States-documented vessel, but—

“(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of this title if it is included in the Fleet; and

“(ii) at the time an operating agreement for the vessel is entered into under this chapter, the vessel is eligible for documentation under chapter 121 of this title.”.

(c) OPERATING AGREEMENTS.—Section 53103 of such title is amended—

(1) by amending subsection (b) to read as follows:

“(b) EXTENSION OF EXISTING OPERATING AGREEMENTS.—

Deadlines.

“(1) OFFER TO EXTEND.—Not later than 60 days after the date of enactment of this paragraph, the Secretary shall offer, to an existing contractor, to extend, through September 30, 2025, an operating agreement that is in existence on the date of enactment of this paragraph. The terms and conditions of the extended operating agreement shall include terms and conditions authorized under this chapter, as amended from time to time.

“(2) TIME LIMIT.—An existing contractor shall have not later than 120 days after the date the Secretary offers to extend an operating agreement to agree to the extended operating agreement.

“(3) SUBSEQUENT AWARD.—The Secretary may award an operating agreement to an applicant that is eligible to enter into an operating agreement for fiscal years 2016 through 2025 if the existing contractor does not agree to the extended operating agreement under paragraph (2).”; and

(2) by amending subsection (c) to read as follows:

“(c) PROCEDURE FOR AWARDED NEW OPERATING AGREEMENTS.—The Secretary may enter into a new operating agreement with an applicant that meets the requirements of section 53102(c) (for vessels that meet the qualifications of section 53102(b)) on the basis of priority for vessel type established by military requirements of the Secretary of Defense. The Secretary shall allow an applicant at least 30 days to submit an application for a new operating agreement. After consideration of military requirements, priority shall be given to an applicant that is a United States citizen under section 50501 of this title. The Secretary may not approve an application without the consent of the Secretary of Defense. The Secretary shall enter into an operating agreement with the applicant or provide a written reason for denying the application.”.

Time period.

(d) REPEAL OF EARLY TERMINATION BY CONTRACTOR.—Section 53104 of such title is amended—

(1) in subsection (c), by striking paragraph (3); and

(2) in subsection (e), by striking “an operating agreement under this chapter is terminated under subsection (c)(3), or if”.

(e) TRANSFER OF OPERATING AGREEMENTS.—Section 53105 of such title is amended—

(1) by amending subsection (e) to read as follows:

“(e) TRANSFER OF OPERATING AGREEMENTS.—A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the operating agreement) to any person that is eligible to enter into the operating agreement under this chapter if the Secretary and the Secretary of Defense determine that the transfer is in the best interests of the United States. A transaction shall not be considered a transfer of an operating agreement if the same legal entity with the same vessels remains the contracting party under the operating agreement.”; and

Determination.

(2) by amending subsection (f) to read as follows:

“(f) REPLACEMENT VESSELS.—A contractor may replace a vessel under an operating agreement with another vessel that is eligible to be included in the Fleet under section 53102(b), if the Secretary, in conjunction with the Secretary of Defense, approves the replacement of the vessel.”.

(f) PAYMENTS.—Section 53106 of such title is amended—

(1) in subsection (a)(1), by striking “and” after the semicolon at the end of subparagraph (B), and by striking subparagraph (C) and inserting the following:

“(C) \$3,100,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

“(D) \$3,500,000 for each of fiscal years 2019, 2020, and 2021; and

“(E) \$3,700,000 for each of fiscal years 2022, 2023, 2024, and 2025.”;

(2) in subsection (c)(3)(C), by striking “a LASH vessel.” and inserting “a lighter aboard ship vessel.”; and

(3) by striking subsection (f).

(g) EMERGENCY PREPAREDNESS AGREEMENTS.—Section 53107(b)(1) of such title is amended to read as follows:

“(1) IN GENERAL.—An Emergency Preparedness Agreement under this section shall require that a contractor for a vessel covered by an operating agreement under this chapter shall make commercial transportation resources (including services) available, upon request by the Secretary of Defense during a time of war or national emergency, or whenever the Secretary of Defense determines that it is necessary for national security or contingency operation (as that term is defined in section 101 of title 10, United States Code).”.

(h) REPEAL OF WAIVER OF AGE RESTRICTION.—Section 53109 of such title is repealed.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 53111 of such title is amended—

(1) by striking “and” at the end of paragraph (2); and

(2) by amending paragraph (3) to read as follows:

“(3) \$186,000,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

“(4) \$210,000,000 for each of fiscal years 2019, 2020, and 2021; and

“(5) \$222,000,000 for each fiscal year thereafter through fiscal year 2025.”.

46 USC 53101  
note.

(j) **EFFECTIVE DATE OF AMENDMENTS.**—The amendments made by—

- (1) paragraphs (2), (3), and (4) of subsection (a) take effect on December 31, 2014; and
- (2) subsection (f)(2) take effect on December 31, 2014.

**SEC. 3509. CONTAINER-ON-BARGE TRANSPORTATION.**

(a) **ASSESSMENT.**—The Maritime Administrator shall assess the potential for using container-on-barge transportation in short sea transportation (as such term is defined in section 55605 of title 46, United States Code).

(b) **FACTORS.**—In conducting the assessment under subsection (a), the Administrator shall consider—

- (1) the environmental benefits of increasing container-on-barge movements in short sea transportation;
- (2) the regional differences in the use of short sea transportation;
- (3) the existing programs established at coastal and Great Lakes ports for establishing awareness of deep sea shipping operations;
- (4) the mechanisms necessary to ensure that implementation of a plan under subsection (c) will not be inconsistent with antitrust laws; and
- (5) the potential frequency of container-on-barge service at short sea transportation ports.

(c) **RECOMMENDATIONS.**—The assessment under subsection (a) may include recommendations for a plan to increase awareness of the potential for use of container-on-barge transportation.

(d) **DEADLINE.**—Not later than 180 days after the date of enactment of this title, the Administrator shall submit the assessment required under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 3510. SHORT SEA TRANSPORTATION.**

(a) **PURPOSE.**—Section 55601 of title 46, United States Code, is amended—

(1) in subsection (a), by striking “landside congestion.” and inserting “landside congestion or to promote short sea transportation.”;

(2) in subsection (c), by striking “coastal corridors” and inserting “coastal corridors or to promote short sea transportation”;

(3) in subsection (d), by striking “that the project may” and all that follows through the end of the subsection and inserting “that the project uses documented vessels and—

“(1) mitigates landside congestion; or

“(2) promotes short sea transportation.”; and

(4) in subsection (f), by striking “shall” each place it appears and inserting “may”.

(b) **DOCUMENTATION.**—Section 55605 of title 46, United States Code, is amended in the matter preceding paragraph (1) by striking “by vessel” and inserting “by a documented vessel”.

**SEC. 3511. MARITIME ENVIRONMENTAL AND TECHNICAL ASSISTANCE.**

(a) **IN GENERAL.**—Chapter 503 of title 46, United States Code, is amended by adding at the end the following:



**“§ 50307. Maritime environmental and technical assistance**

“(a) IN GENERAL.—The Secretary of Transportation may engage in the environmental study, research, development, assessment, and deployment of emerging marine technologies and practices related to the marine transportation system through the use of public vessels under the control of the Maritime Administration or private vessels under United States registry, and through partnerships and cooperative efforts with academic, public, private, and non-governmental entities and facilities.

“(b) REQUIREMENTS.—The Secretary of Transportation may—

“(1) identify, study, evaluate, test, demonstrate, or improve emerging marine technologies and practices that are likely to achieve environmental improvements by—

“(A) reducing air emissions, water emissions, or other ship discharges;

“(B) increasing fuel economy or the use of alternative fuels and alternative energy (including the use of shore power); or

“(C) controlling aquatic invasive species; and

“(2) coordinate with the Environmental Protection Agency, the United States Coast Guard, and other Federal, State, local, or tribal agencies, as appropriate.

“(c) COORDINATION.—Coordination under subsection (b)(2) may include—

“(1) activities that are associated with the development or approval of validation and testing regimes; and

“(2) certification or validation of emerging technologies or practices that demonstrate significant environmental benefits.

“(d) ASSISTANCE.—The Secretary of Transportation may accept gifts, or enter into cooperative agreements, contracts, or other agreements with academic, public, private, and non-governmental entities to carry out the activities authorized under subsection (a).”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 503 of title 46, United States Code, is amended by inserting after the item relating to section 50306 the following:

“50307. Maritime environmental and technical assistance.”.

**SEC. 3512. IDENTIFICATION OF ACTIONS TO ENABLE QUALIFIED UNITED STATES FLAG CAPACITY TO MEET NATIONAL DEFENSE REQUIREMENTS.**

Section 501(b) of title 46, United States Code, is amended—

(1) by striking “When the head” and inserting the following:

“(1) IN GENERAL.—When the head”; and

(2) by adding at the end the following:

“(2) DETERMINATIONS.—The Maritime Administrator shall—

“(A) for each determination referred to in paragraph (1), identify any actions that could be taken to enable qualified United States flag capacity to meet national defense requirements;

“(B) provide notice of each such determination to the Secretary of Transportation and the head of the agency referred to in paragraph (1) for which the determination is made; and

“(C) publish each such determination on the Internet Web site of the Department of Transportation not later

Notification.

Web posting.  
Deadline.

Deadlines.

than 48 hours after notice of the determination is provided to the Secretary of Transportation.

“(3) NOTICE TO CONGRESS.—

“(A) IN GENERAL.—The head of an agency referred to in paragraph (1) shall notify the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate—

“(i) of any request for a waiver of the navigation or vessel-inspection laws under this section not later than 48 hours after receiving such a request; and

“(ii) of the issuance of any such waiver not later than 48 hours after such issuance.

“(B) CONTENTS.—Such head of an agency shall include in each notification under subparagraph (A)(ii) an explanation of—

“(i) the reasons the waiver is necessary; and

“(ii) the reasons actions referred to in paragraph (2)(A) are not feasible.”.

#### SEC. 3513. MARITIME WORKFORCE STUDY.

(a) TRAINING STUDY.—The Comptroller General of the United States shall conduct a study on the training needs of the maritime workforce.

(b) STUDY COMPONENTS.—The study shall—

(1) analyze the impact of maritime training requirements imposed by domestic and international regulations and conventions, companies, and government agencies that charter or operate vessels;

(2) evaluate the ability of the United States maritime training infrastructure to meet the needs of the maritime industry;

(3) identify trends in maritime training;

(4) compare the training needs of United States mariners with the vocational training and educational assistance programs available from Federal agencies to evaluate the ability of Federal programs to meet the training needs of United States mariners;

(5) include recommendations to enhance the capabilities of the United States maritime training infrastructure; and

(6) include recommendations to assist United States mariners and those entering the maritime profession to achieve the required training.

(c) FINAL REPORT.—Not later than 1 year after the date of enactment of this title, the Comptroller General shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives.

#### SEC. 3514. MARITIME ADMINISTRATION VESSEL RECYCLING CONTRACT AWARD PRACTICES.

Deadline.  
Assessment.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this title, the Comptroller General of the United States shall conduct an assessment of the source selection procedures and practices used to award the Maritime Administration’s

National Defense Reserve Fleet vessel recycling contracts. The Comptroller General shall assess the process, procedures, and practices used for the Maritime Administration’s qualification of vessel recycling facilities. The Comptroller General shall report the findings to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives.

Reports.

(b) **ASSESSMENT.**—The assessment under subsection (a) shall include a review of whether the Maritime Administration’s contract source selection procedures and practices are consistent with law, the Federal Acquisition Regulation (FAR), and Federal best practices associated with making source selection decisions.

(c) **CONSIDERATIONS.**—In making the assessment under subsection (a), the Comptroller General may consider any other aspect of the Maritime Administration’s vessel recycling process that the Comptroller General deems appropriate to review.

**SEC. 3515. REQUIREMENT FOR BARGE DESIGN.**

Deadline.

Not later than 270 days after the date of enactment of this title, the Maritime Administrator shall complete the design for a containerized, articulated barge, as identified in the dual-use vessel study carried out by the Administrator and the Secretary of Defense, that is able to utilize roll-on/roll-off or load-on/load-off technology in marine highway maritime commerce.

**SEC. 3516. ELIGIBILITY TO RECEIVE SURPLUS TRAINING EQUIPMENT.**

Section 51103(b)(2)(C) of title 46, United States Code, is amended by inserting “or a training institution that is an instrumentality of a State, Territory, or Commonwealth of the United States or District of Columbia or a unit of local government thereof” after “a nonprofit training institution”.

**SEC. 3517. COORDINATION WITH OTHER LAWS.**

(a) **EARLIER ENACTMENT OF COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2012.**—If the date of the enactment of the Coast Guard and Maritime Transportation Act of 2012 (H.R. 2838, 112th Congress) is before the date of the enactment of this Act:

(1) Sections 3501, 3503 through 3507, and 3509 through 3516 of this Act, and any amendments made by those sections, shall not go into effect.

(2) Section 501(b)(3)(A) of title 46, United States Code (as added by section 301(2) of the Coast Guard and Maritime Transportation Act of 2012), is amended by striking “the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate” and inserting “the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate”.

(3) Section 414(c) of the Coast Guard and Maritime Transportation Act of 2012 is amended by striking “the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives” and inserting “the Committee on Commerce, Science, and Transportation and the Committee

on Armed Services of the Senate and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives”.

(b) LATER ENACTMENT OF COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2012.—If the date of the enactment of the Coast Guard and Maritime Transportation Act of 2012 (H.R. 2838, 112th Congress) is after the date of the enactment of this Act, sections 301, 402 through 408, 410 through 412, 414, and 415 of such Act, and any amendments made by those sections, shall not go into effect.

## **DIVISION D—FUNDING TABLES**

Sec. 4001. Authorization of amounts in funding tables.

### **TITLE XLI—PROCUREMENT**

Sec. 4101. Procurement.

Sec. 4102. Procurement for overseas contingency operations.

### **TITLE XLII—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**

Sec. 4201. Research, development, test, and evaluation.

Sec. 4202. Research, development, test, and evaluation for overseas contingency operations.

### **TITLE XLIII—OPERATION AND MAINTENANCE**

Sec. 4301. Operation and maintenance.

Sec. 4302. Operation and maintenance for overseas contingency operations.

### **TITLE XLIV—MILITARY PERSONNEL**

Sec. 4401. Military personnel.

Sec. 4402. Military personnel for overseas contingency operations.

### **TITLE XLV—OTHER AUTHORIZATIONS**

Sec. 4501. Other authorizations.

Sec. 4502. Other authorizations for overseas contingency operations.

### **TITLE XLVI—MILITARY CONSTRUCTION**

Sec. 4601. Military construction.

Sec. 4602. Military construction for overseas contingency operations.

### **TITLE XLVII—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

Sec. 4701. Department of Energy National Security programs.

## **SEC. 4001. AUTHORIZATION OF AMOUNTS IN FUNDING TABLES.**

(a) IN GENERAL.—Whenever a funding table in this division specifies a dollar amount authorized for a project, program, or activity, the obligation and expenditure of the specified dollar amount for the project, program, or activity is hereby authorized, subject to the availability of appropriations.

(b) **MERIT-BASED DECISIONS.**—A decision to commit, obligate, or expend funds with or to a specific entity on the basis of a dollar amount authorized pursuant to subsection (a) shall—

(1) be based on merit-based selection procedures in accordance with the requirements of sections 2304(k) and 2374 of title 10, United States Code, or on competitive procedures; and

(2) comply with other applicable provisions of law.

(c) **RELATIONSHIP TO TRANSFER AND PROGRAMMING AUTHORITY.**—An amount specified in the funding tables in this division may be transferred or reprogrammed under a transfer or reprogramming authority provided by another provision of this Act or by other law. The transfer or reprogramming of an amount specified in such funding tables shall not count against a ceiling on such transfers or reprogrammings under section 1001 or section 1522 of this Act or any other provision of law, unless such transfer or reprogramming would move funds between appropriation accounts.

(d) **APPLICABILITY TO CLASSIFIED ANNEX.**—This section applies to any classified annex that accompanies this Act.

(e) **ORAL AND WRITTEN COMMUNICATIONS.**—No oral or written communication concerning any amount specified in the funding tables in this division shall supersede the requirements of this section.

## TITLE XLI—PROCUREMENT

### SEC. 4101. PROCUREMENT.

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
<b>AIRCRAFT PROCUREMENT, ARMY</b>			
<b>FIXED WING</b>			
001	UTILITY F/W AIRCRAFT .....	18,639	18,639
003	MQ-1 UAV .....	518,088	518,088
004	RQ-11 (RAVEN) .....	25,798	25,798
<b>ROTARY</b>			
006	HELICOPTER, LIGHT UTILITY (LUH) .....	271,983	271,983
007	AH-64 APACHE BLOCK IIIA REMAN .....	577,115	577,115
008	ADVANCE PROCUREMENT (CY) .....	107,707	107,707
009	AH-64 APACHE BLOCK IIIB NEW BUILD .....	153,993	153,993
010	ADVANCE PROCUREMENT (CY) .....	146,121	146,121
013	UH-60 BLACKHAWK M MODEL (MYP) .....	1,107,087	1,107,087
014	ADVANCE PROCUREMENT (CY) .....	115,113	115,113
015	CH-47 HELICOPTER .....	1,076,036	1,076,036
016	ADVANCE PROCUREMENT (CY) .....	83,346	83,346
<b>MODIFICATION OF AIRCRAFT</b>			
018	MQ-1 PAYLOAD—UAS .....	231,508	231,508
020	GUARDRAIL MODS (MIP) .....	16,272	16,272
021	MULTI SENSOR ABN RECON (MIP) .....	4,294	4,294
022	AH-64 MODS .....	178,805	178,805
023	CH-47 CARGO HELICOPTER MODS (MYP) .....	39,135	39,135
024	UTILITY/CARGO AIRPLANE MODS .....	24,842	24,842
026	UTILITY HELICOPTER MODS .....	73,804	73,804
027	KIOWA WARRIOR MODS .....	192,484	192,484
029	NETWORK AND MISSION PLAN .....	190,789	190,789
030	COMMS, NAV SURVEILLANCE .....	133,191	133,191
031	GATM ROLLUP .....	87,280	87,280
032	RQ-7 UAV MODS .....	104,339	104,339
<b>GROUND SUPPORT AVIONICS</b>			
034	AIRCRAFT SURVIVABILITY EQUIPMENT .....	34,037	34,037

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
036	CMWS .....	127,751	127,751
	<b>OTHER SUPPORT</b>		
037	AVIONICS SUPPORT EQUIPMENT .....	4,886	4,886
038	COMMON GROUND EQUIPMENT .....	82,511	82,511
039	AIRCREW INTEGRATED SYSTEMS .....	77,381	77,381
040	AIR TRAFFIC CONTROL .....	47,235	47,235
041	INDUSTRIAL FACILITIES .....	1,643	1,643
042	LAUNCHER, 2.75 ROCKET .....	516	516
	<b>TOTAL AIRCRAFT PROCUREMENT, ARMY</b> .....	<b>5,853,729</b>	<b>5,853,729</b>
	<b>MISSILE PROCUREMENT, ARMY</b>		
	<b>SURFACE-TO-AIR MISSILE SYSTEM</b>		
001	PATRIOT SYSTEM SUMMARY .....	646,590	696,590
	Additional PAC-3 missiles .....		[50,000]
002	MSE MISSILE .....	12,850	12,850
	<b>AIR-TO-SURFACE MISSILE SYSTEM</b>		
004	HELLFIRE SYS SUMMARY .....	1,401	1,401
	<b>ANTI-TANK/ASSAULT MISSILE SYS</b>		
005	JAVELIN (AAWS-M) SYSTEM SUMMARY .....	81,121	81,121
006	TOW 2 SYSTEM SUMMARY .....	64,712	64,712
007	ADVANCE PROCUREMENT (CY) .....	19,931	19,931
008	GUIDED MLRS ROCKET (GMLRS) .....	218,679	218,679
009	MLRS REDUCED RANGE PRACTICE ROCKETS (RRPR) .....	18,767	18,767
010	HIGH MOBILITY ARTILLERY ROCKET SYSTEM .....	12,051	12,051
	<b>MODIFICATIONS</b>		
011	PATRIOT MODS .....	199,565	199,565
013	MLRS MODS .....	2,466	2,466
014	HIMARS MODIFICATIONS .....	6,068	6,068
	<b>SPARES AND REPAIR PARTS</b>		
016	SPARES AND REPAIR PARTS .....	7,864	7,864
	<b>SUPPORT EQUIPMENT &amp; FACILITIES</b>		
017	AIR DEFENSE TARGETS .....	3,864	3,864
018	ITEMS LESS THAN \$5 MILLION (MISSILES) .....	1,560	1,560
019	PRODUCTION BASE SUPPORT .....	5,200	5,200
	<b>TOTAL MISSILE PROCUREMENT, ARMY</b> .....	<b>1,302,689</b>	<b>1,352,689</b>
	<b>PROCUREMENT OF W&amp;TCV, ARMY</b>		
	<b>TRACKED COMBAT VEHICLES</b>		
001	STRYKER VEHICLE .....	286,818	286,818
	<b>MODIFICATION OF TRACKED COMBAT VEHICLES</b>		
003	STRYKER (MOD) .....	60,881	60,881
004	FIST VEHICLE (MOD) .....	57,257	57,257
005	BRADLEY PROGRAM (MOD) .....	148,193	288,193
	Program increase .....		[140,000]
006	HOWITZER, MED SP FT 155MM M109A6 (MOD) .....	10,341	10,341
007	PALADIN PIM MOD IN SERVICE .....	206,101	206,101
008	IMPROVED RECOVERY VEHICLE (M88A2 HERCULES) .....	107,909	169,909
	Program increase .....		[62,000]
009	ASSAULT BREACHER VEHICLE .....	50,039	50,039
010	M88 FOV MODS .....	29,930	29,930
011	M1 ABRAMS TANK (MOD) .....	129,090	129,090
012	ABRAMS UPGRADE PROGRAM .....	74,433	210,433
	Program increase .....		[136,000]
	<b>SUPPORT EQUIPMENT &amp; FACILITIES</b>		
013	PRODUCTION BASE SUPPORT (TCV-WTCV) .....	1,145	1,145
	<b>WEAPONS &amp; OTHER COMBAT VEHICLES</b>		
014	INTEGRATED AIR BURST WEAPON SYSTEM FAMILY .....	506	506
017	LIGHTWEIGHT .50 CALIBER MACHINE GUN .....	25,183	0
	Program termination .....		[-25,183]
019	MORTAR SYSTEMS .....	8,104	8,104
021	XM320 GRENADE LAUNCHER MODULE (GLM) .....	14,096	14,096
024	CARBINE .....	21,272	21,272
025	SHOTGUN, MODULAR ACCESSORY SYSTEM (MASS) .....	6,598	6,598
026	COMMON REMOTELY OPERATED WEAPONS STATION .....	56,725	56,725
027	HOWITZER LT WT 155MM (T) .....	13,827	13,827
	<b>MOD OF WEAPONS AND OTHER COMBAT VEH</b>		
029	M777 MODS .....	26,843	26,843

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
030	M4 CARBINE MODS .....	27,243	27,243
031	M2 50 CAL MACHINE GUN MODS .....	39,974	39,974
032	M249 SAW MACHINE GUN MODS .....	4,996	4,996
033	M240 MEDIUM MACHINE GUN MODS .....	6,806	6,806
034	SNIPER RIFLES MODIFICATIONS .....	14,113	14,113
035	M119 MODIFICATIONS .....	20,727	20,727
036	M16 RIFLE MODS .....	3,306	3,306
037	MODIFICATIONS LESS THAN \$5.0M (WOCV-WTCV) .....	3,072	3,072
	<b>SUPPORT EQUIPMENT &amp; FACILITIES</b>		
038	ITEMS LESS THAN \$5 MILLION (WOCV-WTCV) .....	2,026	2,026
039	PRODUCTION BASE SUPPORT (WOCV-WTCV) .....	10,115	10,115
040	INDUSTRIAL PREPAREDNESS .....	442	442
041	SMALL ARMS EQUIPMENT (SOLDIER ENH PROG) .....	2,378	2,378
	<b>SPARES</b>		
042	SPARES AND REPAIR PARTS (WTCV) .....	31,217	31,217
	<b>TOTAL PROCUREMENT OF W&amp;TCV, ARMY .....</b>	<b>1,501,706</b>	<b>1,814,523</b>
	<b>PROCUREMENT OF AMMUNITION, ARMY</b>		
	<b>SMALL/MEDIUM CAL AMMUNITION</b>		
001	CTG, 5.56MM, ALL TYPES .....	158,313	123,513
	Unit cost savings .....		[–34,800]
002	CTG, 7.62MM, ALL TYPES .....	91,438	91,438
003	CTG, HANDGUN, ALL TYPES .....	8,954	8,954
004	CTG, .50 CAL, ALL TYPES .....	109,604	109,604
005	CTG, 20MM, ALL TYPES .....	4,041	4,041
006	CTG, 25MM, ALL TYPES .....	12,654	12,654
007	CTG, 30MM, ALL TYPES .....	72,154	54,154
	Pricing adjustments for target practice round and light-weight dual-purpose round. ....		[–18,000]
008	CTG, 40MM, ALL TYPES .....	60,138	0
	Decrease for excess .....		[–60,138]
	<b>MORTAR AMMUNITION</b>		
009	60MM MORTAR, ALL TYPES .....	44,375	44,375
010	81MM MORTAR, ALL TYPES .....	27,471	27,471
011	120MM MORTAR, ALL TYPES .....	87,811	87,811
	<b>TANK AMMUNITION</b>		
012	CARTRIDGES, TANK, 105MM AND 120MM, ALL TYPES .....	112,380	112,380
	<b>ARTILLERY AMMUNITION</b>		
013	ARTILLERY CARTRIDGES, 75MM AND 105MM, ALL TYP .....	50,861	50,861
014	ARTILLERY PROJECTILE, 155MM, ALL TYPES .....	26,227	26,227
015	PROJ 155MM EXTENDED RANGE XM982 .....	110,329	55,329
	Excalibur I-b round schedule delay .....		[–55,000]
016	ARTILLERY PROPELLANTS, FUZES AND PRIMERS, ALL .....	43,924	43,924
	<b>MINES</b>		
017	MINES & CLEARING CHARGES, ALL TYPES .....	3,775	3,775
	<b>NETWORKED MUNITIONS</b>		
018	SPIDER NETWORK MUNITIONS, ALL TYPES .....	17,408	17,408
	<b>ROCKETS</b>		
019	SHOULDER LAUNCHED MUNITIONS, ALL TYPES .....	1,005	1,005
020	ROCKET, HYDRA 70, ALL TYPES .....	123,433	123,433
	<b>OTHER AMMUNITION</b>		
021	DEMOLITION MUNITIONS, ALL TYPES .....	35,189	35,189
022	GRENADES, ALL TYPES .....	33,477	33,477
023	SIGNALS, ALL TYPES .....	9,991	9,991
024	SIMULATORS, ALL TYPES .....	10,388	10,388
	<b>MISCELLANEOUS</b>		
025	AMMO COMPONENTS, ALL TYPES .....	19,383	19,383
026	NON-LETHAL AMMUNITION, ALL TYPES .....	7,336	7,336
027	CAD/PAD ALL TYPES .....	6,641	6,641
028	ITEMS LESS THAN \$5 MILLION .....	15,092	15,092
029	AMMUNITION PECULIAR EQUIPMENT .....	15,692	15,692
030	FIRST DESTINATION TRANSPORTATION (AMMO) .....	14,107	14,107
031	CLOSEOUT LIABILITIES .....	106	106
	<b>PRODUCTION BASE SUPPORT</b>		
032	PROVISION OF INDUSTRIAL FACILITIES .....	220,171	220,171
033	CONVENTIONAL MUNITIONS DEMILITARIZATION, ALL .....	182,461	182,461
034	ARMS INITIATIVE .....	3,377	3,377

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	<b>TOTAL PROCUREMENT OF AMMUNITION, ARMY ..</b>	<b>1,739,706</b>	<b>1,571,768</b>
	<b>OTHER PROCUREMENT, ARMY</b>		
	<b>TACTICAL VEHICLES</b>		
001	SEMITRAILERS, FLATBED: .....	7,097	7,097
002	FAMILY OF MEDIUM TACTICAL VEH (FMTV) .....	346,115	346,115
003	FIRETRUCKS & ASSOCIATED FIREFIGHTING EQUIP .....	19,292	19,292
004	FAMILY OF HEAVY TACTICAL VEHICLES (FHTV) .....	52,933	52,933
005	PLS ESP .....	18,035	18,035
009	TRUCK, TRACTOR, LINE HAUL, M915/M916 .....	3,619	3,619
010	HVY EXPANDED MOBILE TACTICAL TRUCK EXT SERV .....	26,859	26,859
012	TACTICAL WHEELED VEHICLE PROTECTION KITS .....	69,163	69,163
013	MODIFICATION OF IN SVC EQUIP .....	91,754	91,754
	<b>NON-TACTICAL VEHICLES</b>		
018	PASSENGER CARRYING VEHICLES .....	2,548	2,548
019	NONTACTICAL VEHICLES, OTHER .....	16,791	16,791
	<b>COMM—JOINT COMMUNICATIONS</b>		
020	JOINT COMBAT IDENTIFICATION MARKING SYSTEM .....	10,061	10,061
021	WIN-T—GROUND FORCES TACTICAL NETWORK .....	892,635	872,635
	Program adjustment .....		[–20,000]
022	SIGNAL MODERNIZATION PROGRAM .....	45,626	45,626
023	JCSE EQUIPMENT (USREDCOM) .....	5,143	5,143
	<b>COMM—SATELLITE COMMUNICATIONS</b>		
024	DEFENSE ENTERPRISE WIDEBAND SATCOM SYSTEMS .....	151,636	151,636
025	TRANSPORTABLE TACTICAL COMMAND COMMUNICA- TIONS. ....	6,822	6,822
026	SHF TERM .....	9,108	9,108
028	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE) .....	27,353	27,353
029	SMART-T (SPACE) .....	98,656	98,656
031	GLOBAL BRDCST SVC—GBS .....	47,131	47,131
032	MOD OF IN-SVC EQUIP (TAC SAT) .....	23,281	23,281
	<b>COMM—C3 SYSTEM</b>		
034	ARMY GLOBAL CMD & CONTROL SYS (AGCCS) .....	10,848	10,848
	<b>COMM—COMBAT COMMUNICATIONS</b>		
035	ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO) .....	979	979
036	JOINT TACTICAL RADIO SYSTEM .....	556,250	366,250
	Funding ahead of need .....		[–190,000]
037	MID-TIER NETWORKING VEHICULAR RADIO (MNVN) .....	86,219	86,219
038	RADIO TERMINAL SET, MIDS LVT(2) .....	7,798	7,798
039	SINGGARS FAMILY .....	9,001	9,001
040	AMC CRITICAL ITEMS—OPA2 .....	24,601	24,601
041	TRACTOR DESK .....	7,779	7,779
043	SPIDER APLA REMOTE CONTROL UNIT .....	34,365	24,365
	Funding ahead of need .....		[–10,000]
044	SOLDIER ENHANCEMENT PROGRAM COMM/ELECTRONICS	1,833	1,833
045	TACTICAL COMMUNICATIONS AND PROTECTIVE SYSTEM	12,984	12,984
047	GUNSHOT DETECTION SYSTEM (GDS) .....	2,332	2,332
048	RADIO, IMPROVED HF (COTS) FAMILY .....	1,132	1,132
049	MEDICAL COMM FOR CBT CASUALTY CARE (MC4) .....	22,899	22,899
	<b>COMM—INTELLIGENCE COMM</b>		
051	CI AUTOMATION ARCHITECTURE .....	1,564	1,564
052	RESERVE CA/MISO GPF EQUIPMENT .....	28,781	28,781
	<b>INFORMATION SECURITY</b>		
053	TSEC—ARMY KEY MGT SYS (AKMS) .....	23,432	23,432
054	INFORMATION SYSTEM SECURITY PROGRAM-ISSP .....	43,897	43,897
	<b>COMM—LONG HAUL COMMUNICATIONS</b>		
056	TERRESTRIAL TRANSMISSION .....	2,891	2,891
057	BASE SUPPORT COMMUNICATIONS .....	13,872	13,872
058	WW TECH CON IMP PROG (WWTCIP) .....	9,595	9,595
	<b>COMM—BASE COMMUNICATIONS</b>		
059	INFORMATION SYSTEMS .....	142,133	142,133
061	INSTALLATION INFO INFRASTRUCTURE MOD PROGRAM( ..	57,727	57,727
062	PENTAGON INFORMATION MGT AND TELECOM .....	5,000	5,000
	<b>ELECT EQUIP—TACT INT REL ACT (TIARA)</b>		
065	JTT/CIBS-M .....	1,641	1,641
066	PROPHET GROUND .....	48,797	48,797
069	DCGS-A (MIP) .....	184,007	184,007



SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
070	JOINT TACTICAL GROUND STATION (JTAGS) .....	2,680	2,680
071	TROJAN (MIP) .....	21,483	21,483
072	MOD OF IN-SVC EQUIP (INTEL SPT) (MIP) .....	2,412	2,412
073	CI HUMINT AUTO REPRINTING AND COLLECTION .....	7,077	7,077
	<b>ELECT EQUIP—ELECTRONIC WARFARE (EW)</b>		
075	LIGHTWEIGHT COUNTER MORTAR RADAR .....	72,594	72,594
076	CREW .....	15,446	15,446
078	COUNTERINTELLIGENCE/SECURITY COUNTERMEASURES .....	1,470	1,470
079	CI MODERNIZATION .....	1,368	1,368
	<b>ELECT EQUIP—TACTICAL SURV. (TAC SURV)</b>		
080	FAAD GBS .....	7,980	7,980
081	SENTINEL MODS .....	33,444	33,444
082	SENSE THROUGH THE WALL (STTW) .....	6,212	0
	Slow execution of prior years appropriations .....		[–6,212]
083	NIGHT VISION DEVICES .....	166,516	166,516
085	NIGHT VISION, THERMAL WPN SIGHT .....	82,162	82,162
086	SMALL TACTICAL OPTICAL RIFLE MOUNTED MLRF .....	20,717	20,717
089	GREEN LASER INTERDICTION SYSTEM (GLIS) .....	1,014	1,014
090	INDIRECT FIRE PROTECTION FAMILY OF SYSTEMS .....	29,881	29,881
091	PROFILER .....	12,482	12,482
092	MOD OF IN-SVC EQUIP (FIREFINDER RADARS) .....	3,075	3,075
094	JOINT BATTLE COMMAND—PLATFORM (JBC-P) .....	141,385	141,385
096	MOD OF IN-SVC EQUIP (LLDR) .....	22,403	22,403
098	MORTAR FIRE CONTROL SYSTEM .....	29,505	29,505
099	COUNTERFIRE RADARS .....	244,409	244,409
100	ENHANCED SENSOR & MONITORING SYSTEM (WMD) EN- HANCED SENSOR & MONITORING SYSTEM (WMD).	2,426	2,426
	<b>ELECT EQUIP—TACTICAL C2 SYSTEMS</b>		
101	TACTICAL OPERATIONS CENTERS .....	30,196	30,196
102	FIRE SUPPORT C2 FAMILY .....	58,903	58,903
103	BATTLE COMMAND SUSTAINMENT SUPPORT SYSTEM .....	8,111	8,111
104	FAAD C2 .....	5,031	5,031
105	AIR & MSL DEFENSE PLANNING & CONTROL SYS .....	64,144	64,144
106	KNIGHT FAMILY .....	11,999	11,999
107	LIFE CYCLE SOFTWARE SUPPORT (LCSS) .....	1,853	1,853
108	AUTOMATIC IDENTIFICATION TECHNOLOGY .....	14,377	14,377
111	NETWORK MANAGEMENT INITIALIZATION AND SERVICE .....	59,821	59,821
112	MANEUVER CONTROL SYSTEM (MCS) .....	51,228	51,228
113	SINGLE ARMY LOGISTICS ENTERPRISE (SALE) .....	176,901	176,901
114	RECONNAISSANCE AND SURVEYING INSTRUMENT SET .....	15,209	15,209
	<b>ELECT EQUIP—AUTOMATION</b>		
115	ARMY TRAINING MODERNIZATION .....	8,866	8,866
116	AUTOMATED DATA PROCESSING EQUIP .....	129,438	129,438
117	GENERAL FUND ENTERPRISE BUSINESS SYS FAM .....	9,184	9,184
118	CSS COMMUNICATIONS .....	20,639	20,639
119	RESERVE COMPONENT AUTOMATION SYS (RCAS) .....	35,493	35,493
	<b>ELECT EQUIP—AUDIO VISUAL SYS (A/V)</b>		
120	ITEMS LESS THAN \$5 MILLION (A/V) .....	8,467	8,467
121	ITEMS LESS THAN \$5 MILLION .....	5,309	5,309
	<b>ELECT EQUIP—SUPPORT</b>		
122	PRODUCTION BASE SUPPORT (C-E) .....	586	586
	<b>CLASSIFIED PROGRAMS</b>		
124A	CLASSIFIED PROGRAMS .....	3,435	3,435
	<b>CHEMICAL DEFENSIVE EQUIPMENT</b>		
126	FAMILY OF NON-LETHAL EQUIPMENT (FNLE) .....	3,960	3,960
127	BASE DEFENSE SYSTEMS (BDS) .....	4,374	4,374
128	CBRN SOLDIER PROTECTION .....	9,259	9,259
	<b>BRIDGING EQUIPMENT</b>		
130	TACTICAL BRIDGING .....	35,499	35,499
131	TACTICAL BRIDGE, FLOAT-RIBBON .....	32,893	32,893
	<b>ENGINEER (NON-CONSTRUCTION) EQUIPMENT</b>		
134	ROBOTIC COMBAT SUPPORT SYSTEM (RCSS) .....	29,106	29,106
135	EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD EQPMT) ..	25,459	25,459
136	REMOTE DEMOLITION SYSTEMS .....	8,044	8,044
137	< \$5M, COUNTERMINE EQUIPMENT .....	3,698	3,698
	<b>COMBAT SERVICE SUPPORT EQUIPMENT</b>		
138	HEATERS AND ECU'S .....	12,210	12,210

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
139	SOLDIER ENHANCEMENT .....	6,522	6,522
140	PERSONNEL RECOVERY SUPPORT SYSTEM (PRSS) .....	11,222	11,222
141	GROUND SOLDIER SYSTEM .....	103,317	103,317
144	FIELD FEEDING EQUIPMENT .....	27,417	27,417
145	CARGO AERIAL DEL & PERSONNEL PARACHUTE SYSTEM .....	52,065	52,065
146	MORTUARY AFFAIRS SYSTEMS .....	2,358	2,358
147	FAMILY OF ENGR COMBAT AND CONSTRUCTION SETS .....	31,573	31,573
148	ITEMS LESS THAN \$5 MILLION .....	14,093	14,093
	<b>PETROLEUM EQUIPMENT</b>		
149	DISTRIBUTION SYSTEMS, PETROLEUM & WATER .....	36,266	36,266
	<b>MEDICAL EQUIPMENT</b>		
150	COMBAT SUPPORT MEDICAL .....	34,101	34,101
151	MEDEVAC MISSION EQUIPMENT PACKAGE (MEP) .....	20,540	20,540
	<b>MAINTENANCE EQUIPMENT</b>		
152	MOBILE MAINTENANCE EQUIPMENT SYSTEMS .....	2,495	2,495
	<b>CONSTRUCTION EQUIPMENT</b>		
154	GRADER, ROAD MTZD, HVY, 6X4 (CCE) .....	2,028	2,028
156	SCRAPERS, EARTHMOVING .....	6,146	6,146
157	MISSION MODULES—ENGINEERING .....	31,200	31,200
161	TRACTOR, FULL TRACKED .....	20,867	20,867
162	ALL TERRAIN CRANES .....	4,003	4,003
163	PLANT, ASPHALT MIXING .....	3,679	3,679
164	HIGH MOBILITY ENGINEER EXCAVATOR (HME) .....	30,042	30,042
165	ENHANCED RAPID AIRFIELD CONSTRUCTION CAPA .....	13,725	13,725
166	CONST EQUIP ESP .....	13,351	13,351
167	ITEMS LESS THAN \$5 MILLION (CONST EQUIP) .....	9,134	9,134
	<b>RAIL FLOAT CONTAINERIZATION EQUIPMENT</b>		
170	ITEMS LESS THAN \$5 MILLION (FLOAT/RAIL) .....	10,552	10,552
	<b>GENERATORS</b>		
171	GENERATORS AND ASSOCIATED EQUIP .....	60,302	60,302
	<b>MATERIAL HANDLING EQUIPMENT</b>		
173	FAMILY OF FORKLIFTS .....	5,895	5,895
	<b>TRAINING EQUIPMENT</b>		
175	COMBAT TRAINING CENTERS SUPPORT .....	104,649	104,649
176	TRAINING DEVICES, NONSYSTEM .....	125,251	125,251
177	CLOSE COMBAT TACTICAL TRAINER .....	19,984	19,984
178	AVIATION COMBINED ARMS TACTICAL TRAINER .....	10,977	10,977
179	GAMING TECHNOLOGY IN SUPPORT OF ARMY TRAINING ..	4,056	4,056
	<b>TEST MEASURE AND DIG EQUIPMENT (TMD)</b>		
180	CALIBRATION SETS EQUIPMENT .....	10,494	10,494
181	INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE) .....	45,508	45,508
182	TEST EQUIPMENT MODERNIZATION (TEMOD) .....	24,334	24,334
	<b>OTHER SUPPORT EQUIPMENT</b>		
183	RAPID EQUIPPING SOLDIER SUPPORT EQUIPMENT .....	5,078	5,078
184	PHYSICAL SECURITY SYSTEMS (OPA3) .....	46,301	46,301
185	BASE LEVEL COMMON EQUIPMENT .....	1,373	1,373
186	MODIFICATION OF IN-SVC EQUIPMENT (OPA-3) .....	59,141	59,141
187	PRODUCTION BASE SUPPORT (OTH) .....	2,446	2,446
188	SPECIAL EQUIPMENT FOR USER TESTING .....	12,920	12,920
189	AMC CRITICAL ITEMS OPA3 .....	19,180	19,180
190	TRACTOR YARD .....	7,368	7,368
191	UNMANNED GROUND VEHICLE .....	83,937	83,937
	<b>OPA2</b>		
193	INITIAL SPARES—C&E .....	64,507	64,507
	<b>PRIOR YEAR SAVINGS</b>		
	<b>UNDISTRIBUTED</b>		
194	EMERGENCY MANAGEMENT MODERNIZATION PROGRAM Army requested transfer from Operation and Maintenance, Army, line 100.		52,000 [52,000]
	<b>TOTAL OTHER PROCUREMENT, ARMY .....</b>	<b>6,326,245</b>	<b>6,152,033</b>
	<b>JOINT IMPR EXPLOSIVE DEV DEFEAT FUND</b>		
	<b>STAFF AND INFRASTRUCTURE</b>		
004	OPERATIONS .....	227,414	0
	Transfer of funds to title 15 .....		[–227,414]
	<b>TOTAL JOINT IMPR EXPLOSIVE DEV DEFEAT FUND.</b>	<b>227,414</b>	<b>0</b>

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
<b>AIRCRAFT PROCUREMENT, NAVY</b>			
<b>COMBAT AIRCRAFT</b>			
001	EA-18G .....	1,027,443	1,014,443
	Engine cost growth .....		[–13,000]
002	ADVANCE PROCUREMENT (CY) .....		45,000
	Program increase .....		[45,000]
003	F/A-18E/F (FIGHTER) HORNET .....	2,035,131	2,017,131
	Engine cost growth .....		[–12,000]
	Engineering Change Order excess funding .....		[–6,000]
004	ADVANCE PROCUREMENT (CY) .....	30,296	30,296
005	JOINT STRIKE FIGHTER CV .....	1,007,632	988,832
	Excessive weapon system unit cost increase .....		[–18,800]
006	ADVANCE PROCUREMENT (CY) .....	65,180	65,180
007	JSF STOVL .....	1,404,737	1,345,937
	Excessive weapon system unit cost increase .....		[–58,800]
008	ADVANCE PROCUREMENT (CY) .....	106,199	106,199
009	V-22 (MEDIUM LIFT) .....	1,303,120	1,291,380
	Flyaway unit cost savings .....		[–11,740]
010	ADVANCE PROCUREMENT (CY) .....	154,202	154,202
011	H-1 UPGRADES (UH-1Y/AH-1Z) .....	720,933	720,933
012	ADVANCE PROCUREMENT (CY) .....	69,658	69,658
013	MH-60S (MYP) .....	384,792	384,792
014	ADVANCE PROCUREMENT (CY) .....	69,277	69,277
015	MH-60R (MYP) .....	656,866	826,866
	Cruiser Retention—Restore 5 helicopters .....		[170,000]
016	ADVANCE PROCUREMENT (CY) .....	185,896	185,896
017	P-8A POSEIDON .....	2,420,755	2,387,052
	Excess to need .....		[–33,703]
018	ADVANCE PROCUREMENT (CY) .....	325,679	325,679
019	E-2D ADV HAWKEYE .....	861,498	861,498
020	ADVANCE PROCUREMENT (CY) .....	123,179	123,179
<b>TRAINER AIRCRAFT</b>			
022	JPATS .....	278,884	268,784
	Airframe cost growth .....		[–10,100]
<b>OTHER AIRCRAFT</b>			
023	KC-130J .....	3,000	3,000
024	ADVANCE PROCUREMENT (CY) .....	22,995	22,995
025	ADVANCE PROCUREMENT (CY)—RQ-4 UAV .....	51,124	51,124
026	MQ-8 UAV .....	124,573	124,573
027	STUASLO UAV .....	9,593	9,593
<b>MODIFICATION OF AIRCRAFT</b>			
028	EA-6 SERIES .....	30,062	30,062
029	AEA SYSTEMS .....	49,999	49,999
030	AV-8 SERIES .....	38,703	38,703
031	ADVERSARY .....	4,289	4,289
032	F-18 SERIES .....	647,306	639,306
	ILS growth (OSIP 11–84) .....		[–5,000]
	Other support funding growth (OSIP 001–10) .....		[–3,000]
033	H-46 SERIES .....	2,343	2,343
034	AH-1W SERIES .....	8,721	8,721
035	H-53 SERIES .....	45,567	42,367
	Other Support cost growth .....		[–3,200]
036	SH-60 SERIES .....	83,527	83,527
037	H-1 SERIES .....	6,508	6,508
038	EP-3 SERIES .....	66,374	66,374
039	P-3 SERIES .....	148,405	148,405
040	E-2 SERIES .....	16,322	16,322
041	TRAINER A/C SERIES .....	34,284	34,284
042	C-2A .....	4,743	4,743
043	C-130 SERIES .....	60,302	60,302
044	FEWSG .....	670	670
045	CARGO/TRANSPORT A/C SERIES .....	26,311	26,311
046	E-6 SERIES .....	158,332	155,842
	SLEP kit installation cost growth (OSIP 003–07) .....		[–2,490]
047	EXECUTIVE HELICOPTERS SERIES .....	58,163	58,163
048	SPECIAL PROJECT AIRCRAFT .....	12,421	12,421

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
049	T-45 SERIES .....	64,488	59,488
	Avionics Obsolescence kit cost growth .....		[-2,000]
	Synthetic Radar kit cost growth .....		[-3,000]
050	POWER PLANT CHANGES .....	21,569	21,569
051	JPATS SERIES .....	1,552	1,552
052	AVIATION LIFE SUPPORT MODS .....	2,473	2,473
053	COMMON ECM EQUIPMENT .....	114,690	114,690
054	COMMON AVIONICS CHANGES .....	96,183	96,183
056	ID SYSTEMS .....	39,846	39,846
057	P-8 SERIES .....	5,302	5,302
058	MAGTF EW FOR AVIATION .....	34,127	34,127
059	RQ-7 SERIES .....	49,324	49,324
060	V-22 (TILT/ROTOR ACFT) OSPREY .....	95,856	95,856
	<b>AIRCRAFT SPARES AND REPAIR PARTS</b>		
061	SPARES AND REPAIR PARTS .....	1,166,430	1,132,430
	Spares cost growth- F-35C, F-35B, E-2D .....		[-34,000]
	<b>AIRCRAFT SUPPORT EQUIP &amp; FACILITIES</b>		
062	COMMON GROUND EQUIPMENT .....	387,195	387,195
063	AIRCRAFT INDUSTRIAL FACILITIES .....	23,469	23,469
064	WAR CONSUMABLES .....	43,383	43,383
065	OTHER PRODUCTION CHARGES .....	3,399	3,399
066	SPECIAL SUPPORT EQUIPMENT .....	32,274	32,274
067	FIRST DESTINATION TRANSPORTATION .....	1,742	1,742
	<b>TOTAL AIRCRAFT PROCUREMENT, NAVY</b> .....	<b>17,129,296</b>	<b>17,127,463</b>
	<b>WEAPONS PROCUREMENT, NAVY</b>		
	<b>MODIFICATION OF MISSILES</b>		
001	TRIDENT II MODS .....	1,224,683	1,214,683
	Tooling, test/support equipment growth .....		[-10,000]
	<b>SUPPORT EQUIPMENT &amp; FACILITIES</b>		
002	MISSILE INDUSTRIAL FACILITIES .....	5,553	5,553
	<b>STRATEGIC MISSILES</b>		
003	TOMAHAWK .....	308,970	298,970
	Contract Savings .....		[-10,000]
	<b>TACTICAL MISSILES</b>		
004	AMRAAM .....	102,683	97,390
	Captive air training missile cost growth .....		[-5,293]
005	SIDEWINDER .....	80,226	74,267
	All Up Round Missile Cost Growth .....		[-3,847]
	Captive Air Training Missile Cost Growth .....		[-2,112]
006	JSOW .....	127,609	127,609
007	STANDARD MISSILE .....	399,482	399,482
008	RAM .....	66,769	66,769
009	HELLFIRE .....	74,501	74,501
011	AERIAL TARGETS .....	61,518	61,518
012	OTHER MISSILE SUPPORT .....	3,585	3,585
	<b>MODIFICATION OF MISSILES</b>		
013	ESSM .....	58,194	58,194
014	HARM MODS .....	86,721	86,721
	<b>SUPPORT EQUIPMENT &amp; FACILITIES</b>		
016	WEAPONS INDUSTRIAL FACILITIES .....	2,014	2,014
017	FLEET SATELLITE COMM FOLLOW-ON .....	21,454	21,454
	<b>ORDNANCE SUPPORT EQUIPMENT</b>		
018	ORDNANCE SUPPORT EQUIPMENT .....	54,945	54,945
	<b>TORPEDOES AND RELATED EQUIP</b>		
019	SSTD .....	2,700	2,700
020	ASW TARGETS .....	10,385	10,385
	<b>MOD OF TORPEDOES AND RELATED EQUIP</b>		
021	MK-54 TORPEDO MODS .....	74,487	74,487
022	MK-48 TORPEDO ADCAP MODS .....	54,281	54,281
023	QUICKSTRIKE MINE .....	6,852	6,852
	<b>SUPPORT EQUIPMENT</b>		
024	TORPEDO SUPPORT EQUIPMENT .....	46,402	46,402
025	ASW RANGE SUPPORT .....	11,927	11,927
	<b>DESTINATION TRANSPORTATION</b>		
026	FIRST DESTINATION TRANSPORTATION .....	3,614	3,614
	<b>GUNS AND GUN MOUNTS</b>		

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
027	SMALL ARMS AND WEAPONS .....	12,594	12,594
	<b>MODIFICATION OF GUNS AND GUN MOUNTS</b>		
028	CIWS MODS .....	59,303	67,003
	Buy additional ordnance alteration kits .....		[7,700]
029	COAST GUARD WEAPONS .....	19,072	19,072
030	GUN MOUNT MODS .....	54,706	54,706
031	CRUISER MODERNIZATION WEAPONS .....	1,591	19,622
	Cruiser retention—5"/62 Upgrade .....		[18,031]
032	AIRBORNE MINE NEUTRALIZATION SYSTEMS .....	20,607	20,607
	<b>SPARES AND REPAIR PARTS</b>		
034	SPARES AND REPAIR PARTS .....	60,150	60,150
	<b>TOTAL WEAPONS PROCUREMENT, NAVY .....</b>	<b>3,117,578</b>	<b>3,112,057</b>
	<b>SHIPBUILDING &amp; CONVERSION, NAVY</b>		
	<b>OTHER WARSHIPS</b>		
001	CARRIER REPLACEMENT PROGRAM .....	608,195	605,295
	SEWIP block 2 growth .....		[–2,900]
003	VIRGINIA CLASS SUBMARINE .....	3,217,601	3,217,601
004	ADVANCE PROCUREMENT (CY) .....	874,878	1,652,557
	Advance procurement for 2nd SSN in FY 14 .....		[777,679]
005	CVN REFUELING OVERHAULS .....	1,613,392	1,517,292
	Program decrease .....		[–96,100]
006	ADVANCE PROCUREMENT (CY) .....	70,010	70,010
008	DDG 1000 .....	669,222	669,222
009	DDG–51 .....	3,048,658	3,048,658
010	ADVANCE PROCUREMENT (CY) .....	466,283	466,283
011	LITTORAL COMBAT SHIP .....	1,784,959	1,784,959
	<b>AMPHIBIOUS SHIPS</b>		
015	JOINT HIGH SPEED VESSEL .....	189,196	189,196
	<b>AUXILIARIES, CRAFT AND PRIOR YR PROGRAM COST</b>		
017	ADVANCE PROCUREMENT (CY) .....	307,300	307,300
018	OUTFITTING .....	309,648	309,648
020	LCAC SLEP .....	47,930	47,930
021	COMPLETION OF PY SHIPBUILDING PROGRAMS .....	372,573	372,573
	<b>TOTAL SHIPBUILDING &amp; CONVERSION, NAVY .....</b>	<b>13,579,845</b>	<b>14,258,524</b>
	<b>PROCUREMENT OF AMMO, NAVY &amp; MC</b>		
	<b>NAVY AMMUNITION</b>		
001	GENERAL PURPOSE BOMBS .....	27,024	27,024
002	AIRBORNE ROCKETS, ALL TYPES .....	56,575	56,575
003	MACHINE GUN AMMUNITION .....	21,266	21,266
004	PRACTICE BOMBS .....	34,319	34,319
005	CARTRIDGES & CART ACTUATED DEVICES .....	53,755	53,755
006	AIR EXPENDABLE COUNTERMEASURES .....	61,693	60,693
	ALE–55 cost growth .....		[–1,000]
007	JATOS .....	2,776	2,776
008	LRLAP 6" LONG RANGE ATTACK PROJECTILE .....	7,102	7,102
009	5 INCH/54 GUN AMMUNITION .....	48,320	48,320
010	INTERMEDIATE CALIBER GUN AMMUNITION .....	25,544	25,544
011	OTHER SHIP GUN AMMUNITION .....	41,624	38,884
	30MM x 173 linked cartridge contract delay .....		[–2,740]
012	SMALL ARMS & LANDING PARTY AMMO .....	65,893	65,247
	M18A1 mine cost growth .....		[–646]
013	PYROTECHNIC AND DEMOLITION .....	11,176	11,176
014	AMMUNITION LESS THAN \$5 MILLION .....	4,116	4,116
	<b>MARINE CORPS AMMUNITION</b>		
015	SMALL ARMS AMMUNITION .....	83,733	83,733
016	LINEAR CHARGES, ALL TYPES .....	24,645	24,645
017	40 MM, ALL TYPES .....	16,201	16,201
019	81MM, ALL TYPES .....	13,711	3,711
	Excess to need .....		[–10,000]
020	120MM, ALL TYPES .....	12,557	12,557
022	GRENADES, ALL TYPES .....	7,634	7,134
	Excess to need .....		[–500]
023	ROCKETS, ALL TYPES .....	27,528	27,528
024	ARTILLERY, ALL TYPES .....	93,065	76,459
	Prior year funds available .....		[–16,606]

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
025	DEMOLITION MUNITIONS, ALL TYPES .....	2,047	0
	Excess to need .....		[–2,047]
026	FUZE, ALL TYPES .....	5,297	5,297
027	NON LETHALS .....	1,362	1,362
028	AMMO MODERNIZATION .....	4,566	4,566
029	ITEMS LESS THAN \$5 MILLION .....	6,010	6,010
	<b>TOTAL PROCUREMENT OF AMMO, NAVY &amp; MC .....</b>	<b>759,539</b>	<b>726,000</b>
	<b>OTHER PROCUREMENT, NAVY</b>		
	<b>SHIP PROPULSION EQUIPMENT</b>		
001	LM–2500 GAS TURBINE .....	10,658	10,658
002	ALLISON 501K GAS TURBINE .....	8,469	8,469
	<b>NAVIGATION EQUIPMENT</b>		
003	OTHER NAVIGATION EQUIPMENT .....	23,392	23,392
	<b>PERISCOPES</b>		
004	SUB PERISCOPES & IMAGING EQUIP .....	53,809	53,809
	<b>OTHER SHIPBOARD EQUIPMENT</b>		
005	DDG MOD .....	452,371	452,371
006	FIREFIGHTING EQUIPMENT .....	16,958	16,958
007	COMMAND AND CONTROL SWITCHBOARD .....	2,492	2,492
008	POLLUTION CONTROL EQUIPMENT .....	20,707	20,707
009	SUBMARINE SUPPORT EQUIPMENT .....	12,046	12,046
010	VIRGINIA CLASS SUPPORT EQUIPMENT .....	79,870	79,870
011	LCS CLASS SUPPORT EQUIPMENT .....	19,865	19,865
012	SUBMARINE BATTERIES .....	41,522	41,522
013	LPD CLASS SUPPORT EQUIPMENT .....	30,543	30,543
014	STRATEGIC PLATFORM SUPPORT EQUIP .....	16,257	16,257
015	DSSP EQUIPMENT .....	3,630	3,630
016	CG MODERNIZATION .....	101,000	184,972
	Cruiser retention .....		[83,972]
017	LCAC .....	16,645	16,645
018	UNDERWATER EOD PROGRAMS .....	35,446	35,446
019	ITEMS LESS THAN \$5 MILLION .....	65,998	65,998
020	CHEMICAL WARFARE DETECTORS .....	4,359	4,359
021	SUBMARINE LIFE SUPPORT SYSTEM .....	10,218	10,218
	<b>REACTOR PLANT EQUIPMENT</b>		
022	REACTOR POWER UNITS .....	286,859	286,859
023	REACTOR COMPONENTS .....	278,503	278,503
	<b>OCEAN ENGINEERING</b>		
024	DIVING AND SALVAGE EQUIPMENT .....	8,998	8,998
	<b>SMALL BOATS</b>		
025	STANDARD BOATS .....	30,131	30,131
	<b>TRAINING EQUIPMENT</b>		
026	OTHER SHIPS TRAINING EQUIPMENT .....	29,772	29,772
	<b>PRODUCTION FACILITIES EQUIPMENT</b>		
027	OPERATING FORCES IPE .....	64,346	64,346
	<b>OTHER SHIP SUPPORT</b>		
028	NUCLEAR ALTERATIONS .....	154,652	154,652
029	LCS COMMON MISSION MODULES EQUIPMENT .....	31,319	31,319
030	LCS MCM MISSION MODULES .....	38,392	38,392
031	LCS SUW MISSION MODULES .....	32,897	32,897
	<b>LOGISTIC SUPPORT</b>		
032	LSD MIDLIFE .....	49,758	49,758
	<b>SHIP SONARS</b>		
034	SPQ–9B RADAR .....	19,777	19,777
035	AN/SQQ–89 SURF ASW COMBAT SYSTEM .....	89,201	89,201
036	SSN ACOUSTICS .....	190,874	190,874
037	UNDERSEA WARFARE SUPPORT EQUIPMENT .....	17,035	17,035
038	SONAR SWITCHES AND TRANSDUCERS .....	13,410	13,410
	<b>ASW ELECTRONIC EQUIPMENT</b>		
040	SUBMARINE ACOUSTIC WARFARE SYSTEM .....	21,489	19,532
	Contract award delays for launch tube and MK3 .....		[–1,957]
041	SSTD .....	10,716	10,716
042	FIXED SURVEILLANCE SYSTEM .....	98,896	98,896
043	SURTASS .....	2,774	2,774
044	MARITIME PATROL AND RECONNSAISANCE FORCE .....	18,428	18,428
	<b>ELECTRONIC WARFARE EQUIPMENT</b>		

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
045	AN/SLQ-32 .....	92,270	92,270
	<b>RECONNAISSANCE EQUIPMENT</b>		
046	SHIPBOARD IW EXPLOIT .....	107,060	107,060
047	AUTOMATED IDENTIFICATION SYSTEM (AIS) .....	914	914
	<b>SUBMARINE SURVEILLANCE EQUIPMENT</b>		
048	SUBMARINE SUPPORT EQUIPMENT PROG .....	34,050	34,050
	<b>OTHER SHIP ELECTRONIC EQUIPMENT</b>		
049	COOPERATIVE ENGAGEMENT CAPABILITY .....	27,881	22,191
	Excess PAAA backfit installation funding .....		[-615]
	Excess signal data processor backfit kit installation funding .....		[-2,725]
	Signal data processor backfit kit contract delay .....		[-1,350]
	Support funding carryover .....		[-1,000]
050	TRUSTED INFORMATION SYSTEM (TIS) .....	448	448
051	NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS) ..	35,732	35,732
053	NAVY COMMAND AND CONTROL SYSTEM (NCCS) .....	9,533	9,533
054	MINESWEEPING SYSTEM REPLACEMENT .....	60,111	60,111
055	SHALLOW WATER MCM .....	6,950	6,950
056	NAVSTAR GPS RECEIVERS (SPACE) .....	9,089	9,089
057	AMERICAN FORCES RADIO AND TV SERVICE .....	7,768	7,768
058	STRATEGIC PLATFORM SUPPORT EQUIP .....	3,614	3,614
	<b>TRAINING EQUIPMENT</b>		
059	OTHER TRAINING EQUIPMENT .....	42,911	42,911
	<b>AVIATION ELECTRONIC EQUIPMENT</b>		
060	MATCALs .....	5,861	5,861
061	SHIPBOARD AIR TRAFFIC CONTROL .....	8,362	8,362
062	AUTOMATIC CARRIER LANDING SYSTEM .....	15,685	15,685
063	NATIONAL AIR SPACE SYSTEM .....	16,919	16,919
064	FLEET AIR TRAFFIC CONTROL SYSTEMS .....	6,828	6,828
065	LANDING SYSTEMS .....	7,646	7,646
066	ID SYSTEMS .....	35,474	35,474
067	NAVAL MISSION PLANNING SYSTEMS .....	9,958	9,958
	<b>OTHER SHORE ELECTRONIC EQUIPMENT</b>		
068	DEPLOYABLE JOINT COMMAND AND CONT .....	9,064	9,064
069	MARITIME INTEGRATED BROADCAST SYSTEM .....	16,026	16,026
070	TACTICAL/MOBILE C4I SYSTEMS .....	11,886	11,886
071	DCGS-N .....	11,887	11,887
072	CANES .....	341,398	320,874
	Contract delay (DDG-51 class) .....		[-7,734]
	Contract delay (LHD-7) .....		[-8,305]
	Excess ADNS installation (afloat) funding .....		[-2,070]
	Excess ADNS installation (ashore) funding .....		[-2,415]
073	RADIAC .....	8,083	8,083
074	CANES-INTELL .....	79,427	79,427
075	GPETE .....	6,083	6,083
076	INTEG COMBAT SYSTEM TEST FACILITY .....	4,495	4,495
077	EMI CONTROL INSTRUMENTATION .....	4,767	4,767
078	ITEMS LESS THAN \$5 MILLION .....	81,755	81,755
	<b>SHIPBOARD COMMUNICATIONS</b>		
080	SHIP COMMUNICATIONS AUTOMATION .....	56,870	56,870
081	MARITIME DOMAIN AWARENESS (MDA) .....	1,063	1,063
082	COMMUNICATIONS ITEMS UNDER \$5M .....	28,522	28,522
	<b>SUBMARINE COMMUNICATIONS</b>		
083	SUBMARINE BROADCAST SUPPORT .....	4,183	4,183
084	SUBMARINE COMMUNICATION EQUIPMENT .....	69,025	69,025
	<b>SATELLITE COMMUNICATIONS</b>		
085	SATELLITE COMMUNICATIONS SYSTEMS .....	49,294	51,294
	SPIDERNet/Spectral Warrior Hardware .....		[2,000]
086	NAVY MULTIBAND TERMINAL (NMT) .....	184,825	184,825
	<b>SHORE COMMUNICATIONS</b>		
087	JCS COMMUNICATIONS EQUIPMENT .....	2,180	2,180
088	ELECTRICAL POWER SYSTEMS .....	1,354	1,354
	<b>CRYPTOGRAPHIC EQUIPMENT</b>		
090	INFO SYSTEMS SECURITY PROGRAM (ISSP) .....	144,104	144,104
	<b>CRYPTOLOGIC EQUIPMENT</b>		
091	CRYPTOLOGIC COMMUNICATIONS EQUIP .....	12,604	12,604
	<b>OTHER ELECTRONIC SUPPORT</b>		
092	COAST GUARD EQUIPMENT .....	6,680	6,680

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	<b>SONOBUOYS</b>		
095	SONOBUOYS—ALL TYPES .....	104,677	104,677
	<b>AIRCRAFT SUPPORT EQUIPMENT</b>		
096	WEAPONS RANGE SUPPORT EQUIPMENT .....	70,753	70,753
097	EXPEDITIONARY AIRFIELDS .....	8,678	8,678
098	AIRCRAFT REARMING EQUIPMENT .....	11,349	11,349
099	AIRCRAFT LAUNCH & RECOVERY EQUIPMENT .....	82,618	81,980
	ADMACS installation cost growth .....		[–638]
100	METEOROLOGICAL EQUIPMENT .....	18,339	18,339
101	DCRS/DPL .....	1,414	1,414
102	AVIATION LIFE SUPPORT .....	40,475	40,475
103	AIRBORNE MINE COUNTERMEASURES .....	61,552	61,552
104	LAMPS MK III SHIPBOARD EQUIPMENT .....	18,771	18,771
105	PORTABLE ELECTRONIC MAINTENANCE AIDS .....	7,954	7,954
106	OTHER AVIATION SUPPORT EQUIPMENT .....	10,023	10,023
107	AUTONOMIC LOGISTICS INFORMATION SYSTEM (ALIS) .....	3,826	3,826
	<b>SHIP GUN SYSTEM EQUIPMENT</b>		
108	NAVAL FIRES CONTROL SYSTEM .....	3,472	3,472
109	GUN FIRE CONTROL EQUIPMENT .....	4,528	4,528
	<b>SHIP MISSILE SYSTEMS EQUIPMENT</b>		
110	NATO SEASPARROW .....	8,960	8,960
111	RAM GMLS .....	1,185	1,185
112	SHIP SELF DEFENSE SYSTEM .....	55,371	55,371
113	AEGIS SUPPORT EQUIPMENT .....	81,614	81,614
114	TOMAHAWK SUPPORT EQUIPMENT .....	77,767	72,267
	Production support funding growth .....		[–5,500]
115	VERTICAL LAUNCH SYSTEMS .....	754	754
116	MARITIME INTEGRATED PLANNING SYSTEM-MIPS .....	4,965	4,965
	<b>FBM SUPPORT EQUIPMENT</b>		
117	STRATEGIC MISSILE SYSTEMS EQUIP .....	181,049	181,049
	<b>ASW SUPPORT EQUIPMENT</b>		
118	SSN COMBAT CONTROL SYSTEMS .....	71,316	71,316
119	SUBMARINE ASW SUPPORT EQUIPMENT .....	4,018	4,018
120	SURFACE ASW SUPPORT EQUIPMENT .....	6,465	6,465
121	ASW RANGE SUPPORT EQUIPMENT .....	47,930	47,930
	<b>OTHER ORDNANCE SUPPORT EQUIPMENT</b>		
122	EXPLOSIVE ORDNANCE DISPOSAL EQUIP .....	3,579	3,579
123	ITEMS LESS THAN \$5 MILLION .....	3,125	3,125
	<b>OTHER EXPENDABLE ORDNANCE</b>		
124	ANTI-SHIP MISSILE DECOY SYSTEM .....	31,743	29,743
	Support funding growth .....		[–2,000]
125	SURFACE TRAINING DEVICE MODS .....	34,174	34,174
126	SUBMARINE TRAINING DEVICE MODS .....	23,450	23,450
	<b>CIVIL ENGINEERING SUPPORT EQUIPMENT</b>		
127	PASSENGER CARRYING VEHICLES .....	7,158	7,158
128	GENERAL PURPOSE TRUCKS .....	3,325	3,325
129	CONSTRUCTION & MAINTENANCE EQUIP .....	8,692	8,692
130	FIRE FIGHTING EQUIPMENT .....	14,533	14,533
131	TACTICAL VEHICLES .....	15,330	15,330
132	AMPHIBIOUS EQUIPMENT .....	10,803	10,803
133	POLLUTION CONTROL EQUIPMENT .....	7,265	7,265
134	ITEMS UNDER \$5 MILLION .....	15,252	15,252
135	PHYSICAL SECURITY VEHICLES .....	1,161	1,161
	<b>SUPPLY SUPPORT EQUIPMENT</b>		
136	MATERIALS HANDLING EQUIPMENT .....	15,204	15,204
137	OTHER SUPPLY SUPPORT EQUIPMENT .....	6,330	6,330
138	FIRST DESTINATION TRANSPORTATION .....	6,539	6,539
139	SPECIAL PURPOSE SUPPLY SYSTEMS .....	34,804	34,804
	<b>TRAINING DEVICES</b>		
140	TRAINING SUPPORT EQUIPMENT .....	25,444	25,444
	<b>COMMAND SUPPORT EQUIPMENT</b>		
141	COMMAND SUPPORT EQUIPMENT .....	43,165	43,165
142	EDUCATION SUPPORT EQUIPMENT .....	2,251	2,251
143	MEDICAL SUPPORT EQUIPMENT .....	3,148	3,148
146	NAVAL MIP SUPPORT EQUIPMENT .....	3,502	3,502
148	OPERATING FORCES SUPPORT EQUIPMENT .....	15,696	15,696
149	C4ISR EQUIPMENT .....	4,344	4,344



SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
150	ENVIRONMENTAL SUPPORT EQUIPMENT .....	19,492	19,492
151	PHYSICAL SECURITY EQUIPMENT .....	177,149	177,149
152	ENTERPRISE INFORMATION TECHNOLOGY .....	183,995	183,995
	<b>CLASSIFIED PROGRAMS</b>		
152A	CLASSIFIED PROGRAMS .....	13,063	13,063
	<b>SPARES AND REPAIR PARTS</b>		
153	SPARES AND REPAIR PARTS .....	250,718	250,718
	<b>TOTAL OTHER PROCUREMENT, NAVY .....</b>	<b>6,169,378</b>	<b>6,219,041</b>
	<b>PROCUREMENT, MARINE CORPS</b>		
	<b>TRACKED COMBAT VEHICLES</b>		
001	AAV7A1 PIP .....	16,089	16,089
002	LAV PIP .....	186,216	45,342
	Budget adjustment per USMC .....		[–140,874]
	<b>ARTILLERY AND OTHER WEAPONS</b>		
003	EXPEDITIONARY FIRE SUPPORT SYSTEM .....	2,502	2,502
004	155MM LIGHTWEIGHT TOWED HOWITZER .....	17,913	17,913
005	HIGH MOBILITY ARTILLERY ROCKET SYSTEM .....	47,999	47,999
006	WEAPONS AND COMBAT VEHICLES UNDER \$5 MILLION ....	17,706	17,706
	<b>OTHER SUPPORT</b>		
007	MODIFICATION KITS .....	48,040	48,040
008	WEAPONS ENHANCEMENT PROGRAM .....	4,537	4,537
	<b>GUIDED MISSILES</b>		
009	GROUND BASED AIR DEFENSE .....	11,054	11,054
011	FOLLOW ON TO SMAW .....	19,650	19,650
012	ANTI-ARMOR WEAPONS SYSTEM-HEAVY (AAWS-H) .....	20,708	20,708
	<b>COMMAND AND CONTROL SYSTEMS</b>		
014	UNIT OPERATIONS CENTER .....	1,420	1,420
	<b>REPAIR AND TEST EQUIPMENT</b>		
015	REPAIR AND TEST EQUIPMENT .....	25,127	25,127
	<b>OTHER SUPPORT (TEL)</b>		
016	COMBAT SUPPORT SYSTEM .....	25,822	25,822
017	MODIFICATION KITS .....	2,831	2,831
	<b>COMMAND AND CONTROL SYSTEM (NON-TEL)</b>		
018	ITEMS UNDER \$5 MILLION (COMM & ELEC) .....	5,498	5,498
019	AIR OPERATIONS C2 SYSTEMS .....	11,290	11,290
	<b>RADAR + EQUIPMENT (NON-TEL)</b>		
020	RADAR SYSTEMS .....	128,079	128,079
021	RQ–21 UAS .....	27,619	27,619
	<b>INTELL/COMM EQUIPMENT (NON-TEL)</b>		
022	FIRE SUPPORT SYSTEM .....	7,319	7,319
023	INTELLIGENCE SUPPORT EQUIPMENT .....	7,466	7,466
025	RQ–11 UAV .....	2,318	2,318
026	DCGS-MC .....	18,291	18,291
	<b>OTHER COMM/ELEC EQUIPMENT (NON-TEL)</b>		
029	NIGHT VISION EQUIPMENT .....	48,084	48,084
	<b>OTHER SUPPORT (NON-TEL)</b>		
030	COMMON COMPUTER RESOURCES .....	206,708	206,708
031	COMMAND POST SYSTEMS .....	35,190	35,190
032	RADIO SYSTEMS .....	89,059	89,059
033	COMM SWITCHING & CONTROL SYSTEMS .....	22,500	22,500
034	COMM & ELEC INFRASTRUCTURE SUPPORT .....	42,625	42,625
	<b>CLASSIFIED PROGRAMS</b>		
035A	CLASSIFIED PROGRAMS .....	2,290	2,290
	<b>ADMINISTRATIVE VEHICLES</b>		
035	COMMERCIAL PASSENGER VEHICLES .....	2,877	2,877
036	COMMERCIAL CARGO VEHICLES .....	13,960	13,960
	<b>TACTICAL VEHICLES</b>		
037	5/4T TRUCK HMMWV (MYP) .....	8,052	8,052
038	MOTOR TRANSPORT MODIFICATIONS .....	50,269	50,269
040	LOGISTICS VEHICLE SYSTEM REP .....	37,262	37,262
041	FAMILY OF TACTICAL TRAILERS .....	48,160	48,160
	<b>OTHER SUPPORT</b>		
043	ITEMS LESS THAN \$5 MILLION .....	6,705	6,705
	<b>ENGINEER AND OTHER EQUIPMENT</b>		
044	ENVIRONMENTAL CONTROL EQUIP ASSORT .....	13,576	13,576
045	BULK LIQUID EQUIPMENT .....	16,869	16,869

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
046	TACTICAL FUEL SYSTEMS .....	19,108	19,108
047	POWER EQUIPMENT ASSORTED .....	56,253	56,253
048	AMPHIBIOUS SUPPORT EQUIPMENT .....	13,089	13,089
049	EOD SYSTEMS .....	73,699	73,699
	<b>MATERIALS HANDLING EQUIPMENT</b>		
050	PHYSICAL SECURITY EQUIPMENT .....	3,510	3,510
051	GARRISON MOBILE ENGINEER EQUIPMENT (GMEE) .....	11,490	11,490
052	MATERIAL HANDLING EQUIP .....	20,659	20,659
053	FIRST DESTINATION TRANSPORTATION .....	132	132
	<b>GENERAL PROPERTY</b>		
054	FIELD MEDICAL EQUIPMENT .....	31,068	31,068
055	TRAINING DEVICES .....	45,895	45,895
056	CONTAINER FAMILY .....	5,801	5,801
057	FAMILY OF CONSTRUCTION EQUIPMENT .....	23,939	23,939
060	RAPID DEPLOYABLE KITCHEN .....	8,365	8,365
	<b>OTHER SUPPORT</b>		
061	ITEMS LESS THAN \$5 MILLION .....	7,077	7,077
	<b>SPARES AND REPAIR PARTS</b>		
062	SPARES AND REPAIR PARTS .....	3,190	3,190
	<b>TOTAL PROCUREMENT, MARINE CORPS .....</b>	<b>1,622,955</b>	<b>1,482,081</b>
	<b>AIRCRAFT PROCUREMENT, AIR FORCE</b>		
	<b>TACTICAL FORCES</b>		
001	F-35 .....	3,124,302	3,124,302
002	ADVANCE PROCUREMENT (CY) .....	293,400	293,400
	<b>OTHER AIRLIFT</b>		
005	C-130J .....	68,373	68,373
007	HC-130J .....	152,212	152,212
009	MC-130J .....	374,866	374,866
	<b>HELICOPTERS</b>		
015	HH-60 LOSS REPLACEMENT/RECAP .....	60,596	60,596
017	CV-22 (MYP) .....	294,220	294,220
018	ADVANCE PROCUREMENT (CY) .....	15,000	15,000
	<b>MISSION SUPPORT AIRCRAFT</b>		
019	CIVIL AIR PATROL A/C .....	2,498	2,498
	<b>OTHER AIRCRAFT</b>		
024	TARGET DRONES .....	129,866	129,866
026	RQ-4 .....	75,000	180,200
	Sustain current force structure .....		[105,200]
028	AC-130J .....	163,970	163,970
030	MQ-9 .....	553,530	708,530
	Additional aircraft .....		[155,000]
031	RQ-4 BLOCK 40 PROC .....	11,654	11,654
	<b>STRATEGIC AIRCRAFT</b>		
032	B-2A .....	82,296	82,296
033	B-1B .....	149,756	149,756
034	B-52 .....	9,781	9,781
035	LARGE AIRCRAFT INFRARED COUNTERMEASURES .....	28,800	28,800
	<b>TACTICAL AIRCRAFT</b>		
036	A-10 .....	89,919	173,919
	Retain A-10 force structure .....		[84,000]
037	F-15 .....	148,378	148,378
038	F-16 .....	6,896	6,896
039	F-22A .....	283,871	283,871
040	F-35 MODIFICATIONS .....	147,995	147,995
	<b>AIRLIFT AIRCRAFT</b>		
041	C-5 .....	6,967	6,967
043	C-5M .....	944,819	879,819
	Inflation adjustment and installation efficiencies .....		[-65,000]
044	ADVANCE PROCUREMENT (CY) .....	175,800	175,800
046	C-17A .....	205,079	205,079
047	C-21 .....	199	199
048	C-32A .....	1,750	1,750
049	C-37A .....	445	445
	<b>TRAINER AIRCRAFT</b>		
051	GLIDER MODS .....	126	126
052	T-6 .....	15,494	15,494

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
053	T-1 .....	272	272
054	T-38 .....	20,455	20,455
	<b>OTHER AIRCRAFT</b>		
056	U-2 MODS .....	44,477	44,477
057	KC-10A (ATCA) .....	46,921	46,921
058	C-12 .....	1,876	1,876
059	MC-12W .....	17,054	17,054
060	C-20 MODS .....	243	243
061	VC-25A MOD .....	11,185	11,185
062	C-40 .....	243	243
063	C-130 .....	67,853	67,853
065	C-130J MODS .....	70,555	70,555
066	C-135 .....	46,707	46,707
067	COMPASS CALL MODS .....	50,024	50,024
068	RC-135 .....	165,237	165,237
069	E-3 .....	193,099	193,099
070	E-4 .....	47,616	47,616
071	E-8 .....	59,320	59,320
072	H-1 .....	5,449	5,449
073	H-60 .....	26,227	26,227
074	RQ-4 MODS .....	9,257	9,257
075	HC/MC-130 MODIFICATIONS .....	22,326	22,326
076	OTHER AIRCRAFT .....	18,832	18,832
077	MQ-1 MODS .....	30,861	30,861
078	MQ-9 MODS .....	238,360	238,360
079	MQ-9 UAS PAYLOADS .....	93,461	93,461
080	CV-22 MODS .....	23,881	23,881
	<b>AIRCRAFT SPARES AND REPAIR PARTS</b>		
081	INITIAL SPARES/REPAIR PARTS .....	729,691	729,691
	<b>COMMON SUPPORT EQUIPMENT</b>		
082	AIRCRAFT REPLACEMENT SUPPORT EQUIP .....	56,542	56,542
	<b>POST PRODUCTION SUPPORT</b>		
083	A-10 .....	5,100	5,100
084	B-1 .....	965	965
086	B-2A .....	47,580	47,580
088	KC-10A (ATCA) .....	13,100	13,100
089	C-17A .....	181,703	181,703
090	C-130 .....	31,830	31,830
091	C-135 .....	13,434	13,434
092	F-15 .....	2,363	2,363
093	F-16 .....	8,506	5,906
	Production line shutdown—excess to need .....		[-2,600]
096	OTHER AIRCRAFT .....	9,522	9,522
	<b>INDUSTRIAL PREPAREDNESS</b>		
097	INDUSTRIAL RESPONSIVENESS .....	20,731	20,731
	<b>WAR CONSUMABLES</b>		
098	WAR CONSUMABLES .....	89,727	89,727
	<b>OTHER PRODUCTION CHARGES</b>		
099	OTHER PRODUCTION CHARGES .....	842,392	842,392
	<b>CLASSIFIED PROGRAMS</b>		
103A	CLASSIFIED PROGRAMS .....	20,164	20,164
	<b>TOTAL AIRCRAFT PROCUREMENT, AIR FORCE ....</b>	<b>11,002,999</b>	<b>11,279,599</b>
	<b>PROCUREMENT OF AMMUNITION, AIR FORCE</b>		
	<b>ROCKETS</b>		
001	ROCKETS .....	8,927	8,927
	<b>CARTRIDGES</b>		
002	CARTRIDGES .....	118,075	118,075
	<b>BOMBS</b>		
003	PRACTICE BOMBS .....	32,393	32,393
004	GENERAL PURPOSE BOMBS .....	163,467	163,467
005	JOINT DIRECT ATTACK MUNITION .....	101,921	101,921
	<b>FLARE, IR MJU-7B</b>		
006	CAD/PAD .....	43,829	43,829
007	EXPLOSIVE ORDNANCE DISPOSAL (EOD) .....	7,515	7,515
008	SPARES AND REPAIR PARTS .....	1,003	1,003
009	MODIFICATIONS .....	5,321	5,321

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
010	ITEMS LESS THAN \$5 MILLION .....	5,066	5,066
	<b>FUZES</b>		
011	FLARES .....	46,010	46,010
012	FUZES .....	36,444	36,444
	<b>SMALL ARMS</b>		
013	SMALL ARMS .....	29,223	29,223
	<b>TOTAL PROCUREMENT OF AMMUNITION, AIR FORCE.</b>	<b>599,194</b>	<b>599,194</b>
	<b>MISSILE PROCUREMENT, AIR FORCE</b>		
	<b>MISSILE REPLACEMENT EQUIPMENT—BALLISTIC</b>		
001	MISSILE REPLACEMENT EQ-BALLISTIC .....	56,906	56,906
	<b>TACTICAL</b>		
002	JASSM .....	240,399	240,399
003	SIDEWINDER (AIM-9X) .....	88,020	88,020
004	AMRAAM .....	229,637	206,937
	Missile unit cost adjustment .....		[-22,700]
005	PREDATOR HELLFIRE MISSILE .....	47,675	47,675
006	SMALL DIAMETER BOMB .....	42,000	42,000
	<b>INDUSTRIAL FACILITIES</b>		
007	INDUSTRL PREPAREDNS/POL PREVENTION .....	744	744
	<b>CLASS IV</b>		
009	MM III MODIFICATIONS .....	54,794	54,794
010	AGM-65D MAVERICK .....	271	271
011	AGM-88A HARM .....	23,240	23,240
012	AIR LAUNCH CRUISE MISSILE (ALCM) .....	13,620	13,620
013	SMALL DIAMETER BOMB .....	5,000	5,000
	<b>MISSILE SPARES AND REPAIR PARTS</b>		
014	INITIAL SPARES/REPAIR PARTS .....	74,373	74,373
	<b>SPACE PROGRAMS</b>		
015	ADVANCED EHF .....	557,205	547,205
	Schedule Delay Due to Late AP Award .....		[-10,000]
017	WIDEBAND GAFILLER SATELLITES(SPACE) .....	36,835	36,835
019	GPS III SPACE SEGMENT .....	410,294	410,294
020	ADVANCE PROCUREMENT (CY) .....	82,616	82,616
021	SPACEBORNE EQUIP (COMSEC) .....	10,554	10,554
022	GLOBAL POSITIONING (SPACE) .....	58,147	58,147
023	DEF METEOROLOGICAL SAT PROG(SPACE) .....	89,022	89,022
024	EVOLVED EXPENDABLE LAUNCH VEH(SPACE) .....	1,679,856	1,679,856
025	SBIR HIGH (SPACE) .....	454,251	454,251
	<b>SPECIAL PROGRAMS</b>		
030	SPECIAL UPDATE PROGRAMS .....	138,904	138,904
	<b>CLASSIFIED PROGRAMS</b>		
030A	CLASSIFIED PROGRAMS .....	1,097,483	1,097,483
	<b>TOTAL MISSILE PROCUREMENT, AIR FORCE .....</b>	<b>5,491,846</b>	<b>5,459,146</b>
	<b>OTHER PROCUREMENT, AIR FORCE</b>		
	<b>PASSENGER CARRYING VEHICLES</b>		
001	PASSENGER CARRYING VEHICLES .....	1,905	1,905
	<b>CARGO AND UTILITY VEHICLES</b>		
002	MEDIUM TACTICAL VEHICLE .....	18,547	18,547
003	CAP VEHICLES .....	932	932
004	ITEMS LESS THAN \$5 MILLION .....	1,699	1,699
	<b>SPECIAL PURPOSE VEHICLES</b>		
005	SECURITY AND TACTICAL VEHICLES .....	10,850	10,850
006	ITEMS LESS THAN \$5 MILLION .....	9,246	9,246
	<b>FIRE FIGHTING EQUIPMENT</b>		
007	FIRE FIGHTING/CRASH RESCUE VEHICLES .....	23,148	23,148
	<b>MATERIALS HANDLING EQUIPMENT</b>		
008	ITEMS LESS THAN \$5 MILLION .....	18,323	18,323
	<b>BASE MAINTENANCE SUPPORT</b>		
009	RUNWAY SNOW REMOV AND CLEANING EQU .....	1,685	1,685
010	ITEMS LESS THAN \$5 MILLION .....	17,014	17,014
	<b>COMM SECURITY EQUIPMENT(COMSEC)</b>		
012	COMSEC EQUIPMENT .....	166,559	166,559
013	MODIFICATIONS (COMSEC) .....	1,133	1,133
	<b>INTELLIGENCE PROGRAMS</b>		

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
014	INTELLIGENCE TRAINING EQUIPMENT .....	2,749	2,749
015	INTELLIGENCE COMM EQUIPMENT .....	32,876	32,876
016	ADVANCE TECH SENSORS .....	877	877
017	MISSION PLANNING SYSTEMS .....	15,295	15,295
	<b>ELECTRONICS PROGRAMS</b>		
018	AIR TRAFFIC CONTROL & LANDING SYS .....	21,984	21,984
019	NATIONAL AIRSPACE SYSTEM .....	30,698	30,698
020	BATTLE CONTROL SYSTEM—FIXED .....	17,368	17,368
021	THEATER AIR CONTROL SYS IMPROVEMENTS .....	23,483	23,483
022	WEATHER OBSERVATION FORECAST .....	17,864	17,864
023	STRATEGIC COMMAND AND CONTROL .....	53,995	34,995
	Early to need .....		[–19,000]
024	CHEYENNE MOUNTAIN COMPLEX .....	14,578	14,578
025	TAC SIGINT SPT .....	208	208
	<b>SPCL COMM-ELECTRONICS PROJECTS</b>		
027	GENERAL INFORMATION TECHNOLOGY .....	69,743	69,743
028	AF GLOBAL COMMAND & CONTROL SYS .....	15,829	63,029
	Add MQ–1/9 RSO–SOC Procurement .....		[9,900]
	Establish ANG Targeting Unit–Workstation Procurement .....		[37,300]
029	MOBILITY COMMAND AND CONTROL .....	11,023	11,023
030	AIR FORCE PHYSICAL SECURITY SYSTEM .....	64,521	64,521
031	COMBAT TRAINING RANGES .....	18,217	18,217
032	C3 COUNTERMEASURES .....	11,899	11,899
033	GCSS-AF FOS .....	13,920	13,920
034	THEATER BATTLE MGT C2 SYSTEM .....	9,365	9,365
035	AIR & SPACE OPERATIONS CTR-WPN SYS .....	33,907	33,907
	<b>AIR FORCE COMMUNICATIONS</b>		
036	INFORMATION TRANSPORT SYSTEMS .....	52,464	52,464
038	AFNET .....	125,788	125,788
039	VOICE SYSTEMS .....	16,811	16,811
040	USCENTCOM .....	32,138	32,138
	<b>DISA PROGRAMS</b>		
041	SPACE BASED IR SENSOR PGM SPACE .....	47,135	47,135
042	NAVSTAR GPS SPACE .....	2,031	2,031
043	NUDET DETECTION SYS SPACE .....	5,564	5,564
044	AF SATELLITE CONTROL NETWORK SPACE .....	44,219	44,219
045	SPACELIFT RANGE SYSTEM SPACE .....	109,545	109,545
046	MILSATCOM SPACE .....	47,592	47,592
047	SPACE MODS SPACE .....	47,121	47,121
048	COUNTERSPACE SYSTEM .....	20,961	20,961
	<b>ORGANIZATION AND BASE</b>		
049	TACTICAL C-E EQUIPMENT .....	126,131	126,131
050	COMBAT SURVIVOR EVADER LOCATER .....	23,707	23,707
051	RADIO EQUIPMENT .....	12,757	12,757
052	CCTV/AUDIOVISUAL EQUIPMENT .....	10,716	10,716
053	BASE COMM INFRASTRUCTURE .....	74,528	74,528
	<b>MODIFICATIONS</b>		
054	COMM ELECT MODS .....	43,507	43,507
	<b>PERSONAL SAFETY &amp; RESCUE EQUIP</b>		
055	NIGHT VISION GOGGLES .....	22,693	22,693
056	ITEMS LESS THAN \$5 MILLION .....	30,887	30,887
	<b>DEPOT PLANT+MTRLS HANDLING EQ</b>		
057	MECHANIZED MATERIAL HANDLING EQUIP .....	2,850	2,850
	<b>BASE SUPPORT EQUIPMENT</b>		
058	BASE PROCURED EQUIPMENT .....	8,387	8,387
059	CONTINGENCY OPERATIONS .....	10,358	10,358
060	PRODUCTIVITY CAPITAL INVESTMENT .....	3,473	3,473
062	MOBILITY EQUIPMENT .....	14,471	14,471
063	ITEMS LESS THAN \$5 MILLION .....	1,894	1,894
	<b>SPECIAL SUPPORT PROJECTS</b>		
065	DARP RC135 .....	24,176	24,176
066	DCGS-AF .....	142,928	142,928
068	SPECIAL UPDATE PROGRAM .....	479,446	479,446
069	DEFENSE SPACE RECONNAISSANCE PROG. ....	39,155	39,155
	<b>CLASSIFIED PROGRAMS</b>		
069A	CLASSIFIED PROGRAMS .....	14,331,312	14,331,312
	<b>SPARES AND REPAIR PARTS</b>		

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
071	SPARES AND REPAIR PARTS .....	14,663	14,663
	<b>TOTAL OTHER PROCUREMENT, AIR FORCE .....</b>	<b>16,720,848</b>	<b>16,749,048</b>
	<b>PROCUREMENT, DEFENSE-WIDE</b>		
	<b>MAJOR EQUIPMENT, DCAA</b>		
002	ITEMS LESS THAN \$5 MILLION .....	1,486	1,486
	<b>MAJOR EQUIPMENT, DCMA</b>		
003	MAJOR EQUIPMENT .....	2,129	2,129
	<b>MAJOR EQUIPMENT, DHRA</b>		
005	PERSONNEL ADMINISTRATION .....	6,147	6,147
	<b>MAJOR EQUIPMENT, DISA</b>		
012	INFORMATION SYSTEMS SECURITY .....	12,708	12,708
014	GLOBAL COMBAT SUPPORT SYSTEM .....	3,002	3,002
015	TELEPORT PROGRAM .....	46,992	46,992
016	ITEMS LESS THAN \$5 MILLION .....	108,462	108,462
017	NET CENTRIC ENTERPRISE SERVICES (NCES) .....	2,865	2,865
018	DEFENSE INFORMATION SYSTEM NETWORK .....	116,906	116,906
019	PUBLIC KEY INFRASTRUCTURE .....	1,827	1,827
021	CYBER SECURITY INITIATIVE .....	10,319	10,319
	<b>MAJOR EQUIPMENT, DLA</b>		
022	MAJOR EQUIPMENT .....	9,575	9,575
	<b>MAJOR EQUIPMENT, DMACT</b>		
023	MAJOR EQUIPMENT .....	15,179	15,179
	<b>MAJOR EQUIPMENT, DODEA</b>		
024	AUTOMATION/EDUCATIONAL SUPPORT & LOGISTICS .....	1,458	1,458
	<b>MAJOR EQUIPMENT, DSS</b>		
026	MAJOR EQUIPMENT .....	2,522	2,522
	<b>MAJOR EQUIPMENT, DEFENSE THREAT REDUCTION AGENCY</b>		
027	VEHICLES .....	50	50
028	OTHER MAJOR EQUIPMENT .....	13,096	13,096
	<b>MAJOR EQUIPMENT, MISSILE DEFENSE AGENCY</b>		
030	THAAD .....	460,728	460,728
031	AEGIS BMD .....	389,626	389,626
032	BMDS AN/TPY–2 RADARS .....	217,244	380,244
	Procure additional AN/TPY–2 radar .....		[163,000]
033	RADAR SPARES .....	10,177	10,177
	<b>MAJOR EQUIPMENT, NSA</b>		
041	INFORMATION SYSTEMS SECURITY PROGRAM (ISSP) .....	6,770	6,770
	<b>MAJOR EQUIPMENT, OSD</b>		
042	MAJOR EQUIPMENT, OSD .....	45,938	45,938
043	MAJOR EQUIPMENT, INTELLIGENCE .....	17,582	17,582
	<b>MAJOR EQUIPMENT, TJS</b>		
044	MAJOR EQUIPMENT, TJS .....	21,878	21,878
	<b>MAJOR EQUIPMENT, WHS</b>		
045	MAJOR EQUIPMENT, WHS .....	26,550	26,550
	<b>CLASSIFIED PROGRAMS</b>		
045A	CLASSIFIED PROGRAMS .....	555,787	555,787
	<b>AVIATION PROGRAMS</b>		
046	ROTARY WING UPGRADES AND SUSTAINMENT .....	74,832	74,832
048	MH–60 MODERNIZATION PROGRAM .....	126,780	126,780
049	NON-STANDARD AVIATION .....	99,776	37,000
	Transfer to Line 051—Mission Shift .....		[–62,776]
051	U–28 .....	7,530	116,906
	Transfer from Line 049—Mission Shift .....		[62,776]
	USSOCOM UFR .....		[46,600]
052	MH–47 CHINOOK .....	134,785	134,785
053	RQ–11 UNMANNED AERIAL VEHICLE .....	2,062	2,062
054	CV–22 MODIFICATION .....	139,147	139,147
055	MQ–1 UNMANNED AERIAL VEHICLE .....	3,963	26,963
	USSOCOM UFR .....		[23,000]
056	MQ–9 UNMANNED AERIAL VEHICLE .....	3,952	39,352
	USSOCOM UFR .....		[35,400]
058	STUASLO .....	12,945	12,945
059	PRECISION STRIKE PACKAGE .....	73,013	73,013
060	AC/MC–130J .....	51,484	51,484
062	C–130 MODIFICATIONS .....	25,248	25,248

SEC. 4101. PROCUREMENT (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
063	AIRCRAFT SUPPORT .....	5,314	5,314
	<b>SHIPBUILDING</b>		
064	UNDERWATER SYSTEMS .....	23,037	15,037
	Transfer to RDDW Line 272 at USSOCOM request .....		[–8,000]
	<b>AMMUNITION PROGRAMS</b>		
066	ORDNANCE REPLENISHMENT .....	113,183	113,183
067	ORDNANCE ACQUISITION .....	36,981	36,981
	<b>OTHER PROCUREMENT PROGRAMS</b>		
068	COMMUNICATIONS EQUIPMENT AND ELECTRONICS .....	99,838	103,738
	USSOCOM UFR .....		[3,900]
069	INTELLIGENCE SYSTEMS .....	71,428	71,428
070	SMALL ARMS AND WEAPONS .....	27,108	27,108
071	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS .....	12,767	15,967
	USSOCOM UFR .....		[3,200]
074	COMBATANT CRAFT SYSTEMS .....	42,348	42,348
075	SPARES AND REPAIR PARTS .....	600	600
077	TACTICAL VEHICLES .....	37,421	37,421
078	MISSION TRAINING AND PREPARATION SYSTEMS .....	36,949	41,949
	USSOCOM UFR .....		[5,000]
079	COMBAT MISSION REQUIREMENTS .....	20,255	26,255
	AC–130 electro-optical and infrared sensors .....		[6,000]
080	MILCON COLLATERAL EQUIPMENT .....	17,590	17,590
082	AUTOMATION SYSTEMS .....	66,573	66,573
083	GLOBAL VIDEO SURVEILLANCE ACTIVITIES .....	6,549	6,549
084	OPERATIONAL ENHANCEMENTS INTELLIGENCE .....	32,335	32,335
085	SOLDIER PROTECTION AND SURVIVAL SYSTEMS .....	15,153	15,153
086	VISUAL AUGMENTATION LASERS AND SENSOR SYSTEMS .....	33,920	33,920
087	TACTICAL RADIO SYSTEMS .....	75,132	75,132
090	MISCELLANEOUS EQUIPMENT .....	6,667	6,667
091	OPERATIONAL ENHANCEMENTS .....	217,972	243,272
	USSOCOM UFR .....		[25,300]
092	MILITARY INFORMATION SUPPORT OPERATIONS .....	27,417	27,417
	<b>CBDP</b>		
093	INSTALLATION FORCE PROTECTION .....	24,025	24,025
094	INDIVIDUAL PROTECTION .....	73,720	73,720
095	DECONTAMINATION .....	506	506
096	JOINT BIO DEFENSE PROGRAM (MEDICAL) .....	32,597	32,597
097	COLLECTIVE PROTECTION .....	3,144	3,144
098	CONTAMINATION AVOIDANCE .....	164,886	164,886
	<b>TOTAL PROCUREMENT, DEFENSE-WIDE</b> .....	<b>4,187,935</b>	<b>4,491,335</b>
	<b>JOINT URGENT OPERATIONAL NEEDS FUND</b>		
	<b>JOINT URGENT OPERATIONAL NEEDS FUND</b>		
001	JOINT URGENT OPERATIONAL NEEDS FUND .....	99,477	0
	Program reduction .....		[–99,477]
	<b>TOTAL JOINT URGENT OPERATIONAL NEEDS FUND.</b>	<b>99,477</b>	<b>0</b>
	<b>NATIONAL GUARD &amp; RESERVE EQUIPMENT</b>		
	<b>UNDISTRIBUTED</b>		
999	MISCELLANEOUS EQUIPMENT .....		150,000
	Program increase .....		[150,000]
	<b>TOTAL NATIONAL GUARD &amp; RESERVE EQUIPMENT.</b>		<b>150,000</b>
	<b>TOTAL PROCUREMENT</b> .....	<b>97,432,379</b>	<b>98,398,230</b>

## SEC. 4102. PROCUREMENT FOR OVERSEAS CONTINGENCY OPERATIONS.

SEC. 4102. PROCUREMENT FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	<b>AIRCRAFT PROCUREMENT, ARMY</b>		

SEC. 4102. PROCUREMENT FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	<b>ROTARY</b>		
009	AH–64 APACHE BLOCK IIIB NEW BUILD .....	71,000	71,000
012	KIOWA WARRIOR (OH–58F) WRA .....	183,900	183,900
015	CH–47 HELICOPTER .....	231,300	231,300
	<b>TOTAL AIRCRAFT PROCUREMENT, ARMY .....</b>	<b>486,200</b>	<b>486,200</b>
	<b>MISSILE PROCUREMENT, ARMY</b>		
	<b>AIR-TO-SURFACE MISSILE SYSTEM</b>		
004	HELLFIRE SYS SUMMARY .....	29,100	29,100
	<b>ANTI-TANK/ASSAULT MISSILE SYS</b>		
008	GUIDED MLRS ROCKET (GMLRS) .....	20,553	20,553
	<b>TOTAL MISSILE PROCUREMENT, ARMY .....</b>	<b>49,653</b>	<b>49,653</b>
	<b>PROCUREMENT OF W&amp;TCV, ARMY</b>		
	<b>MOD OF WEAPONS AND OTHER COMBAT VEH</b>		
036	M16 RIFLE MODS .....	15,422	15,422
	<b>TOTAL PROCUREMENT OF W&amp;TCV, ARMY .....</b>	<b>15,422</b>	<b>15,422</b>
	<b>PROCUREMENT OF AMMUNITION, ARMY</b>		
	<b>SMALL/MEDIUM CAL AMMUNITION</b>		
003	CTG, HANDGUN, ALL TYPES .....	1,500	1,500
004	CTG, .50 CAL, ALL TYPES .....	10,000	10,000
007	CTG, 30MM, ALL TYPES .....	80,000	61,000
	Pricing adjustments for target practice round and light-weight dual purpose round.		[–19,000]
	<b>MORTAR AMMUNITION</b>		
009	60MM MORTAR, ALL TYPES .....	14,000	14,000
010	81MM MORTAR, ALL TYPES .....	6,000	6,000
011	120MM MORTAR, ALL TYPES .....	56,000	56,000
	<b>ARTILLERY AMMUNITION</b>		
013	ARTILLERY CARTRIDGES, 75MM AND 105MM, ALL TYP .....	29,956	29,956
014	ARTILLERY PROJECTILE, 155MM, ALL TYPES .....	37,044	37,044
015	PROJ 155MM EXTENDED RANGE XM982 .....	12,300	12,300
016	ARTILLERY PROPELLANTS, FUZES AND PRIMERS, ALL .....	17,000	17,000
	<b>MINES</b>		
017	MINES & CLEARING CHARGES, ALL TYPES .....	12,000	12,000
	<b>ROCKETS</b>		
020	ROCKET, HYDRA 70, ALL TYPES .....	63,635	63,635
	<b>OTHER AMMUNITION</b>		
023	SIGNALS, ALL TYPES .....	16,858	16,858
	<b>MISCELLANEOUS</b>		
028	ITEMS LESS THAN \$5 MILLION .....	1,200	1,200
	<b>TOTAL PROCUREMENT OF AMMUNITION, ARMY ..</b>	<b>357,493</b>	<b>338,493</b>
	<b>OTHER PROCUREMENT, ARMY</b>		
	<b>TACTICAL VEHICLES</b>		
002	FAMILY OF MEDIUM TACTICAL VEH (FMTV) .....	28,247	28,247
004	FAMILY OF HEAVY TACTICAL VEHICLES (FHTV) .....	2,050	2,050
011	HMMWV RECAPITALIZATION PROGRAM .....	271,000	271,000
014	MINE-RESISTANT AMBUSH-PROTECTED (MRAP) MODS .....	927,400	927,400
	<b>COMM—INTELLIGENCE COMM</b>		
052	RESERVE CA/MISO GPF EQUIPMENT .....	8,000	8,000
	<b>COMM—BASE COMMUNICATIONS</b>		
061	INSTALLATION INFO INFRASTRUCTURE MOD PROGRAM( ..	25,000	65,000
	Transfer from OMA OCO at SOUTHCOM request .....		[40,000]
	<b>ELECT EQUIP—TACT INT REL ACT (TIARA)</b>		
069	DCGS-A (MIP) .....	90,355	90,355
073	CI HUMINT AUTO REPRINTING AND COLLECTION .....	6,516	6,516
	<b>ELECT EQUIP—ELECTRONIC WARFARE (EW)</b>		
075	LIGHTWEIGHT COUNTER MORTAR RADAR .....	27,646	27,646
077	FMLY OF PERSISTENT SURVEILLANCE CAPABILITIES .....	52,000	52,000
078	COUNTERINTELLIGENCE/SECURITY COUNTERMEASURES	205,209	205,209
	<b>ELECT EQUIP—TACTICAL SURV. (TAC SURV)</b>		
092	MOD OF IN-SVC EQUIP (FIREFINDER RADARS) .....	14,600	14,600
099	COUNTERFIRE RADARS .....	54,585	54,585
	<b>ELECT EQUIP—TACTICAL C2 SYSTEMS</b>		
102	FIRE SUPPORT C2 FAMILY .....	22,430	22,430



SEC. 4102. PROCUREMENT FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
103	BATTLE COMMAND SUSTAINMENT SUPPORT SYSTEM .....	2,400	2,400
112	MANEUVER CONTROL SYSTEM (MCS) .....	6,400	6,400
113	SINGLE ARMY LOGISTICS ENTERPRISE (SALE) .....	5,160	5,160
	<b>CHEMICAL DEFENSIVE EQUIPMENT</b>		
126	FAMILY OF NON-LETHAL EQUIPMENT (FNLE) .....	15,000	15,000
127	BASE DEFENSE SYSTEMS (BDS) .....	66,100	66,100
	<b>ENGINEER (NON-CONSTRUCTION) EQUIPMENT</b>		
135	EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD EQPMT) ...	3,565	3,565
	<b>COMBAT SERVICE SUPPORT EQUIPMENT</b>		
143	FORCE PROVIDER .....	39,700	39,700
145	CARGO AERIAL DEL & PERSONNEL PARACHUTE SYSTEM .....	650	650
	<b>PETROLEUM EQUIPMENT</b>		
149	DISTRIBUTION SYSTEMS, PETROLEUM & WATER .....	2,119	2,119
	<b>MAINTENANCE EQUIPMENT</b>		
152	MOBILE MAINTENANCE EQUIPMENT SYSTEMS .....	428	428
153	ITEMS LESS THAN \$5 MILLION (MAINT EQ) .....	30	30
	<b>TRAINING EQUIPMENT</b>		
175	COMBAT TRAINING CENTERS SUPPORT .....	7,000	7,000
176	TRAINING DEVICES, NONSYSTEM .....	27,250	27,250
178	AVIATION COMBINED ARMS TACTICAL TRAINER .....	1,000	1,000
179	GAMING TECHNOLOGY IN SUPPORT OF ARMY TRAINING ..	5,900	5,900
	<b>OTHER SUPPORT EQUIPMENT</b>		
183	RAPID EQUIPPING SOLDIER SUPPORT EQUIPMENT .....	98,167	118,167
	Rapid equipping force delayed execution rates .....		[–10,000]
	Solar power units .....		[30,000]
	<b>TOTAL OTHER PROCUREMENT, ARMY</b> .....	<b>2,015,907</b>	<b>2,075,907</b>
	<b>JOINT IMPR EXPLOSIVE DEV DEFEAT FUND</b>		
	<b>NETWORK ATTACK</b>		
001	ATTACK THE NETWORK .....	950,500	925,000
	Program decrease—under execution .....		[–25,500]
	<b>JIEDDO DEVICE DEFEAT</b>		
002	DEFEAT THE DEVICE .....	400,000	375,000
	Program decrease—under execution & program delays .....		[–25,000]
	<b>FORCE TRAINING</b>		
003	TRAIN THE FORCE .....	149,500	144,500
	Program decrease—under execution & program delays .....		[–5,000]
	<b>STAFF AND INFRASTRUCTURE</b>		
004	OPERATIONS .....	175,400	397,814
	Program decrease—under execution & program delays .....		[–5,000]
	Transfer from title 1 .....		[227,414]
	<b>TOTAL JOINT IMPR EXPLOSIVE DEV DEFEAT FUND.</b>	<b>1,675,400</b>	<b>1,842,314</b>
	<b>AIRCRAFT PROCUREMENT, NAVY</b>		
	<b>COMBAT AIRCRAFT</b>		
011	H–1 UPGRADES (UH–1Y/AH–1Z) .....	29,800	29,800
	<b>MODIFICATION OF AIRCRAFT</b>		
030	AV–8 SERIES .....	42,238	42,238
032	F–18 SERIES .....	41,243	41,243
035	H–53 SERIES .....	15,870	15,870
038	EP–3 SERIES .....	13,030	13,030
043	C–130 SERIES .....	16,737	16,737
048	SPECIAL PROJECT AIRCRAFT .....	2,714	2,714
054	COMMON AVIONICS CHANGES .....	570	570
	<b>AIRCRAFT SUPPORT EQUIP &amp; FACILITIES</b>		
062	COMMON GROUND EQUIPMENT .....	2,380	2,380
	<b>TOTAL AIRCRAFT PROCUREMENT, NAVY</b> .....	<b>164,582</b>	<b>164,582</b>
	<b>WEAPONS PROCUREMENT, NAVY</b>		
	<b>TACTICAL MISSILES</b>		
009	HELLFIRE .....	17,000	17,000
010	STAND OFF PRECISION GUIDED MUNITIONS (SOPGM) .....	6,500	6,500
	<b>TOTAL WEAPONS PROCUREMENT, NAVY</b> .....	<b>23,500</b>	<b>23,500</b>
	<b>PROCUREMENT OF AMMO, NAVY &amp; MC</b>		
	<b>NAVY AMMUNITION</b>		

SEC. 4102. PROCUREMENT FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
001	GENERAL PURPOSE BOMBS .....	18,000	18,000
002	AIRBORNE ROCKETS, ALL TYPES .....	80,200	80,200
003	MACHINE GUN AMMUNITION .....	21,500	21,500
006	AIR EXPENDABLE COUNTERMEASURES .....	20,303	20,303
011	OTHER SHIP GUN AMMUNITION .....	532	532
012	SMALL ARMS & LANDING PARTY AMMO .....	2,643	2,643
013	PYROTECHNIC AND DEMOLITION .....	2,322	2,322
014	AMMUNITION LESS THAN \$5 MILLION .....	6,308	6,308
	<b>MARINE CORPS AMMUNITION</b>		
015	SMALL ARMS AMMUNITION .....	10,948	10,948
016	LINEAR CHARGES, ALL TYPES .....	9,940	9,940
017	40 MM, ALL TYPES .....	5,963	5,963
020	120MM, ALL TYPES .....	11,605	11,605
021	CTG 25MM, ALL TYPES .....	2,831	2,831
022	GRENADENES, ALL TYPES .....	2,359	2,359
023	ROCKETS, ALL TYPES .....	3,051	3,051
024	ARTILLERY, ALL TYPES .....	54,886	54,886
025	DEMOLITION MUNITIONS, ALL TYPES .....	1,391	1,391
026	FUZE, ALL TYPES .....	30,945	30,945
027	NON LETHALS .....	8	8
029	ITEMS LESS THAN \$5 MILLION .....	12	12
	<b>TOTAL PROCUREMENT OF AMMO, NAVY &amp; MC .....</b>	<b>285,747</b>	<b>285,747</b>
	<b>OTHER PROCUREMENT, NAVY</b>		
	<b>OTHER SHORE ELECTRONIC EQUIPMENT</b>		
070	TACTICAL/MOBILE C4I SYSTEMS .....	3,603	3,603
	<b>AIRCRAFT SUPPORT EQUIPMENT</b>		
097	EXPEDITIONARY AIRFIELDS .....	58,200	58,200
	<b>CIVIL ENGINEERING SUPPORT EQUIPMENT</b>		
127	PASSENGER CARRYING VEHICLES .....	3,901	3,901
128	GENERAL PURPOSE TRUCKS .....	852	852
129	CONSTRUCTION & MAINTENANCE EQUIP .....	2,436	2,436
130	FIRE FIGHTING EQUIPMENT .....	3,798	3,798
131	TACTICAL VEHICLES .....	13,394	13,394
134	ITEMS UNDER \$5 MILLION .....	375	375
	<b>COMMAND SUPPORT EQUIPMENT</b>		
149	C4ISR EQUIPMENT .....	3,000	3,000
151	PHYSICAL SECURITY EQUIPMENT .....	9,323	9,323
	<b>TOTAL OTHER PROCUREMENT, NAVY .....</b>	<b>98,882</b>	<b>98,882</b>
	<b>PROCUREMENT, MARINE CORPS</b>		
	<b>TRACKED COMBAT VEHICLES</b>		
002	LAV PIP .....	10,000	10,000
	<b>ARTILLERY AND OTHER WEAPONS</b>		
005	HIGH MOBILITY ARTILLERY ROCKET SYSTEM .....	108,860	108,860
	<b>GUIDED MISSILES</b>		
010	JAVELIN .....	29,158	29,158
	<b>OTHER SUPPORT</b>		
013	MODIFICATION KITS .....	41,602	41,602
	<b>REPAIR AND TEST EQUIPMENT</b>		
015	REPAIR AND TEST EQUIPMENT .....	13,632	13,632
	<b>OTHER SUPPORT (TEL)</b>		
017	MODIFICATION KITS .....	2,831	2,831
	<b>COMMAND AND CONTROL SYSTEM (NON-TEL)</b>		
019	AIR OPERATIONS C2 SYSTEMS .....	15,575	15,575
	<b>RADAR + EQUIPMENT (NON-TEL)</b>		
020	RADAR SYSTEMS .....	8,015	8,015
	<b>INTELL/COMM EQUIPMENT (NON-TEL)</b>		
023	INTELLIGENCE SUPPORT EQUIPMENT .....	35,310	35,310
	<b>OTHER COMM/ELEC EQUIPMENT (NON-TEL)</b>		
029	NIGHT VISION EQUIPMENT .....	652	652
	<b>OTHER SUPPORT (NON-TEL)</b>		
030	COMMON COMPUTER RESOURCES .....	19,807	19,807
032	RADIO SYSTEMS .....	36,482	36,482
033	COMM SWITCHING & CONTROL SYSTEMS .....	41,295	41,295
	<b>TACTICAL VEHICLES</b>		
039	MEDIUM TACTICAL VEHICLE REPLACEMENT .....	10,466	10,466

SEC. 4102. PROCUREMENT FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
041	FAMILY OF TACTICAL TRAILERS .....	7,642	7,642
	<b>ENGINEER AND OTHER EQUIPMENT</b>		
045	BULK LIQUID EQUIPMENT .....	18,239	18,239
046	TACTICAL FUEL SYSTEMS .....	51,359	51,359
047	POWER EQUIPMENT ASSORTED .....	20,247	20,247
049	EOD SYSTEMS .....	362,658	362,658
	<b>MATERIALS HANDLING EQUIPMENT</b>		
050	PHYSICAL SECURITY EQUIPMENT .....	55,500	55,500
052	MATERIAL HANDLING EQUIP .....	19,100	19,100
	<b>GENERAL PROPERTY</b>		
054	FIELD MEDICAL EQUIPMENT .....	15,751	15,751
055	TRAINING DEVICES .....	3,602	3,602
057	FAMILY OF CONSTRUCTION EQUIPMENT .....	15,900	15,900
	<b>TOTAL PROCUREMENT, MARINE CORPS</b> .....	<b>943,683</b>	<b>943,683</b>
	<b>AIRCRAFT PROCUREMENT, AIR FORCE</b>		
	<b>STRATEGIC AIRCRAFT</b>		
035	LARGE AIRCRAFT INFRARED COUNTERMEASURES .....	139,800	139,800
	<b>OTHER AIRCRAFT</b>		
055	U-2 MODS .....	46,800	46,800
063	C-130 .....	11,400	11,400
067	COMPASS CALL MODS .....	14,000	14,000
068	RC-135 .....	8,000	8,000
075	HC/MC-130 MODIFICATIONS .....	4,700	4,700
	<b>AIRCRAFT SPARES AND REPAIR PARTS</b>		
081	INITIAL SPARES/REPAIR PARTS .....	21,900	21,900
	<b>OTHER PRODUCTION CHARGES</b>		
099	OTHER PRODUCTION CHARGES .....	59,000	59,000
	<b>TOTAL AIRCRAFT PROCUREMENT, AIR FORCE</b> ....	<b>305,600</b>	<b>305,600</b>
	<b>PROCUREMENT OF AMMUNITION, AIR FORCE</b>		
	<b>CARTRIDGES</b>		
002	CARTRIDGES .....	13,592	13,592
	<b>BOMBS</b>		
004	GENERAL PURPOSE BOMBS .....	23,211	23,211
005	JOINT DIRECT ATTACK MUNITION .....	53,923	53,923
	<b>FLARE, IR MJU-7B</b>		
006	CAD/PAD .....	2,638	2,638
010	ITEMS LESS THAN \$5 MILLION .....	2,600	2,600
	<b>FUZES</b>		
011	FLARES .....	11,726	11,726
012	FUZES .....	8,513	8,513
	<b>TOTAL PROCUREMENT OF AMMUNITION, AIR FORCE.</b>	<b>116,203</b>	<b>116,203</b>
	<b>MISSILE PROCUREMENT, AIR FORCE</b>		
	<b>TACTICAL</b>		
005	PREDATOR HELLFIRE MISSILE .....	34,350	34,350
	<b>TOTAL MISSILE PROCUREMENT, AIR FORCE</b> .....	<b>34,350</b>	<b>34,350</b>
	<b>OTHER PROCUREMENT, AIR FORCE</b>		
	<b>CARGO AND UTILITY VEHICLES</b>		
002	MEDIUM TACTICAL VEHICLE .....	2,010	2,010
004	ITEMS LESS THAN \$5 MILLION .....	2,675	2,675
	<b>SPECIAL PURPOSE VEHICLES</b>		
006	ITEMS LESS THAN \$5 MILLION .....	2,557	2,557
	<b>MATERIALS HANDLING EQUIPMENT</b>		
008	ITEMS LESS THAN \$5 MILLION .....	4,329	4,329
	<b>BASE MAINTENANCE SUPPORT</b>		
009	RUNWAY SNOW REMOV AND CLEANING EQU .....	984	984
010	ITEMS LESS THAN \$5 MILLION .....	9,120	9,120
	<b>ELECTRONICS PROGRAMS</b>		
022	WEATHER OBSERVATION FORECAST .....	5,600	5,600
	<b>SPCL COMM-ELECTRONICS PROJECTS</b>		
027	GENERAL INFORMATION TECHNOLOGY .....	11,157	11,157
	<b>ORGANIZATION AND BASE</b>		
049	TACTICAL C-E EQUIPMENT .....	7,000	7,000

SEC. 4102. PROCUREMENT FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
053	BASE COMM INFRASTRUCTURE .....	10,654	10,654
	<b>MODIFICATIONS</b>		
054	COMM ELECT MODS .....	8,000	8,000
	<b>PERSONAL SAFETY &amp; RESCUE EQUIP</b>		
055	NIGHT VISION GOGGLES .....	902	902
	<b>BASE SUPPORT EQUIPMENT</b>		
059	CONTINGENCY OPERATIONS .....	60,090	60,090
062	MOBILITY EQUIPMENT .....	9,400	9,400
063	ITEMS LESS THAN \$5 MILLION .....	9,175	9,175
	<b>CLASSIFIED PROGRAMS</b>		
069A	CLASSIFIED PROGRAMS .....	2,672,317	2,672,317
	<b>SPARES AND REPAIR PARTS</b>		
071	SPARES AND REPAIR PARTS .....	2,300	2,300
	<b>TOTAL OTHER PROCUREMENT, AIR FORCE</b> .....	<b>2,818,270</b>	<b>2,818,270</b>
	<b>PROCUREMENT, DEFENSE-WIDE</b>		
	<b>MAJOR EQUIPMENT, DISA</b>		
015	TELEPORT PROGRAM .....	5,260	5,260
	<b>CLASSIFIED PROGRAMS</b>		
045A	CLASSIFIED PROGRAMS .....	126,201	126,201
	<b>AVIATION PROGRAMS</b>		
061	MQ-8 UAV .....	16,500	16,500
	<b>OTHER PROCUREMENT PROGRAMS</b>		
068	COMMUNICATIONS EQUIPMENT AND ELECTRONICS .....	151	151
069	INTELLIGENCE SYSTEMS .....	30,528	30,528
077	TACTICAL VEHICLES .....	1,843	1,843
082	AUTOMATION SYSTEMS .....	1,000	1,000
086	VISUAL AUGMENTATION LASERS AND SENSOR SYSTEMS .....	108	108
091	OPERATIONAL ENHANCEMENTS .....	14,758	14,758
	<b>TOTAL PROCUREMENT, DEFENSE-WIDE</b> .....	<b>196,349</b>	<b>196,349</b>
	<b>JOINT URGENT OPERATIONAL NEEDS FUND</b>		
	<b>JOINT URGENT OPERATIONAL NEEDS FUND</b>		
001	JOINT URGENT OPERATIONAL NEEDS FUND .....	100,000	0
	Program reduction .....		[–100,000]
	<b>TOTAL JOINT URGENT OPERATIONAL NEEDS FUND.</b>	<b>100,000</b>	<b>0</b>
	<b>NATIONAL GUARD &amp; RESERVE EQUIPMENT</b>		
	<b>UNDISTRIBUTED</b>		
999	MISCELLANEOUS EQUIPMENT .....		350,000
	Program increase .....		[350,000]
	<b>TOTAL NATIONAL GUARD &amp; RESERVE EQUIPMENT.</b>		<b>350,000</b>
	<b>TOTAL PROCUREMENT</b> .....	<b>9,687,241</b>	<b>10,145,155</b>

## TITLE XLII—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

### SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
		RESEARCH, DEVELOPMENT, TEST & EVAL, ARMY BASIC RESEARCH		
001	0601101A	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	20,860	20,860
002	0601102A	DEFENSE RESEARCH SCIENCES .....	219,180	219,180
003	0601103A	UNIVERSITY RESEARCH INITIATIVES .....	80,986	80,986

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
004	0601104A	UNIVERSITY AND INDUSTRY RESEARCH CENTERS	123,045	123,045
		<b>SUBTOTAL BASIC RESEARCH .....</b>	<b>444,071</b>	<b>444,071</b>
		<b>APPLIED RESEARCH</b>		
005	0602105A	MATERIALS TECHNOLOGY .....	29,041	39,041
		Advanced coating technologies for corrosion mitiga- tion.		[10,000]
006	0602120A	SENSORS AND ELECTRONIC SURVIVABILITY .....	45,260	45,260
007	0602122A	TRACTOR HIP .....	22,439	22,439
008	0602211A	AVIATION TECHNOLOGY .....	51,607	51,607
009	0602270A	ELECTRONIC WARFARE TECHNOLOGY .....	15,068	15,068
010	0602303A	MISSILE TECHNOLOGY .....	49,383	49,383
011	0602307A	ADVANCED WEAPONS TECHNOLOGY .....	25,999	25,999
012	0602308A	ADVANCED CONCEPTS AND SIMULATION .....	23,507	23,507
013	0602601A	COMBAT VEHICLE AND AUTOMOTIVE TECH- NOLOGY.	69,062	69,062
014	0602618A	BALLISTICS TECHNOLOGY .....	60,823	60,823
015	0602622A	CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY.	4,465	4,465
016	0602623A	JOINT SERVICE SMALL ARMS PROGRAM .....	7,169	7,169
017	0602624A	WEAPONS AND MUNITIONS TECHNOLOGY .....	35,218	35,218
018	0602705A	ELECTRONICS AND ELECTRONIC DEVICES .....	60,300	60,300
019	0602709A	NIGHT VISION TECHNOLOGY .....	53,244	53,244
020	0602712A	COUNTERMINE SYSTEMS .....	18,850	18,850
021	0602716A	HUMAN FACTORS ENGINEERING TECHNOLOGY .....	19,872	19,872
022	0602720A	ENVIRONMENTAL QUALITY TECHNOLOGY .....	20,095	20,095
023	0602782A	COMMAND, CONTROL, COMMUNICATIONS TECH- NOLOGY.	28,852	28,852
024	0602783A	COMPUTER AND SOFTWARE TECHNOLOGY .....	9,830	9,830
025	0602784A	MILITARY ENGINEERING TECHNOLOGY .....	70,693	70,693
026	0602785A	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	17,781	17,781
027	0602786A	WARFIGHTER TECHNOLOGY .....	28,281	28,281
028	0602787A	MEDICAL TECHNOLOGY .....	107,891	107,891
		<b>SUBTOTAL APPLIED RESEARCH .....</b>	<b>874,730</b>	<b>884,730</b>
		<b>ADVANCED TECHNOLOGY DEVELOPMENT</b>		
029	0603001A	WARFIGHTER ADVANCED TECHNOLOGY .....	39,359	39,359
030	0603002A	MEDICAL ADVANCED TECHNOLOGY .....	69,580	69,580
031	0603003A	AVIATION ADVANCED TECHNOLOGY .....	64,215	64,215
032	0603004A	WEAPONS AND MUNITIONS ADVANCED TECH- NOLOGY.	67,613	67,613
033	0603005A	COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY.	104,359	104,359
034	0603006A	COMMAND, CONTROL, COMMUNICATIONS AD- VANCED TECHNOLOGY.	4,157	4,157
035	0603007A	MANPOWER, PERSONNEL AND TRAINING AD- VANCED TECHNOLOGY.	9,856	9,856
036	0603008A	ELECTRONIC WARFARE ADVANCED TECHNOLOGY	50,661	50,661
037	0603009A	TRACTOR HIKE .....	9,126	9,126
038	0603015A	NEXT GENERATION TRAINING & SIMULATION SYS- TEMS.	17,257	17,257
039	0603020A	TRACTOR ROSE .....	9,925	9,925
040	0603105A	MILITARY HIV RESEARCH .....	6,984	6,984
041	0603125A	COMBATING TERRORISM—TECHNOLOGY DEVEL- OPMENT.	9,716	9,716
042	0603130A	TRACTOR NAIL .....	3,487	3,487
043	0603131A	TRACTOR EGGS .....	2,323	2,323
044	0603270A	ELECTRONIC WARFARE TECHNOLOGY .....	21,683	21,683
045	0603313A	MISSILE AND ROCKET ADVANCED TECHNOLOGY ...	71,111	71,111
046	0603322A	TRACTOR CAGE .....	10,902	10,902
047	0603461A	HIGH PERFORMANCE COMPUTING MODERNIZA- TION PROGRAM.	180,582	180,582
048	0603606A	LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY.	27,204	27,204
049	0603607A	JOINT SERVICE SMALL ARMS PROGRAM .....	6,095	6,095
050	0603710A	NIGHT VISION ADVANCED TECHNOLOGY .....	37,217	37,217

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)					
Line	Program Element	Item	FY 2013 Request	Conference Authorized	
051	0603728A	ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATIONS.	13,626	13,626	
052	0603734A	MILITARY ENGINEERING ADVANCED TECHNOLOGY.	28,458	28,458	
053	0603772A	ADVANCED TACTICAL COMPUTER SCIENCE AND SENSOR TECHNOLOGY.	25,226	25,226	
		<b>SUBTOTAL ADVANCED TECHNOLOGY DEVELOPMENT.</b>	<b>890,722</b>	<b>890,722</b>	
		<b>ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES</b>			
054	0603305A	ARMY MISSILE DEFENSE SYSTEMS INTEGRATION ..	14,505	14,505	
055	0603308A	ARMY SPACE SYSTEMS INTEGRATION .....	9,876	9,876	
056	0603619A	LANDMINE WARFARE AND BARRIER—ADV DEV .....	5,054	5,054	
057	0603627A	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ADV DEV.	2,725	2,725	
058	0603639A	TANK AND MEDIUM CALIBER AMMUNITION .....	30,560	30,560	
059	0603653A	ADVANCED TANK ARMAMENT SYSTEM (ATAS) .....	14,347	14,347	
060	0603747A	SOLDIER SUPPORT AND SURVIVABILITY .....	10,073	10,073	
061	0603766A	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM—ADV DEV.	8,660	8,660	
062	0603774A	NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT.	10,715	10,715	
063	0603779A	ENVIRONMENTAL QUALITY TECHNOLOGY—DEM/VAL.	4,631	4,631	
064	0603782A	WARFIGHTER INFORMATION NETWORK-TACTICAL—DEM/VAL.	278,018	278,018	
065	0603790A	NATO RESEARCH AND DEVELOPMENT .....	4,961	4,961	
066	0603801A	AVIATION—ADV DEV .....	8,602	8,602	
067	0603804A	LOGISTICS AND ENGINEER EQUIPMENT—ADV DEV	14,605	14,605	
068	0603805A	COMBAT SERVICE SUPPORT CONTROL SYSTEM EVALUATION AND ANALYSIS.	5,054	5,054	
069	0603807A	MEDICAL SYSTEMS—ADV DEV .....	24,384	24,384	
070	0603827A	SOLDIER SYSTEMS—ADVANCED DEVELOPMENT .....	32,050	32,050	
071	0603850A	INTEGRATED BROADCAST SERVICE .....	96	96	
072	0604115A	TECHNOLOGY MATURATION INITIATIVES .....	24,868	24,868	
073	0604131A	TRACTOR JUTE .....	59	59	
075	0604319A	INDIRECT FIRE PROTECTION CAPABILITY INCREMENT 2—INTERCEPT (IFPC2).	76,039	76,039	
077	0604785A	INTEGRATED BASE DEFENSE (BUDGET ACTIVITY 4)	4,043	4,043	
078	0305205A	ENDURANCE UAVS .....	26,196	20,197	
		Program decrease .....		[-5,999]	
		<b>SUBTOTAL ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES.</b>	<b>610,121</b>	<b>604,122</b>	
		<b>SYSTEM DEVELOPMENT &amp; DEMONSTRATION</b>			
079	0604201A	AIRCRAFT AVIONICS .....	78,538	78,538	
080	0604220A	ARMED, DEPLOYABLE HELOS .....	90,494	90,494	
081	0604270A	ELECTRONIC WARFARE DEVELOPMENT .....	181,347	176,347	
		Program adjustment .....		[-5,000]	
083	0604290A	MID-TIER NETWORKING VEHICULAR RADIO (MNVR).	12,636	12,636	
084	0604321A	ALL SOURCE ANALYSIS SYSTEM .....	5,694	5,694	
085	0604328A	TRACTOR CAGE .....	32,095	32,095	
086	0604601A	INFANTRY SUPPORT WEAPONS .....	96,478	93,078	
		XM25 funding ahead of need .....		[-3,400]	
087	0604604A	MEDIUM TACTICAL VEHICLES .....	3,006	3,006	
089	0604611A	JAVELIN .....	5,040	5,040	
090	0604622A	FAMILY OF HEAVY TACTICAL VEHICLES .....	3,077	3,077	
091	0604633A	AIR TRAFFIC CONTROL .....	9,769	9,769	
092	0604641A	TACTICAL UNMANNED GROUND VEHICLE (TUGV) ..	13,141	13,141	
099	0604710A	NIGHT VISION SYSTEMS—ENG DEV .....	32,621	32,621	
100	0604713A	COMBAT FEEDING, CLOTHING, AND EQUIPMENT ...	2,132	2,132	
101	0604715A	NON-SYSTEM TRAINING DEVICES—ENG DEV .....	44,787	44,787	
102	0604716A	TERRAIN INFORMATION—ENG DEV .....	1,008	1,008	
103	0604741A	AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE—ENG DEV.	73,333	73,333	

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
104	0604742A	CONSTRUCTIVE SIMULATION SYSTEMS DEVELOPMENT.	28,937	28,937
105	0604746A	AUTOMATIC TEST EQUIPMENT DEVELOPMENT .....	10,815	10,815
106	0604760A	DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS)— ENG DEV.	13,926	13,926
107	0604780A	COMBINED ARMS TACTICAL TRAINER (CATT) CORE	17,797	17,797
108	0604798A	BRIGADE ANALYSIS, INTEGRATION AND EVALUA- TION.	214,270	214,270
109	0604802A	WEAPONS AND MUNITIONS—ENG DEV .....	14,581	14,581
110	0604804A	LOGISTICS AND ENGINEER EQUIPMENT—ENG DEV	43,706	43,706
111	0604805A	COMMAND, CONTROL, COMMUNICATIONS SYS- TEMS—ENG DEV.	20,776	20,776
112	0604807A	MEDICAL MATERIEL/MEDICAL BIOLOGICAL DE- FENSE EQUIPMENT—ENG DEV.	43,395	43,395
113	0604808A	LANDMINE WARFARE/BARRIER—ENG DEV .....	104,983	104,983
114	0604814A	ARTILLERY MUNITIONS—EMD .....	4,346	4,346
116	0604818A	ARMY TACTICAL COMMAND & CONTROL HARD- WARE & SOFTWARE.	77,223	77,223
117	0604820A	RADAR DEVELOPMENT .....	3,486	3,486
118	0604822A	GENERAL FUND ENTERPRISE BUSINESS SYSTEM (GFEBS).	9,963	27,163
		GFEBS realignment per Army request .....		[17,200]
119	0604823A	FIREFINDER .....	20,517	20,517
120	0604827A	SOLDIER SYSTEMS—WARRIOR DEM/VAL .....	51,851	51,851
121	0604854A	ARTILLERY SYSTEMS—EMD .....	167,797	167,797
122	0604869A	PATRIOT/MEADS COMBINED AGGREGATE PRO- GRAM (CAP).	400,861	0
		Prohibition of funds for MEADS .....		[–400,861]
123	0604870A	NUCLEAR ARMS CONTROL MONITORING SENSOR NETWORK.	7,922	7,922
124	0605013A	INFORMATION TECHNOLOGY DEVELOPMENT .....	51,463	51,463
125	0605018A	INTEGRATED PERSONNEL AND PAY SYSTEM-ARMY (IPPS-A).	158,646	158,646
126	0605450A	JOINT AIR-TO-GROUND MISSILE (JAGM) .....	10,000	10,000
128	0605456A	PAC–3/MSE MISSILE .....	69,029	69,029
129	0605457A	ARMY INTEGRATED AIR AND MISSILE DEFENSE (AIAMD).	277,374	315,374
		DRFM countermeasures studies .....		[38,000]
130	0605625A	MANNED GROUND VEHICLE .....	639,874	639,874
131	0605626A	AERIAL COMMON SENSOR .....	47,426	47,426
132	0605812A	JOINT LIGHT TACTICAL VEHICLE (JLTV) ENGI- NEERING AND MANUFACTURING DEVELOPMENT PH.	72,295	72,295
133	0303032A	TROJAN—RH12 .....	4,232	4,232
134	0304270A	ELECTRONIC WARFARE DEVELOPMENT .....	13,942	13,942
		<b>SUBTOTAL SYSTEM DEVELOPMENT &amp; DEM- ONSTRATION.</b>	<b>3,286,629</b>	<b>2,932,568</b>
		<b>RDT&amp;E MANAGEMENT SUPPORT</b>		
135	0604256A	THREAT SIMULATOR DEVELOPMENT .....	18,090	18,090
136	0604258A	TARGET SYSTEMS DEVELOPMENT .....	14,034	14,034
137	0604759A	MAJOR T&E INVESTMENT .....	37,394	37,394
138	0605103A	RAND ARROYO CENTER .....	21,026	21,026
139	0605301A	ARMY KWAJALEIN ATOLL .....	176,816	176,816
140	0605326A	CONCEPTS EXPERIMENTATION PROGRAM .....	27,902	27,902
142	0605601A	ARMY TEST RANGES AND FACILITIES .....	369,900	369,900
143	0605602A	ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS.	69,183	69,183
144	0605604A	SURVIVABILITY/LETHALITY ANALYSIS .....	44,753	44,753
146	0605606A	AIRCRAFT CERTIFICATION .....	5,762	5,762
147	0605702A	METEOROLOGICAL SUPPORT TO RDT&E ACTIVI- TIES.	7,402	7,402
148	0605706A	MATERIEL SYSTEMS ANALYSIS .....	19,954	19,954
149	0605709A	EXPLOITATION OF FOREIGN ITEMS .....	5,535	5,535
150	0605712A	SUPPORT OF OPERATIONAL TESTING .....	67,789	67,789
151	0605716A	ARMY EVALUATION CENTER .....	62,765	62,765

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
152	0605718A	ARMY MODELING & SIM X-CMD COLLABORATION & INTEG.	1,545	1,545
153	0605801A	PROGRAMWIDE ACTIVITIES .....	83,422	83,422
154	0605803A	TECHNICAL INFORMATION ACTIVITIES .....	50,820	50,820
155	0605805A	MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY.	46,763	46,763
156	0605857A	ENVIRONMENTAL QUALITY TECHNOLOGY MGMT SUPPORT.	4,601	4,601
157	0605898A	MANAGEMENT HQ—R&D .....	18,524	18,524
		<b>SUBTOTAL RDT&amp;E MANAGEMENT SUPPORT ....</b>	<b>1,153,980</b>	<b>1,153,980</b>
<b>OPERATIONAL SYSTEMS DEVELOPMENT</b>				
159	0603778A	MLRS PRODUCT IMPROVEMENT PROGRAM .....	143,005	143,005
161	0607865A	PATRIOT PRODUCT IMPROVEMENT .....	109,978	109,978
162	0102419A	AEROSTAT JOINT PROJECT OFFICE .....	190,422	159,922
		Program decrease .....		[-30,500]
164	0203726A	ADV FIELD ARTILLERY TACTICAL DATA SYSTEM ....	32,556	32,556
165	0203735A	COMBAT VEHICLE IMPROVEMENT PROGRAMS .....	253,959	253,959
166	0203740A	MANEUVER CONTROL SYSTEM .....	68,325	68,325
167	0203744A	AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS.	280,247	226,147
		Funding ahead of need .....		[-54,100]
168	0203752A	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM.	898	898
169	0203758A	DIGITIZATION .....	35,180	35,180
171	0203801A	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM.	20,733	20,733
172	0203808A	TRACTOR CARD .....	63,243	63,243
173	0208053A	JOINT TACTICAL GROUND SYSTEM .....	31,738	31,738
174	0208058A	JOINT HIGH SPEED VESSEL (JHSV) .....	35	35
176	0303028A	SECURITY AND INTELLIGENCE ACTIVITIES .....	7,591	7,591
177	0303140A	INFORMATION SYSTEMS SECURITY PROGRAM .....	15,961	15,961
178	0303141A	GLOBAL COMBAT SUPPORT SYSTEM .....	120,927	120,927
179	0303142A	SATCOM GROUND ENVIRONMENT (SPACE) .....	15,756	15,756
180	0303150A	WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM.	14,443	14,443
182	0305204A	TACTICAL UNMANNED AERIAL VEHICLES .....	31,303	31,303
183	0305208A	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS.	40,876	40,876
184	0305219A	MQ-1 SKY WARRIOR A UAV .....	74,618	74,618
185	0305232A	RQ-11 UAV .....	4,039	4,039
186	0305233A	RQ-7 UAV .....	31,158	31,158
187	0305235A	VERTICAL UAS .....	2,387	2,387
188	0307665A	BIOMETRICS ENABLED INTELLIGENCE .....	15,248	15,248
189	0708045A	END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES.	59,908	59,908
189A	9999999999	CLASSIFIED PROGRAMS .....	4,628	4,628
		<b>SUBTOTAL OPERATIONAL SYSTEMS DEVELOPMENT.</b>	<b>1,669,162</b>	<b>1,584,562</b>
<b>TOTAL RESEARCH, DEVELOPMENT, TEST &amp; EVAL, ARMY.</b>			<b>8,929,415</b>	<b>8,494,755</b>
<b>RESEARCH, DEVELOPMENT, TEST &amp; EVAL, NAVY</b>				
<b>BASIC RESEARCH</b>				
001	0601103N	UNIVERSITY RESEARCH INITIATIVES .....	113,690	123,690
		Increase Defense University Research Instrumentation Program.		[10,000]
002	0601152N	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	18,261	18,261
003	0601153N	DEFENSE RESEARCH SCIENCES .....	473,070	473,070
		<b>SUBTOTAL BASIC RESEARCH .....</b>	<b>605,021</b>	<b>615,021</b>
<b>APPLIED RESEARCH</b>				
004	0602114N	POWER PROJECTION APPLIED RESEARCH .....	89,189	89,189
005	0602123N	FORCE PROTECTION APPLIED RESEARCH .....	143,301	143,301
006	0602131M	MARINE CORPS LANDING FORCE TECHNOLOGY ....	46,528	46,528
007	0602235N	COMMON PICTURE APPLIED RESEARCH .....	41,696	41,696



SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
008	0602236N	WARFIGHTER SUSTAINMENT APPLIED RESEARCH	44,127	44,127
009	0602271N	ELECTROMAGNETIC SYSTEMS APPLIED RESEARCH	78,228	78,228
010	0602435N	OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH.	49,635	49,635
011	0602651M	JOINT NON-LETHAL WEAPONS APPLIED RESEARCH.	5,973	5,973
012	0602747N	UNDERSEA WARFARE APPLIED RESEARCH .....	96,814	96,814
013	0602750N	FUTURE NAVAL CAPABILITIES APPLIED RESEARCH.	162,417	162,417
014	0602782N	MINE AND EXPEDITIONARY WARFARE APPLIED RESEARCH.	32,394	32,394
		<b>SUBTOTAL APPLIED RESEARCH .....</b>	<b>790,302</b>	<b>790,302</b>
		<b>ADVANCED TECHNOLOGY DEVELOPMENT</b>		
015	0603114N	POWER PROJECTION ADVANCED TECHNOLOGY .....	56,543	56,543
016	0603123N	FORCE PROTECTION ADVANCED TECHNOLOGY .....	18,616	18,616
019	0603271N	ELECTROMAGNETIC SYSTEMS ADVANCED TECHNOLOGY.	54,858	54,858
020	0603640M	USMC ADVANCED TECHNOLOGY DEMONSTRATION (ATD).	130,598	130,598
021	0603651M	JOINT NON-LETHAL WEAPONS TECHNOLOGY DEVELOPMENT.	11,706	11,706
022	0603673N	FUTURE NAVAL CAPABILITIES ADVANCED TECHNOLOGY DEVELOPMENT.	256,382	256,382
023	0603729N	WARFIGHTER PROTECTION ADVANCED TECHNOLOGY.	3,880	3,880
025	0603758N	NAVY WARFIGHTING EXPERIMENTS AND DEMONSTRATIONS.	51,819	51,819
		<b>SUBTOTAL ADVANCED TECHNOLOGY DEVELOPMENT.</b>	<b>584,402</b>	<b>584,402</b>
		<b>ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES</b>		
028	0603207N	AIR/OCEAN TACTICAL APPLICATIONS .....	34,085	34,085
029	0603216N	AVIATION SURVIVABILITY .....	8,783	8,783
030	0603237N	DEPLOYABLE JOINT COMMAND AND CONTROL .....	3,773	3,773
031	0603251N	AIRCRAFT SYSTEMS .....	24,512	24,512
032	0603254N	ASW SYSTEMS DEVELOPMENT .....	8,090	8,090
033	0603261N	TACTICAL AIRBORNE RECONNAISSANCE .....	5,301	5,301
034	0603382N	ADVANCED COMBAT SYSTEMS TECHNOLOGY .....	1,506	1,506
035	0603502N	SURFACE AND SHALLOW WATER MINE COUNTERMEASURES.	190,622	188,622
		Excess to need .....		[-2,000]
036	0603506N	SURFACE SHIP TORPEDO DEFENSE .....	93,346	93,346
037	0603512N	CARRIER SYSTEMS DEVELOPMENT .....	108,871	108,871
039	0603525N	PILOT FISH .....	101,169	101,169
040	0603527N	RETRACT LARCH .....	74,312	74,312
041	0603536N	RETRACT JUNIPER .....	90,730	90,730
042	0603542N	RADIOLOGICAL CONTROL .....	777	777
043	0603553N	SURFACE ASW .....	6,704	6,704
044	0603561N	ADVANCED SUBMARINE SYSTEM DEVELOPMENT ...	555,123	555,123
045	0603562N	SUBMARINE TACTICAL WARFARE SYSTEMS .....	9,368	9,368
046	0603563N	SHIP CONCEPT ADVANCED DESIGN .....	24,609	24,609
047	0603564N	SHIP PRELIMINARY DESIGN & FEASIBILITY STUDIES.	13,710	13,710
048	0603570N	ADVANCED NUCLEAR POWER SYSTEMS .....	249,748	249,748
049	0603573N	ADVANCED SURFACE MACHINERY SYSTEMS .....	29,897	29,897
050	0603576N	CHALK EAGLE .....	509,988	509,988
051	0603581N	LITTORAL COMBAT SHIP (LCS) .....	429,420	429,420
052	0603582N	COMBAT SYSTEM INTEGRATION .....	56,551	56,551
053	0603609N	CONVENTIONAL MUNITIONS .....	7,342	7,342
054	0603611M	MARINE CORPS ASSAULT VEHICLES .....	95,182	95,182
055	0603635M	MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM.	10,496	10,496
056	0603654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT.	52,331	52,331
057	0603658N	COOPERATIVE ENGAGEMENT .....	56,512	56,512

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)					
Line	Program Element	Item	FY 2013 Request	Conference Authorized	
058	0603713N	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT.	7,029	7,029	
059	0603721N	ENVIRONMENTAL PROTECTION .....	21,080	21,080	
060	0603724N	NAVY ENERGY PROGRAM .....	55,324	55,324	
061	0603725N	FACILITIES IMPROVEMENT .....	3,401	3,401	
062	0603734N	CHALK CORAL .....	45,966	45,966	
063	0603739N	NAVY LOGISTIC PRODUCTIVITY .....	3,811	3,811	
064	0603746N	RETRACT MAPLE .....	341,305	341,305	
065	0603748N	LINK PLUMERIA .....	181,220	181,220	
066	0603751N	RETRACT ELM .....	174,014	174,014	
068	0603764N	LINK EVERGREEN .....	68,654	68,654	
069	0603787N	SPECIAL PROCESSES .....	44,487	44,487	
070	0603790N	NATO RESEARCH AND DEVELOPMENT .....	9,389	9,389	
071	0603795N	LAND ATTACK TECHNOLOGY .....	16,132	16,132	
072	0603851M	JOINT NON-LETHAL WEAPONS TESTING .....	44,994	44,994	
073	0603860N	JOINT PRECISION APPROACH AND LANDING SYSTEMS—DEM/VAL.	137,369	137,369	
076	0604272N	TACTICAL AIR DIRECTIONAL INFRARED COUNTERMEASURES (TADIRCM).	73,934	73,934	
077	0604279N	ASE SELF-PROTECTION OPTIMIZATION .....	711	711	
078	0604653N	JOINT COUNTER RADIO CONTROLLED IED ELECTRONIC WARFARE (JCREW).	71,300	71,300	
079	0604659N	PRECISION STRIKE WEAPONS DEVELOPMENT PROGRAM.	5,654	5,654	
080	0604707N	SPACE AND ELECTRONIC WARFARE (SEW) ARCHITECTURE/ENGINEERING SUPPORT.	31,549	31,549	
082	0604786N	OFFENSIVE ANTI-SURFACE WARFARE WEAPON DEVELOPMENT.	86,801	86,801	
083	0605812M	JOINT LIGHT TACTICAL VEHICLE (JLTV) ENGINEERING AND MANUFACTURING DEVELOPMENT PH.	44,500	44,500	
084	0303354N	ASW SYSTEMS DEVELOPMENT—MIP .....	13,172	13,172	
086	0304270N	ELECTRONIC WARFARE DEVELOPMENT—MIP .....	643	643	
		<b>SUBTOTAL ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES.</b>	<b>4,335,297</b>	<b>4,333,297</b>	
		<b>SYSTEM DEVELOPMENT &amp; DEMONSTRATION</b>			
087	0604212N	OTHER HELO DEVELOPMENT .....	33,978	33,978	
088	0604214N	AV–8B AIRCRAFT—ENG DEV .....	32,789	32,789	
089	0604215N	STANDARDS DEVELOPMENT .....	84,988	82,988	
		Program behind in execution .....		[-2,000]	
090	0604216N	MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT.	6,866	6,866	
091	0604218N	AIR/OCEAN EQUIPMENT ENGINEERING .....	4,060	4,060	
092	0604221N	P–3 MODERNIZATION PROGRAM .....	3,451	3,451	
093	0604230N	WARFARE SUPPORT SYSTEM .....	13,071	13,071	
094	0604231N	TACTICAL COMMAND SYSTEM .....	71,645	71,645	
095	0604234N	ADVANCED HAWKEYE .....	119,065	119,065	
096	0604245N	H–1 UPGRADES .....	31,105	31,105	
097	0604261N	ACOUSTIC SEARCH SENSORS .....	34,299	34,299	
098	0604262N	V–22A .....	54,412	54,412	
099	0604264N	AIR CREW SYSTEMS DEVELOPMENT .....	2,717	2,717	
100	0604269N	EA–18 .....	13,009	13,009	
101	0604270N	ELECTRONIC WARFARE DEVELOPMENT .....	51,304	51,304	
102	0604273N	VH–71A EXECUTIVE HELO DEVELOPMENT .....	61,163	61,163	
103	0604274N	NEXT GENERATION JAMMER (NGJ) .....	187,024	187,024	
104	0604280N	JOINT TACTICAL RADIO SYSTEM—NAVY (JTRS-NAVY).	337,480	337,480	
105	0604307N	SURFACE COMBATANT COMBAT SYSTEM ENGINEERING.	260,616	510,616	
		Cruiser Retention .....		[250,000]	
106	0604311N	LPD–17 CLASS SYSTEMS INTEGRATION .....	824	824	
107	0604329N	SMALL DIAMETER BOMB (SDB) .....	31,064	31,064	
108	0604366N	STANDARD MISSILE IMPROVEMENTS .....	63,891	58,391	
		Program execution .....		[-5,500]	
109	0604373N	AIRBORNE MCM .....	73,246	73,246	

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Line	Program Element	Item	FY 2013 Request	Conference Authorized
110	0604376M	MARINE AIR GROUND TASK FORCE (MAGTF) ELEC- TRONIC WARFARE (EW) FOR AVIATION.	10,568	10,568
111	0604378N	NAVAL INTEGRATED FIRE CONTROL—COUNTER AIR SYSTEMS ENGINEERING.	39,974	39,974
112	0604404N	UNMANNED CARRIER LAUNCHED AIRBORNE SUR- VEILLANCE AND STRIKE (UCLASS) SYSTEM.	122,481	122,481
113	0604501N	ADVANCED ABOVE WATER SENSORS .....	255,516	255,516
114	0604503N	SSN–688 AND TRIDENT MODERNIZATION .....	82,620	82,620
115	0604504N	AIR CONTROL .....	5,633	5,633
116	0604512N	SHIPBOARD AVIATION SYSTEMS .....	55,826	55,826
117	0604518N	COMBAT INFORMATION CENTER CONVERSION .....	918	918
118	0604558N	NEW DESIGN SSN .....	165,230	165,230
119	0604562N	SUBMARINE TACTICAL WARFARE SYSTEM .....	49,141	49,141
120	0604567N	SHIP CONTRACT DESIGN/ LIVE FIRE T&E .....	196,737	196,737
121	0604574N	NAVY TACTICAL COMPUTER RESOURCES .....	3,889	3,889
122	0604601N	MINE DEVELOPMENT .....	8,335	8,335
123	0604610N	LIGHTWEIGHT TORPEDO DEVELOPMENT .....	49,818	49,818
124	0604654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOP- MENT.	10,099	10,099
125	0604703N	PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS.	7,348	7,348
126	0604727N	JOINT STANDOFF WEAPON SYSTEMS .....	5,518	5,518
127	0604755N	SHIP SELF DEFENSE (DETECT & CONTROL) .....	87,662	87,662
128	0604756N	SHIP SELF DEFENSE (ENGAGE: HARD KILL) .....	64,079	64,079
129	0604757N	SHIP SELF DEFENSE (ENGAGE: SOFT KILL/EW) .....	151,489	151,489
131	0604771N	MEDICAL DEVELOPMENT .....	12,707	12,707
132	0604777N	NAVIGATION/ID SYSTEM .....	47,764	47,764
133	0604800M	JOINT STRIKE FIGHTER (JSF)—EMD .....	737,149	733,949
		Block IV development ahead of need .....		[–3,200]
134	0604800N	JOINT STRIKE FIGHTER (JSF)—EMD .....	743,926	740,726
		Block IV development ahead of need .....		[–3,200]
135	0605013M	INFORMATION TECHNOLOGY DEVELOPMENT .....	12,143	12,143
136	0605013N	INFORMATION TECHNOLOGY DEVELOPMENT .....	72,209	72,209
138	0605212N	CH–53K RDTE .....	606,204	606,204
140	0605500N	MULTI-MISSION MARITIME AIRCRAFT (MMA) .....	421,102	421,102
141	0204202N	DDG–1000 .....	124,655	124,655
142	0304231N	TACTICAL COMMAND SYSTEM—MIP .....	1,170	1,170
144	0304785N	TACTICAL CRYPTOLOGIC SYSTEMS .....	23,255	23,255
		<b>SUBTOTAL SYSTEM DEVELOPMENT &amp; DEM- ONSTRATION.</b>	<b>5,747,232</b>	<b>5,983,332</b>
		<b>RDT&amp;E MANAGEMENT SUPPORT</b>		
146	0604256N	THREAT SIMULATOR DEVELOPMENT .....	30,790	30,790
147	0604258N	TARGET SYSTEMS DEVELOPMENT .....	59,221	59,221
148	0604759N	MAJOR T&E INVESTMENT .....	35,894	35,894
149	0605126N	JOINT THEATER AIR AND MISSILE DEFENSE ORGA- NIZATION.	7,573	7,573
150	0605152N	STUDIES AND ANALYSIS SUPPORT—NAVY .....	20,963	20,963
151	0605154N	CENTER FOR NAVAL ANALYSES .....	46,856	46,856
153	0605804N	TECHNICAL INFORMATION SERVICES .....	796	796
154	0605853N	MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT.	32,782	32,782
155	0605856N	STRATEGIC TECHNICAL SUPPORT .....	3,306	3,306
156	0605861N	RDT&E SCIENCE AND TECHNOLOGY MANAGE- MENT.	70,302	70,302
157	0605863N	RDT&E SHIP AND AIRCRAFT SUPPORT .....	144,033	144,033
158	0605864N	TEST AND EVALUATION SUPPORT .....	342,298	342,298
159	0605865N	OPERATIONAL TEST AND EVALUATION CAPA- BILITY.	16,399	16,399
160	0605866N	NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT.	4,579	4,579
161	0605867N	SEW SURVEILLANCE/RECONNAISSANCE SUPPORT	8,000	8,000
162	0605873M	MARINE CORPS PROGRAM WIDE SUPPORT .....	18,490	18,490
163	0305885N	TACTICAL CRYPTOLOGIC ACTIVITIES .....	2,795	2,795
		<b>SUBTOTAL RDT&amp;E MANAGEMENT SUPPORT ....</b>	<b>845,077</b>	<b>845,077</b>
		<b>OPERATIONAL SYSTEMS DEVELOPMENT</b>		

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Line	Program Element	Item	FY 2013 Request	Conference Authorized
167	0604402N	UNMANNED COMBAT AIR VEHICLE (UCAV) ADVANCED COMPONENT AND PROTOTYPE DEVELOPMENT.	142,282	142,282
170	0101221N	STRATEGIC SUB & WEAPONS SYSTEM SUPPORT .....	105,892	105,892
171	0101224N	SSBN SECURITY TECHNOLOGY PROGRAM .....	34,729	34,729
172	0101226N	SUBMARINE ACOUSTIC WARFARE DEVELOPMENT .....	1,434	1,434
173	0101402N	NAVY STRATEGIC COMMUNICATIONS .....	19,208	19,208
174	0203761N	RAPID TECHNOLOGY TRANSITION (RTT) .....	25,566	25,566
175	0204136N	F/A–18 SQUADRONS .....	188,299	170,299
		Program behind in execution .....		[–18,000]
176	0204152N	E–2 SQUADRONS .....	8,610	8,610
177	0204163N	FLEET TELECOMMUNICATIONS (TACTICAL) .....	15,695	15,695
178	0204228N	SURFACE SUPPORT .....	4,171	4,171
179	0204229N	TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC).	11,265	11,265
180	0204311N	INTEGRATED SURVEILLANCE SYSTEM .....	45,922	45,922
181	0204413N	AMPHIBIOUS TACTICAL SUPPORT UNITS (DISPLACEMENT CRAFT).	8,435	8,435
182	0204460M	GROUND/AIR TASK ORIENTED RADAR (G/ATOR) .....	75,088	75,088
183	0204571N	CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT.	20,229	20,229
184	0204574N	CRYPTOLOGIC DIRECT SUPPORT .....	1,756	1,756
185	0204575N	ELECTRONIC WARFARE (EW) READINESS SUPPORT .....	19,843	19,843
186	0205601N	HARM IMPROVEMENT .....	11,477	11,477
187	0205604N	TACTICAL DATA LINKS .....	118,818	118,818
188	0205620N	SURFACE ASW COMBAT SYSTEM INTEGRATION .....	27,342	27,342
189	0205632N	MK–48 ADCAP .....	28,717	28,717
190	0205633N	AVIATION IMPROVEMENTS .....	89,157	89,157
191	0205658N	NAVY SCIENCE ASSISTANCE PROGRAM .....	3,450	3,450
192	0205675N	OPERATIONAL NUCLEAR POWER SYSTEMS .....	86,435	86,435
193	0206313M	MARINE CORPS COMMUNICATIONS SYSTEMS .....	219,054	219,054
194	0206623M	MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS.	181,693	181,693
195	0206624M	MARINE CORPS COMBAT SERVICES SUPPORT .....	58,393	58,393
196	0206625M	USMC INTELLIGENCE/ELECTRONIC WARFARE SYSTEMS (MIP).	22,966	22,966
197	0207161N	TACTICAL AIM MISSILES .....	21,107	21,107
198	0207163N	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM).	2,857	2,857
199	0208058N	JOINT HIGH SPEED VESSEL (JHSV) .....	1,932	1,932
204	0303109N	SATELLITE COMMUNICATIONS (SPACE) .....	188,482	188,482
205	0303138N	CONSOLIDATED AFLOAT NETWORK ENTERPRISE SERVICES (CANES).	16,749	16,749
206	0303140N	INFORMATION SYSTEMS SECURITY PROGRAM .....	26,307	26,307
207	0303150M	WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM.	500	500
210	0305149N	COBRA JUDY .....	17,091	17,091
211	0305160N	NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (METOC).	810	810
212	0305192N	MILITARY INTELLIGENCE PROGRAM (MIP) ACTIVITIES.	8,617	8,617
213	0305204N	TACTICAL UNMANNED AERIAL VEHICLES .....	9,066	9,066
215	0305207N	MANNED RECONNAISSANCE SYSTEMS .....	30,654	30,654
216	0305208M	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS.	25,917	25,917
217	0305208N	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS.	14,676	14,676
218	0305220N	RQ–4 UAV .....	657,483	657,483
219	0305231N	MQ–8 UAV .....	99,600	99,600
220	0305232M	RQ–11 UAV .....	495	495
221	0305233N	RQ–7 UAV .....	863	863
223	0305234N	SMALL (LEVEL 0) TACTICAL UAS (STUASLO) .....	9,734	9,734
225	0305239M	RQ–21A .....	22,343	22,343
226	0308601N	MODELING AND SIMULATION SUPPORT .....	5,908	5,908
227	0702207N	DEPOT MAINTENANCE (NON-IF) .....	27,391	27,391
229	0708011N	INDUSTRIAL PREPAREDNESS .....	54,879	54,879
230	0708730N	MARITIME TECHNOLOGY (MARITECH) .....	5,000	5,000

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
230A	9999999999	CLASSIFIED PROGRAMS .....	1,151,159	1,351,159
		Program increase .....		[200,000]
		<b>SUBTOTAL OPERATIONAL SYSTEMS DEVELOP- MENT.</b>	<b>3,975,546</b>	<b>4,157,546</b>
		<b>TOTAL RESEARCH, DEVELOPMENT, TEST &amp; EVAL, NAVY.</b>	<b>16,882,877</b>	<b>17,308,977</b>
		<b>RESEARCH, DEVELOPMENT, TEST &amp; EVAL, AF BASIC RESEARCH</b>		
001	0601102F	DEFENSE RESEARCH SCIENCES .....	361,787	361,787
002	0601103F	UNIVERSITY RESEARCH INITIATIVES .....	141,153	141,153
003	0601108F	HIGH ENERGY LASER RESEARCH INITIATIVES .....	13,094	13,094
		<b>SUBTOTAL BASIC RESEARCH .....</b>	<b>516,034</b>	<b>516,034</b>
		<b>APPLIED RESEARCH</b>		
004	0602102F	MATERIALS .....	114,166	114,166
005	0602201F	AEROSPACE VEHICLE TECHNOLOGIES .....	120,719	120,719
006	0602202F	HUMAN EFFECTIVENESS APPLIED RESEARCH .....	89,319	89,319
007	0602203F	AEROSPACE PROPULSION .....	232,547	232,547
008	0602204F	AEROSPACE SENSORS .....	127,637	127,637
009	0602601F	SPACE TECHNOLOGY .....	98,375	98,375
010	0602602F	CONVENTIONAL MUNITIONS .....	77,175	77,175
011	0602605F	DIRECTED ENERGY TECHNOLOGY .....	106,196	106,196
012	0602788F	DOMINANT INFORMATION SCIENCES AND METH- ODS.	104,362	104,362
013	0602890F	HIGH ENERGY LASER RESEARCH .....	38,557	38,557
		<b>SUBTOTAL APPLIED RESEARCH .....</b>	<b>1,109,053</b>	<b>1,109,053</b>
		<b>ADVANCED TECHNOLOGY DEVELOPMENT</b>		
014	0603112F	ADVANCED MATERIALS FOR WEAPON SYSTEMS .... Increase Materials Affordability Initiative program ...	47,890	57,890 [10,000]
015	0603199F	SUSTAINMENT SCIENCE AND TECHNOLOGY (S&T) .....	6,565	6,565
016	0603203F	ADVANCED AEROSPACE SENSORS .....	37,657	37,657
017	0603211F	AEROSPACE TECHNOLOGY DEV/DEMO .....	81,376	81,376
018	0603216F	AEROSPACE PROPULSION AND POWER TECH- NOLOGY.	151,152	151,152
019	0603270F	ELECTRONIC COMBAT TECHNOLOGY .....	32,941	32,941
020	0603401F	ADVANCED SPACECRAFT TECHNOLOGY .....	64,557	64,557
021	0603444F	MAUI SPACE SURVEILLANCE SYSTEM (MSSS) .....	29,256	29,256
022	0603456F	HUMAN EFFECTIVENESS ADVANCED TECH- NOLOGY DEVELOPMENT.	21,523	21,523
023	0603601F	CONVENTIONAL WEAPONS TECHNOLOGY .....	36,352	36,352
024	0603605F	ADVANCED WEAPONS TECHNOLOGY .....	19,004	19,004
025	0603680F	MANUFACTURING TECHNOLOGY PROGRAM .....	37,045	37,045
026	0603788F	BATTLESPACE KNOWLEDGE DEVELOPMENT AND DEMONSTRATION.	31,419	31,419
		<b>SUBTOTAL ADVANCED TECHNOLOGY DEVEL- OPMENT.</b>	<b>596,737</b>	<b>606,737</b>
		<b>ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES</b>		
028	0603260F	INTELLIGENCE ADVANCED DEVELOPMENT .....	3,866	3,866
029	0603287F	PHYSICAL SECURITY EQUIPMENT .....	3,704	3,704
030	0603430F	ADVANCED EHF MILSATCOM (SPACE) .....	229,171	227,671
		Project decrease .....		[-1,500]
031	0603432F	POLAR MILSATCOM (SPACE) .....	120,676	120,676
032	0603438F	SPACE CONTROL TECHNOLOGY .....	25,144	23,144
		Project decrease .....		[-2,000]
033	0603742F	COMBAT IDENTIFICATION TECHNOLOGY .....	32,243	32,243
034	0603790F	NATO RESEARCH AND DEVELOPMENT .....	4,507	4,507
035	0603791F	INTERNATIONAL SPACE COOPERATIVE R&D .....	652	652
036	0603830F	SPACE PROTECTION PROGRAM (SPP) .....	10,429	10,429
037	0603850F	INTEGRATED BROADCAST SERVICE—DEM/VAL .....	19,938	19,938
038	0603851F	INTERCONTINENTAL BALLISTIC MISSILE—DEM/ VAL.	71,181	71,181
039	0603854F	WIDEBAND GLOBAL SATCOM RDT&E (SPACE) .....	12,027	12,027

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
040	0603859F	POLLUTION PREVENTION—DEM/VAL .....	2,054	2,054
041	0603860F	JOINT PRECISION APPROACH AND LANDING SYS- TEMS—DEM/VAL.	57,975	57,975
042	0604015F	LONG RANGE STRIKE .....	291,742	291,742
043	0604283F	BATTLE MGMT COM & CTRL SENSOR DEVELOP- MENT.	114,417	114,417
044	0604317F	TECHNOLOGY TRANSFER .....	2,576	2,576
045	0604327F	HARD AND DEEPLY BURIED TARGET DEFEAT SYS- TEM (HDBTDS) PROGRAM.	16,711	16,711
047	0604337F	REQUIREMENTS ANALYSIS AND MATURATION .....	16,343	16,343
048	0604422F	WEATHER SATELLITE FOLLOW-ON .....	2,000	2,000
050	0604635F	GROUND ATTACK WEAPONS FUZE DEVELOPMENT	9,423	9,423
054	0604857F	OPERATIONALLY RESPONSIVE SPACE .....		45,000
		Restore Operationally Responsive Space .....		[45,000]
055	0604858F	TECH TRANSITION PROGRAM .....	37,558	34,558
		Project decrease .....		[-3,000]
056	0305164F	NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT) (SPACE).	96,840	96,840
		<b>SUBTOTAL ADVANCED COMPONENT DEVEL- OPMENT &amp; PROTOTYPES.</b>	<b>1,181,177</b>	<b>1,219,677</b>
		<b>SYSTEM DEVELOPMENT &amp; DEMONSTRATION</b>		
058	0603840F	GLOBAL BROADCAST SERVICE (GBS) .....	14,652	14,652
059	0604222F	NUCLEAR WEAPONS SUPPORT .....	25,713	25,713
060	0604233F	SPECIALIZED UNDERGRADUATE FLIGHT TRAINING Program delays .....	6,583	4,983
				[-1,600]
061	0604270F	ELECTRONIC WARFARE DEVELOPMENT .....	1,975	1,975
062	0604280F	JOINT TACTICAL RADIO .....	2,594	2,594
063	0604281F	TACTICAL DATA NETWORKS ENTERPRISE .....	24,534	24,534
064	0604287F	PHYSICAL SECURITY EQUIPMENT .....	51	51
065	0604329F	SMALL DIAMETER BOMB (SDB)—EMD .....	143,000	143,000
066	0604421F	COUNTERSPACE SYSTEMS .....	28,797	28,797
067	0604425F	SPACE SITUATION AWARENESS SYSTEMS .....	267,252	247,252
		C-Band Radar re-location .....		[3,000]
		Excess funding .....		[-20,000]
		Undistributed reduction .....		[-3,000]
068	0604429F	AIRBORNE ELECTRONIC ATTACK .....	4,118	4,118
069	0604441F	SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD.	448,594	446,594
		Project decrease .....		[-2,000]
070	0604602F	ARMAMENT/ORDNANCE DEVELOPMENT .....	9,951	9,951
071	0604604F	SUBMUNITIONS .....	2,567	2,567
072	0604617F	AGILE COMBAT SUPPORT .....	13,059	13,059
073	0604706F	LIFE SUPPORT SYSTEMS .....	9,720	9,720
074	0604735F	COMBAT TRAINING RANGES .....	9,222	9,222
076	0604750F	INTELLIGENCE EQUIPMENT .....	803	803
077	0604800F	F-35—EMD .....	1,210,306	1,207,999
		Block 4—early to need .....		[-2,307]
078	0604851F	INTERCONTINENTAL BALLISTIC MISSILE—EMD .....	135,437	135,437
079	0604853F	EVOLVED EXPENDABLE LAUNCH VEHICLE PRO- GRAM (SPACE)—EMD.	7,980	7,980
080	0604932F	LONG RANGE STANDOFF WEAPON .....	2,004	2,004
081	0604933F	ICBM FUZE MODERNIZATION .....	73,512	73,512
082	0605213F	F-22 MODERNIZATION INCREMENT 3.2B .....	140,100	140,100
083	0605221F	NEXT GENERATION AERIAL REFUELING AIRCRAFT Excess prior year funds .....	1,815,588	1,738,488
				[-77,100]
084	0605229F	CSAR HH-60 RECAPITALIZATION .....	123,210	123,210
085	0605278F	HC/MC-130 RECAP RDT&E .....	19,039	19,039
086	0605931F	B-2 DEFENSIVE MANAGEMENT SYSTEM .....	281,056	281,056
087	0101125F	NUCLEAR WEAPONS MODERNIZATION .....	80,200	80,200
089	0207604F	READINESS TRAINING RANGES, OPERATIONS AND MAINTENANCE.	310	310
090	0207701F	FULL COMBAT MISSION TRAINING .....	14,861	14,861
091	0305230F	MC-12 .....	19,949	19,949
093	0401318F	CV-22 .....	28,027	28,027
094	0401845F	AIRBORNE SENIOR LEADER C3 (SLC3S) .....	1,960	1,960

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
		<b>SUBTOTAL SYSTEM DEVELOPMENT &amp; DEMONSTRATION.</b>	<b>4,966,724</b>	<b>4,863,717</b>
		<b>RDT&amp;E MANAGEMENT SUPPORT</b>		
095	0604256F	THREAT SIMULATOR DEVELOPMENT .....	22,812	22,812
096	0604759F	MAJOR T&E INVESTMENT .....	42,236	42,236
097	0605101F	RAND PROJECT AIR FORCE .....	25,579	25,579
099	0605712F	INITIAL OPERATIONAL TEST & EVALUATION .....	16,197	16,197
100	0605807F	TEST AND EVALUATION SUPPORT .....	722,071	722,071
101	0605860F	ROCKET SYSTEMS LAUNCH PROGRAM (SPACE) .....	16,200	16,200
102	0605864F	SPACE TEST PROGRAM (STP) .....	10,051	45,051
		Restore Space Test Program .....		[35,000]
103	0605976F	FACILITIES RESTORATION AND MODERNIZATION— TEST AND EVALUATION SUPPORT.	42,597	42,597
104	0605978F	FACILITIES SUSTAINMENT—TEST AND EVALUA- TION SUPPORT.	27,301	27,301
105	0606323F	MULTI-SERVICE SYSTEMS ENGINEERING INITIA- TIVE.	13,964	13,964
106	0606392F	SPACE AND MISSILE CENTER (SMC) CIVILIAN WORKFORCE.	203,766	203,766
107	0702806F	ACQUISITION AND MANAGEMENT SUPPORT .....	42,430	42,430
108	0804731F	GENERAL SKILL TRAINING .....	1,294	1,294
111	1001004F	INTERNATIONAL ACTIVITIES .....	3,851	3,851
		<b>SUBTOTAL RDT&amp;E MANAGEMENT SUPPORT ....</b>	<b>1,190,349</b>	<b>1,225,349</b>
		<b>OPERATIONAL SYSTEMS DEVELOPMENT</b>		
112	0603423F	GLOBAL POSITIONING SYSTEM III—OPERATIONAL CONTROL SEGMENT.	371,595	370,095
		Project decrease .....		[–1,500]
114	0605018F	AF INTEGRATED PERSONNEL AND PAY SYSTEM (AF-IPPS).	91,697	91,697
115	0605024F	ANTI-TAMPER TECHNOLOGY EXECUTIVE AGENCY	17,037	17,037
117	0101113F	B–52 SQUADRONS .....	53,208	53,208
118	0101122F	AIR-LAUNCHED CRUISE MISSILE (ALCM) .....	431	431
119	0101126F	B–1B SQUADRONS .....	16,265	16,265
120	0101127F	B–2 SQUADRONS .....	35,970	35,970
121	0101313F	STRAT WAR PLANNING SYSTEM—USSTRATCOM .....	30,889	30,889
122	0101314F	NIGHT FIST—USSTRATCOM .....	10	10
124	0102326F	REGION/SECTOR OPERATION CONTROL CENTER MODERNIZATION PROGRAM.	5,609	5,609
126	0203761F	WARFIGHTER RAPID ACQUISITION PROCESS (WRAP) RAPID TRANSITION FUND.	15,098	15,098
127	0205219F	MQ–9 UAV .....	147,971	147,971
128	0207040F	MULTI-PLATFORM ELECTRONIC WARFARE EQUIP- MENT.	49,848	49,848
129	0207131F	A–10 SQUADRONS .....	13,538	13,538
130	0207133F	F–16 SQUADRONS .....	190,257	190,257
131	0207134F	F–15E SQUADRONS .....	192,677	192,677
132	0207136F	MANNED DESTRUCTIVE SUPPRESSION .....	13,683	13,683
133	0207138F	F–22A SQUADRONS .....	371,667	371,667
134	0207142F	F–35 SQUADRONS .....	8,117	8,117
135	0207161F	TACTICAL AIM MISSILES .....	8,234	8,234
136	0207163F	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM).	87,041	87,041
137	0207170F	JOINT HELMET MOUNTED CUEING SYSTEM (JHMCS).	1,472	1,472
138	0207224F	COMBAT RESCUE AND RECOVERY .....	2,095	2,095
139	0207227F	COMBAT RESCUE—PARARESCUE .....	1,119	1,119
140	0207247F	AF TENCAP .....	63,853	63,853
141	0207249F	PRECISION ATTACK SYSTEMS PROCUREMENT .....	1,063	1,063
142	0207253F	COMPASS CALL .....	12,094	12,094
143	0207268F	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM.	187,984	187,984
145	0207325F	JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM).	7,950	7,950
146	0207410F	AIR & SPACE OPERATIONS CENTER (AOC) .....	76,315	76,315
147	0207412F	CONTROL AND REPORTING CENTER (CRC) .....	8,653	8,653

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
148	0207417F	AIRBORNE WARNING AND CONTROL SYSTEM (AWACS).	65,200	65,200
149	0207418F	TACTICAL AIRBORNE CONTROL SYSTEMS .....	5,767	5,767
152	0207431F	COMBAT AIR INTELLIGENCE SYSTEM ACTIVITIES ..	5,756	5,756
154	0207444F	TACTICAL AIR CONTROL PARTY-MOD .....	16,226	16,226
156	0207448F	C2ISR TACTICAL DATA LINK .....	1,633	1,633
157	0207449F	COMMAND AND CONTROL (C2) CONSTELLATION .....	18,086	18,086
158	0207452F	DCAPES .....	15,690	15,690
159	0207581F	JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JSTARS).	24,241	24,241
160	0207590F	SEEK EAGLE .....	22,654	22,654
161	0207601F	USAF MODELING AND SIMULATION .....	15,501	15,501
162	0207605F	WARGAMING AND SIMULATION CENTERS .....	5,699	5,699
163	0207697F	DISTRIBUTED TRAINING AND EXERCISES .....	4,425	4,425
164	0208006F	MISSION PLANNING SYSTEMS .....	69,377	69,377
165	0208021F	INFORMATION WARFARE SUPPORT .....	7,159	7,159
166	0208059F	CYBER COMMAND ACTIVITIES .....	66,888	66,888
174	0301400F	SPACE SUPERIORITY INTELLIGENCE .....	12,056	12,056
175	0302015F	E-4B NATIONAL AIRBORNE OPERATIONS CENTER (NAOC).	4,159	4,159
176	0303131F	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK (MEECN).	20,124	20,124
177	0303140F	INFORMATION SYSTEMS SECURITY PROGRAM .....	69,133	69,133
178	0303141F	GLOBAL COMBAT SUPPORT SYSTEM .....	6,512	6,512
179	0303150F	GLOBAL COMMAND AND CONTROL SYSTEM .....	4,316	2,316
		Underexecution .....		[-2,000]
180	0303601F	MILSATCOM TERMINALS .....	107,237	107,237
182	0304260F	AIRBORNE SIGINT ENTERPRISE .....	129,106	129,106
185	0305099F	GLOBAL AIR TRAFFIC MANAGEMENT (GATM) .....	4,461	4,461
186	0305103F	CYBER SECURITY INITIATIVE .....	2,055	2,055
187	0305105F	DOD CYBER CRIME CENTER .....	285	285
188	0305110F	SATELLITE CONTROL NETWORK (SPACE) .....	33,773	33,773
189	0305111F	WEATHER SERVICE .....	29,048	29,048
190	0305114F	AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM (ATCAL).	43,187	43,187
191	0305116F	AERIAL TARGETS .....	50,496	50,496
194	0305128F	SECURITY AND INVESTIGATIVE ACTIVITIES .....	354	354
195	0305145F	ARMS CONTROL IMPLEMENTATION .....	4,000	4,000
196	0305146F	DEFENSE JOINT COUNTERINTELLIGENCE ACTIVITIES.	342	342
198	0305164F	NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT) (SPACE).	29,621	29,621
199	0305165F	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL SEGMENTS).	14,335	14,335
201	0305173F	SPACE AND MISSILE TEST AND EVALUATION CENTER.	3,680	3,680
202	0305174F	SPACE INNOVATION AND DEVELOPMENT CENTER	2,430	2,430
203	0305182F	SPACELIFT RANGE SYSTEM (SPACE) .....	8,760	8,760
205	0305202F	DRAGON U-2 .....	23,644	23,644
206	0305205F	ENDURANCE UNMANNED AERIAL VEHICLES .....	21,000	21,000
207	0305206F	AIRBORNE RECONNAISSANCE SYSTEMS .....	96,735	96,735
208	0305207F	MANNED RECONNAISSANCE SYSTEMS .....	13,316	13,316
209	0305208F	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS.	63,501	63,501
210	0305219F	MQ-1 PREDATOR A UAV .....	9,122	9,122
211	0305220F	RQ-4 UAV .....	236,265	236,265
212	0305221F	NETWORK-CENTRIC COLLABORATIVE TARGETING	7,367	7,367
213	0305236F	COMMON DATA LINK (CDL) .....	38,094	38,094
214	0305238F	NATO AGS .....	210,109	210,109
215	0305240F	SUPPORT TO DCGS ENTERPRISE .....	24,500	24,500
216	0305265F	GPS III SPACE SEGMENT .....	318,992	318,992
217	0305614F	JSPC MISSION SYSTEM .....	54,645	54,645
218	0305881F	RAPID CYBER ACQUISITION .....	4,007	4,007
219	0305887F	INTELLIGENCE SUPPORT TO INFORMATION WARFARE.	13,357	13,357
220	0305913F	NUDET DETECTION SYSTEM (SPACE) .....	64,965	63,365
		ICADS—early to need .....		[-1,600]



SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
221	0305940F	SPACE SITUATION AWARENESS OPERATIONS .....	19,586	19,586
223	0308699F	SHARED EARLY WARNING (SEW) .....	1,175	1,175
224	0401115F	C–130 AIRLIFT SQUADRON .....	5,000	5,000
225	0401119F	C–5 AIRLIFT SQUADRONS (IF) .....	35,115	35,115
226	0401130F	C–17 AIRCRAFT (IF) .....	99,225	99,225
227	0401132F	C–130J PROGRAM .....	30,652	30,652
228	0401134F	LARGE AIRCRAFT IR COUNTERMEASURES (LAIRCM).	7,758	7,758
229	0401139F	LIGHT MOBILITY AIRCRAFT (LIMA) .....	100	0
		Program termination .....		[–100]
231	0401219F	KC–10S .....	24,022	24,022
232	0401314F	OPERATIONAL SUPPORT AIRLIFT .....	7,471	7,471
234	0408011F	SPECIAL TACTICS / COMBAT CONTROL .....	4,984	4,984
235	0702207F	DEPOT MAINTENANCE (NON-IF) .....	1,588	1,588
236	0708012F	LOGISTICS SUPPORT ACTIVITIES .....	577	577
237	0708610F	LOGISTICS INFORMATION TECHNOLOGY (LOGIT) ...	119,327	99,327
		Program delays .....		[–20,000]
238	0708611F	SUPPORT SYSTEMS DEVELOPMENT .....	15,873	15,873
240	0804743F	OTHER FLIGHT TRAINING .....	349	349
242	0808716F	OTHER PERSONNEL ACTIVITIES .....	117	117
243	0901202F	JOINT PERSONNEL RECOVERY AGENCY .....	2,018	2,018
244	0901218F	CIVILIAN COMPENSATION PROGRAM .....	1,561	1,561
245	0901220F	PERSONNEL ADMINISTRATION .....	7,634	7,634
246	0901226F	AIR FORCE STUDIES AND ANALYSIS AGENCY .....	1,175	1,175
247	0901279F	FACILITIES OPERATION—ADMINISTRATIVE .....	3,491	3,491
248	0901538F	FINANCIAL MANAGEMENT INFORMATION SYS- TEMS DEVELOPMENT.	100,160	100,160
249A	9999999999	CLASSIFIED PROGRAMS .....	11,172,183	11,172,183
		<b>SUBTOTAL OPERATIONAL SYSTEMS DEVELOP- MENT.</b>	<b>15,867,972</b>	<b>15,842,772</b>
		<b>TOTAL RESEARCH, DEVELOPMENT, TEST &amp; EVAL, AF.</b>	<b>25,428,046</b>	<b>25,383,339</b>
		<b>RESEARCH, DEVELOPMENT, TEST &amp; EVAL, DW</b>		
		<b>BASIC RESEARCH</b>		
001	0601000BR	DTRA BASIC RESEARCH INITIATIVE .....	45,071	45,071
002	0601101E	DEFENSE RESEARCH SCIENCES .....	309,051	309,051
003	0601110D8Z	BASIC RESEARCH INITIATIVES .....	19,405	19,405
004	0601117E	BASIC OPERATIONAL MEDICAL RESEARCH SCIENCE.	39,676	39,676
005	0601120D8Z	NATIONAL DEFENSE EDUCATION PROGRAM .....	87,979	87,979
006	0601384BP	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	50,566	50,566
		<b>SUBTOTAL BASIC RESEARCH .....</b>	<b>551,748</b>	<b>551,748</b>
		<b>APPLIED RESEARCH</b>		
007	0602000D8Z	JOINT MUNITIONS TECHNOLOGY .....	20,615	20,615
008	0602115E	BIOMEDICAL TECHNOLOGY .....	110,900	110,900
009	0602228D8Z	HISTORICALLY BLACK COLLEGES AND UNIVER- SITIES (HBCU) SCIENCE.		10,000
		Program increase .....		[10,000]
010	0602234D8Z	LINCOLN LABORATORY RESEARCH PROGRAM .....	36,826	36,826
011	0602250D8Z	SYSTEMS 2020 APPLIED RESEARCH .....	7,898	7,898
012	0602303E	INFORMATION & COMMUNICATIONS TECHNOLOGY	392,421	392,421
013	0602304E	COGNITIVE COMPUTING SYSTEMS .....	30,424	30,424
015	0602383E	BIOLOGICAL WARFARE DEFENSE .....	19,236	19,236
016	0602384BP	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	223,269	223,269
017	0602663D8Z	DATA TO DECISIONS APPLIED RESEARCH .....	13,753	9,753
		Excessive growth .....		[–4,000]
018	0602668D8Z	CYBER SECURITY RESEARCH .....	18,985	12,985
		Excessive growth .....		[–6,000]
019	0602670D8Z	HUMAN, SOCIAL AND CULTURE BEHAVIOR MOD- ELING (HSCB) APPLIED RESEARCH.	6,771	6,771
020	0602702E	TACTICAL TECHNOLOGY .....	233,209	233,209
021	0602715E	MATERIALS AND BIOLOGICAL TECHNOLOGY .....	166,067	166,067
022	0602716E	ELECTRONICS TECHNOLOGY .....	222,416	222,416

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
023	0602718BR	WEAPONS OF MASS DESTRUCTION DEFEAT TECHNOLOGIES.	172,352	172,352
024	1160401BB	SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT.	28,739	28,739
		<b>SUBTOTAL APPLIED RESEARCH .....</b>	<b>1,703,881</b>	<b>1,703,881</b>
		<b>ADVANCED TECHNOLOGY DEVELOPMENT (ATD)</b>		
025	0603000D8Z	JOINT MUNITIONS ADVANCED TECHNOLOGY .....	25,612	21,612
		Excessive growth .....		[–4,000]
026	0603121D8Z	SO/LIC ADVANCED DEVELOPMENT .....	26,324	26,324
027	0603122D8Z	COMBATING TERRORISM TECHNOLOGY SUPPORT ..	77,144	77,144
028	0603160BR	COUNTERPROLIFERATION INITIATIVES—PROLIFERATION PREVENTION AND DEFEAT.	275,022	275,022
029	0603175C	BALLISTIC MISSILE DEFENSE TECHNOLOGY .....	79,975	79,975
031	0603225D8Z	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT.	20,032	20,032
032	0603264S	AGILE TRANSPORTATION FOR THE 21ST CENTURY (AT21)—THEATER CAPABILITY.	3,892	3,892
033	0603274C	SPECIAL PROGRAM—MDA TECHNOLOGY .....	36,685	36,685
034	0603286E	ADVANCED AEROSPACE SYSTEMS .....	174,316	159,316
		Program decrease .....		[–15,000]
035	0603287E	SPACE PROGRAMS AND TECHNOLOGY .....	159,704	159,704
036	0603384BP	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM—ADVANCED DEVELOPMENT.	234,280	234,280
037	0603618D8Z	JOINT ELECTRONIC ADVANCED TECHNOLOGY .....	6,983	6,983
038	0603648D8Z	JOINT CAPABILITY TECHNOLOGY DEMONSTRATIONS.	158,263	158,263
039	0603662D8Z	NETWORKED COMMUNICATIONS CAPABILITIES .....	25,393	25,393
040	0603663D8Z	DATA TO DECISIONS ADVANCED TECHNOLOGY DEVELOPMENT.	13,754	9,754
		Excessive growth .....		[–4,000]
042	0603668D8Z	CYBER SECURITY ADVANCED RESEARCH .....	19,935	13,935
		Excessive growth .....		[–6,000]
043	0603670D8Z	HUMAN, SOCIAL AND CULTURE BEHAVIOR MODELING (HSCB) ADVANCED DEVELOPMENT.	8,235	8,235
044	0603680D8Z	DEFENSE-WIDE MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.	21,966	51,966
		Industrial Base Innovation Fund .....		[30,000]
045	0603699D8Z	EMERGING CAPABILITIES TECHNOLOGY DEVELOPMENT.	24,662	24,662
047	0603712S	GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS.	24,605	24,605
048	0603713S	DEPLOYMENT AND DISTRIBUTION ENTERPRISE TECHNOLOGY.	30,678	30,678
049	0603716D8Z	STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM.	65,282	65,282
050	0603720S	MICROELECTRONICS TECHNOLOGY DEVELOPMENT AND SUPPORT.	72,234	62,234
		.90nm Next Generation Foundry-early to need .....		[–10,000]
051	0603727D8Z	JOINT WARFIGHTING PROGRAM .....	8,403	8,403
052	0603739E	ADVANCED ELECTRONICS TECHNOLOGIES .....	111,008	111,008
054	0603760E	COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS.	237,859	229,859
		Program reduction .....		[–8,000]
055	0603765E	CLASSIFIED DARPA PROGRAMS .....	3,000	3,000
056	0603766E	NETWORK-CENTRIC WARFARE TECHNOLOGY .....	236,883	236,883
057	0603767E	SENSOR TECHNOLOGY .....	299,438	299,438
058	0603769SE	DISTRIBUTED LEARNING ADVANCED TECHNOLOGY DEVELOPMENT.	12,195	12,195
059	0603781D8Z	SOFTWARE ENGINEERING INSTITUTE .....	30,036	30,036
060	0603826D8Z	QUICK REACTION SPECIAL PROJECTS .....	107,002	92,002
		Excessive growth .....		[–15,000]
062	0603828J	JOINT EXPERIMENTATION .....	21,230	21,230
063	0603832D8Z	DOD MODELING AND SIMULATION MANAGEMENT OFFICE.	47,433	47,433
064	0603901C	DIRECTED ENERGY RESEARCH .....	46,944	41,944
		Unjustified request .....		[–5,000]

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
065	0603902C	NEXT GENERATION AEGIS MISSILE .....	224,077	224,077
066	0603941D8Z	TEST & EVALUATION SCIENCE & TECHNOLOGY .....	92,602	92,602
068	0604055D8Z	OPERATIONAL ENERGY CAPABILITY IMPROVE- MENT.	26,244	26,244
069	0303310D8Z	CWMD SYSTEMS .....	53,946	38,946
		Program reduction .....		[–15,000]
070	1160402BB	SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT.	45,317	45,317
071	1160422BB	AVIATION ENGINEERING ANALYSIS .....	861	861
072	1160472BB	SOF INFORMATION AND BROADCAST SYSTEMS AD- VANCED TECHNOLOGY.	4,959	4,959
		<b>SUBTOTAL ADVANCED TECHNOLOGY DEVEL- OPMENT (ATD).</b>	<b>3,194,413</b>	<b>3,142,413</b>
		<b>ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES</b>		
073	0603161D8Z	NUCLEAR AND CONVENTIONAL PHYSICAL SECU- RITY EQUIPMENT RDT&E ADC&P.	33,234	33,234
074	0603527D8Z	RETRACT LARCH .....	21,023	21,023
075	0603600D8Z	WALKOFF .....	94,624	94,624
077	0603714D8Z	ADVANCED SENSOR APPLICATIONS PROGRAM .....	16,958	18,958
		Reverse cuts to testing .....		[2,000]
078	0603851D8Z	ENVIRONMENTAL SECURITY TECHNICAL CERTIFI- CATION PROGRAM.	75,941	75,941
079	0603881C	BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT.	316,929	316,929
080	0603882C	BALLISTIC MISSILE DEFENSE MIDCOURSE DE- FENSE SEGMENT.	903,172	978,172
		Program increase .....		[75,000]
081	0603884BP	CHEMICAL AND BIOLOGICAL DEFENSE PRO- GRAM—DEM/VAL.	179,023	179,023
082	0603884C	BALLISTIC MISSILE DEFENSE SENSORS .....	347,012	347,012
084	0603890C	BMD ENABLING PROGRAMS .....	362,711	362,711
085	0603891C	SPECIAL PROGRAMS—MDA .....	272,387	272,387
086	0603892C	AEGIS BMD .....	992,407	992,407
087	0603893C	SPACE TRACKING & SURVEILLANCE SYSTEM .....	51,313	51,313
088	0603895C	BALLISTIC MISSILE DEFENSE SYSTEM SPACE PRO- GRAMS.	6,912	6,912
089	0603896C	BALLISTIC MISSILE DEFENSE COMMAND AND CONTROL, BATTLE MANAGEMENT & COMMU- NICATION.	366,552	366,552
090	0603898C	BALLISTIC MISSILE DEFENSE JOINT WARFIGHTER SUPPORT.	55,550	55,550
091	0603904C	MISSILE DEFENSE INTEGRATION & OPERATIONS CENTER (MDIOC).	63,043	63,043
092	0603906C	REGARDING TRENCH .....	11,371	11,371
093	0603907C	SEA BASED X-BAND RADAR (SBX) .....	9,730	9,730
094	0603913C	ISRAELI COOPERATIVE PROGRAMS .....	99,836	478,836
		Increase to DSWS, ASIP, Arrow–3 cooperative pro- grams.		[168,000]
		Iron Dome short-range rocket defense .....		[211,000]
095	0603914C	BALLISTIC MISSILE DEFENSE TEST .....	454,400	454,400
096	0603915C	BALLISTIC MISSILE DEFENSE TARGETS .....	435,747	435,747
097	0603920D8Z	HUMANITARIAN DEMINING .....	13,231	13,231
098	0603923D8Z	COALITION WARFARE .....	11,398	11,398
099	0604016D8Z	DEPARTMENT OF DEFENSE CORROSION PROGRAM Increase for requirements shortfall .....	3,283	24,083
				[20,800]
100	0604400D8Z	DEPARTMENT OF DEFENSE (DOD) UNMANNED AIR- CRAFT SYSTEM (UAS) COMMON DEVELOPMENT.	12,368	12,368
101	0604670D8Z	HUMAN, SOCIAL AND CULTURE BEHAVIOR MOD- ELING (HSCB) RESEARCH AND ENGINEERING.	5,131	5,131
102	0604775D8Z	DEFENSE RAPID INNOVATION PROGRAM .....		200,000
		Rapid Innovation Program .....		[200,000]
104	0604787J	JOINT SYSTEMS INTEGRATION .....	3,273	3,273
106	0604828J	JOINT FIRES INTEGRATION AND INTEROPER- ABILITY TEAM.	7,364	7,364
107	0604880C	LAND-BASED SM–3 (LBSM3) .....	276,338	276,338

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
108	0604881C	AEGIS SM–3 BLOCK IIA CO-DEVELOPMENT .....	420,630	420,630
109	0604883C	PRECISION TRACKING SPACE SENSOR RDT&E .....	297,375	242,375
		Project decrease to support technology development ..		[–55,000]
111	0604886C	ADVANCED REMOTE SENSOR TECHNOLOGY (ARST) Program reduction .....	58,742	33,742 [–25,000]
113	0303191D8Z	JOINT ELECTROMAGNETIC TECHNOLOGY (JET) PROGRAM.	3,158	3,158
		<b>SUBTOTAL ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES.</b>	<b>6,282,166</b>	<b>6,878,966</b>
		<b>SYSTEM DEVELOPMENT AND DEMONSTRATION (SDD)</b>		
115	0604161D8Z	NUCLEAR AND CONVENTIONAL PHYSICAL SECURITY EQUIPMENT RDT&E SDD.	6,817	6,817
116	0604165D8Z	PROMPT GLOBAL STRIKE CAPABILITY DEVELOPMENT.	110,383	110,383
117	0604384BP	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM—EMD.	311,071	311,071
119	0604764K	ADVANCED IT SERVICES JOINT PROGRAM OFFICE (AITS-JPO).	25,787	25,787
120	0604771D8Z	JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS).	20,688	20,688
121	0605000BR	WEAPONS OF MASS DESTRUCTION DEFEAT CAPABILITIES.	5,749	5,749
122	0605013BL	INFORMATION TECHNOLOGY DEVELOPMENT .....	12,699	12,699
125	0605021SE	HOMELAND PERSONNEL SECURITY INITIATIVE .....	387	387
126	0605022D8Z	DEFENSE EXPORTABILITY PROGRAM .....	1,859	1,859
127	0605027D8Z	OUSDC IT DEVELOPMENT INITIATIVES .....	7,010	7,010
128	0605070S	DOD ENTERPRISE SYSTEMS DEVELOPMENT AND DEMONSTRATION.	133,104	133,104
129	0605075D8Z	DCMO POLICY AND INTEGRATION .....	25,269	25,269
131	0605210D8Z	DEFENSE-WIDE ELECTRONIC PROCUREMENT CAPABILITIES.	10,238	10,238
132	0303141K	GLOBAL COMBAT SUPPORT SYSTEM .....	19,670	19,670
133	0305304D8Z	DOD ENTERPRISE ENERGY INFORMATION MANAGEMENT (EIM).	3,556	3,556
		<b>SUBTOTAL SYSTEM DEVELOPMENT AND DEMONSTRATION (SDD).</b>	<b>694,287</b>	<b>694,287</b>
		<b>RDT&amp;E MANAGEMENT SUPPORT</b>		
135	0604774D8Z	DEFENSE READINESS REPORTING SYSTEM (DRRS)	6,383	6,383
136	0604875D8Z	JOINT SYSTEMS ARCHITECTURE DEVELOPMENT ...	3,845	3,845
137	0604940D8Z	CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT (CTEIP).	144,109	144,109
138	0604942D8Z	ASSESSMENTS AND EVALUATIONS .....	2,419	2,419
139	0604943D8Z	THERMAL VICAR .....	8,214	8,214
140	0605100D8Z	JOINT MISSION ENVIRONMENT TEST CAPABILITY (JMETC).	19,380	19,380
141	0605104D8Z	TECHNICAL STUDIES, SUPPORT AND ANALYSIS .....	32,266	32,266
142	0605110D8Z	USD(A&T)—CRITICAL TECHNOLOGY SUPPORT .....	840	840
143	0605117D8Z	FOREIGN MATERIEL ACQUISITION AND EXPLOITATION.	56,012	56,012
144	0605126J	JOINT INTEGRATED AIR AND MISSILE DEFENSE ORGANIZATION (JAMDO).	55,508	55,508
146	0605130D8Z	FOREIGN COMPARATIVE TESTING .....	18,174	18,174
147	0605142D8Z	SYSTEMS ENGINEERING .....	43,195	43,195
148	0605151D8Z	STUDIES AND ANALYSIS SUPPORT—OSD .....	6,457	6,457
149	0605161D8Z	NUCLEAR MATTERS-PHYSICAL SECURITY .....	4,901	4,901
150	0605170D8Z	SUPPORT TO NETWORKS AND INFORMATION INTEGRATION.	6,307	6,307
151	0605200D8Z	GENERAL SUPPORT TO USD (INTELLIGENCE) .....	6,601	6,601
152	0605384BP	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	92,849	92,849
159	0605790D8Z	SMALL BUSINESS INNOVATION RESEARCH (SBIR)/ SMALL BUSINESS TECHNOLOGY TRANSFER (S.	1,857	1,857
160	0605798D8Z	DEFENSE TECHNOLOGY ANALYSIS .....	12,056	12,056
162	0605801KA	DEFENSE TECHNICAL INFORMATION CENTER (DTIC).	55,454	55,454

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
163	0605803SE	R&D IN SUPPORT OF DOD ENLISTMENT, TESTING AND EVALUATION.	16,364	16,364
164	0605804D8Z	DEVELOPMENT TEST AND EVALUATION .....	15,110	20,110
		DT&E Increase .....		[5,000]
166	0605898E	MANAGEMENT HQ—R&D .....	69,767	69,767
167	0606100D8Z	BUDGET AND PROGRAM ASSESSMENTS .....	4,454	4,454
169	0203345D8Z	DEFENSE OPERATIONS SECURITY INITIATIVE (DOSI).	2,637	2,637
174	0303166J	SUPPORT TO INFORMATION OPERATIONS (IO) CA- PABILITIES.	8,238	8,238
176	0305103E	CYBER SECURITY INITIATIVE .....	1,801	1,801
177	0305193D8Z	INTELLIGENCE SUPPORT TO INFORMATION OPER- ATIONS (IO).	16,041	16,041
180	0804767D8Z	COCOM EXERCISE ENGAGEMENT AND TRAINING TRANSFORMATION (CE2T2).	77,475	77,475
182	0901598C	MANAGEMENT HQ—MDA .....	34,855	34,855
183	0901598D8W	MANAGEMENT HEADQUARTERS WHS .....	104	104
184A	9999999999	CLASSIFIED PROGRAMS .....	64,255	64,255
		<b>SUBTOTAL RDT&amp;E MANAGEMENT SUPPORT ....</b>	<b>887,928</b>	<b>892,928</b>
<b>OPERATIONAL SYSTEMS DEVELOPMENT</b>				
185	0604130V	ENTERPRISE SECURITY SYSTEM (ESS) .....	8,866	8,866
186	0605127T	REGIONAL INTERNATIONAL OUTREACH (RIO) AND PARTNERSHIP FOR PEACE INFORMATION MGMT.	3,238	3,238
187	0605147T	OVERSEAS HUMANITARIAN ASSISTANCE SHARED INFORMATION SYSTEM (OHAIS).	288	288
188	0607384BP	CHEMICAL AND BIOLOGICAL DEFENSE (OPER- ATIONAL SYSTEMS DEVELOPMENT).	14,745	14,745
190	0607828J	JOINT INTEGRATION AND INTEROPERABILITY .....	5,013	5,013
191	0208043J	PLANNING AND DECISION AID SYSTEM (PDAS) .....	3,922	3,922
192	0208045K	C4I INTEROPERABILITY .....	72,574	72,574
194	0301144K	JOINT/ALLIED COALITION INFORMATION SHARING	6,214	6,214
201	0302016K	NATIONAL MILITARY COMMAND SYSTEM-WIDE SUPPORT.	499	499
202	0302019K	DEFENSE INFO INFRASTRUCTURE ENGINEERING AND INTEGRATION.	14,498	14,498
203	0303126K	LONG-HAUL COMMUNICATIONS—DCS .....	26,164	26,164
204	0303131K	MINIMUM ESSENTIAL EMERGENCY COMMUNICA- TIONS NETWORK (MEECN).	12,931	12,931
205	0303135G	PUBLIC KEY INFRASTRUCTURE (PKI) .....	6,296	6,296
206	0303136G	KEY MANAGEMENT INFRASTRUCTURE (KMI) .....	30,948	30,948
207	0303140D8Z	INFORMATION SYSTEMS SECURITY PROGRAM .....	11,780	11,780
208	0303140G	INFORMATION SYSTEMS SECURITY PROGRAM .....	191,452	191,452
211	0303150K	GLOBAL COMMAND AND CONTROL SYSTEM .....	36,575	36,575
212	0303153K	DEFENSE SPECTRUM ORGANIZATION .....	24,278	24,278
213	0303170K	NET-CENTRIC ENTERPRISE SERVICES (NCES) .....	2,924	2,924
214	0303260D8Z	DEFENSE MILITARY DECEPTION PROGRAM OFFICE (DMDPO).	1,294	1,294
215	0303610K	TELEPORT PROGRAM .....	6,050	6,050
217	0304210BB	SPECIAL APPLICATIONS FOR CONTINGENCIES .....	17,058	17,058
222	0305103K	CYBER SECURITY INITIATIVE .....	4,189	4,189
223	0305125D8Z	CRITICAL INFRASTRUCTURE PROTECTION (CIP) ....	10,462	10,462
227	0305186D8Z	POLICY R&D PROGRAMS .....	6,360	6,360
229	0305199D8Z	NET CENTRICITY .....	21,190	21,190
232	0305208BB	DISTRIBUTED COMMON GROUND/SURFACE SYS- TEMS.	7,114	7,114
		USSOCOM UFR .....		[600]
235	0305208K	DISTRIBUTED COMMON GROUND/SURFACE SYS- TEMS.	3,247	3,247
237	0305219BB	MQ-1 PREDATOR A UAV .....	1,355	1,355
240	0305387D8Z	HOMELAND DEFENSE TECHNOLOGY TRANSFER PROGRAM.	2,303	2,303
241	0305600D8Z	INTERNATIONAL INTELLIGENCE TECHNOLOGY AND ARCHITECTURES.	1,478	1,478
249	0708011S	INDUSTRIAL PREPAREDNESS .....	27,044	27,044
250	0708012S	LOGISTICS SUPPORT ACTIVITIES .....	4,711	4,711
251	0902298J	MANAGEMENT HQ—OJCS .....	4,100	4,100

SEC. 4201. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (In Thousands of Dollars)				
Line	Program Element	Item	FY 2013 Request	Conference Authorized
253	1105219BB	MQ–9 UAV .....	3,002	3,002
257	1160403BB	SPECIAL OPERATIONS AVIATION SYSTEMS ADVANCED DEVELOPMENT.	97,267	97,267
258	1160404BB	SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT.	821	821
259	1160405BB	SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT.	25,935	25,935
260	1160408BB	SOF OPERATIONAL ENHANCEMENTS .....	51,700	51,700
261	1160421BB	SPECIAL OPERATIONS CV–22 DEVELOPMENT .....	1,822	1,822
262	1160427BB	MISSION TRAINING AND PREPARATION SYSTEMS (MTPS).	10,131	10,131
263	1160429BB	AC/MC–130J .....	19,647	19,647
264	1160474BB	SOF COMMUNICATIONS EQUIPMENT AND ELECTRONICS SYSTEMS.	2,225	2,225
265	1160476BB	SOF TACTICAL RADIO SYSTEMS .....	3,036	3,036
266	1160477BB	SOF WEAPONS SYSTEMS .....	1,511	1,511
267	1160478BB	SOF SOLDIER PROTECTION AND SURVIVAL SYSTEMS.	4,263	4,263
268	1160479BB	SOF VISUAL AUGMENTATION, LASERS AND SENSOR SYSTEMS.	4,448	4,448
269	1160480BB	SOF TACTICAL VEHICLES .....	11,325	11,325
270	1160481BB	SOF MUNITIONS .....	1,515	1,515
271	1160482BB	SOF ROTARY WING AVIATION .....	24,430	24,430
272	1160483BB	SOF UNDERWATER SYSTEMS .....	26,405	69,405
		Program increase .....		[35,000]
		Transfer from PDW Line 64 at USSOCOM request ...		[8,000]
273	1160484BB	SOF SURFACE CRAFT .....	8,573	8,573
275	1160489BB	SOF GLOBAL VIDEO SURVEILLANCE ACTIVITIES ....	7,620	7,620
276	1160490BB	SOF OPERATIONAL ENHANCEMENTS INTELLIGENCE.	16,386	16,386
276A	9999999999	CLASSIFIED PROGRAMS .....	3,754,516	3,754,516
		<b>SUBTOTAL OPERATIONAL SYSTEMS DEVELOPMENT.</b>	<b>4,667,738</b>	<b>4,711,338</b>
		<b>UNDISTRIBUTED GENERAL PROVISIONS</b>		
276B	9999999999	UNDISTRIBUTED GENERAL PROVISIONS .....		–25,000
		DARPA classified programs reduction .....		[–25,000]
		<b>SUBTOTAL UNDISTRIBUTED GENERAL PROVISIONS.</b>		<b>–25,000</b>
		<b>TOTAL RESEARCH, DEVELOPMENT, TEST &amp; EVAL, DW.</b>	<b>17,982,161</b>	<b>18,550,561</b>
		<b>OPERATIONAL TEST &amp; EVAL, DEFENSE</b>		
		<b>RDT&amp;E MANAGEMENT SUPPORT</b>		
001	0605118OTE	OPERATIONAL TEST AND EVALUATION .....	72,501	87,501
		Program increase for DOT&E cyber—range operations.		[15,000]
002	0605131OTE	LIVE FIRE TEST AND EVALUATION .....	49,201	49,201
003	0605814OTE	OPERATIONAL TEST ACTIVITIES AND ANALYSES ....	63,566	63,566
		<b>SUBTOTAL RDT&amp;E MANAGEMENT SUPPORT ....</b>	<b>185,268</b>	<b>200,268</b>
		<b>TOTAL OPERATIONAL TEST &amp; EVAL, DEFENSE.</b>	<b>185,268</b>	<b>200,268</b>
		<b>TOTAL RDT&amp;E .....</b>	<b>69,407,767</b>	<b>69,937,900</b>

**SEC. 4202. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR OVERSEAS CONTINGENCY OPERATIONS.**

<b>SEC. 4202. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR OVERSEAS CONTINGENCY OPERATIONS</b> (In Thousands of Dollars)				
<b>Line</b>	<b>Program Element</b>	<b>Item</b>	<b>FY 2013 Request</b>	<b>Conference Authorized</b>
		<b>ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES</b>		
060	0603747A	SOLDIER SUPPORT AND SURVIVABILITY .....	19,860	14,860
		Program adjustment .....		[-5,000]
		<b>SUBTOTAL ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES.</b>	<b>19,860</b>	<b>19,860</b>
		<b>TOTAL RESEARCH, DEVELOPMENT, TEST &amp; EVAL, ARMY.</b>	<b>19,860</b>	<b>14,860</b>
		<b>ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES</b>		
056	0603654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT.	4,600	4,600
		<b>SUBTOTAL ADVANCED COMPONENT DEVELOPMENT &amp; PROTOTYPES.</b>	<b>4,600</b>	<b>4,600</b>
		<b>SYSTEM DEVELOPMENT &amp; DEMONSTRATION</b>		
131	0604771N	MEDICAL DEVELOPMENT .....	2,173	2,173
		<b>SUBTOTAL SYSTEM DEVELOPMENT &amp; DEMONSTRATION.</b>	<b>2,173</b>	<b>2,173</b>
		<b>RDT&amp;E MANAGEMENT SUPPORT</b>		
160	0605866N	NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT.	5,200	5,200
		<b>SUBTOTAL RDT&amp;E MANAGEMENT SUPPORT ..</b>	<b>5,200</b>	<b>5,200</b>
		<b>OPERATIONAL SYSTEMS DEVELOPMENT</b>		
195	0206624M	MARINE CORPS COMBAT SERVICES SUPPORT .....	6,762	6,762
221	0305233N	RQ-7 UAV .....	7,600	7,600
230A	9999999999	CLASSIFIED PROGRAMS .....	33,784	33,784
		<b>SUBTOTAL OPERATIONAL SYSTEMS DEVELOPMENT.</b>	<b>48,146</b>	<b>48,146</b>
		<b>TOTAL RESEARCH, DEVELOPMENT, TEST &amp; EVAL, NAVY.</b>	<b>60,119</b>	<b>60,119</b>
		<b>OPERATIONAL SYSTEMS DEVELOPMENT</b>		
249A	9999999999	CLASSIFIED PROGRAMS .....	53,150	53,150
		<b>SUBTOTAL OPERATIONAL SYSTEMS DEVELOPMENT.</b>	<b>53,150</b>	<b>53,150</b>
		<b>TOTAL RESEARCH, DEVELOPMENT, TEST &amp; EVAL, AF.</b>	<b>53,150</b>	<b>53,150</b>
		<b>OPERATIONAL SYSTEMS DEVELOPMENT</b>		
239	0305231BB	MQ-8 UAV .....	5,000	5,000
276A	9999999999	CLASSIFIED PROGRAMS .....	107,387	107,387
		<b>SUBTOTAL OPERATIONAL SYSTEMS DEVELOPMENT.</b>	<b>112,387</b>	<b>112,387</b>
		<b>TOTAL RESEARCH, DEVELOPMENT, TEST &amp; EVAL, DW.</b>	<b>112,387</b>	<b>112,387</b>
		<b>TOTAL RDT&amp;E .....</b>	<b>245,516</b>	<b>240,516</b>

## TITLE XLIII—OPERATION AND MAINTENANCE

### SEC. 4301. OPERATION AND MAINTENANCE.

SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
<b>OPERATION &amp; MAINTENANCE, ARMY</b>			
<b>OPERATING FORCES</b>			
010	MANEUVER UNITS .....	1,223,087	1,223,087
020	MODULAR SUPPORT BRIGADES .....	80,574	80,574
030	ECHELONS ABOVE BRIGADE .....	723,039	723,039
040	THEATER LEVEL ASSETS .....	706,974	706,974
050	LAND FORCES OPERATIONS SUPPORT .....	1,226,650	1,226,650
060	AVIATION ASSETS .....	1,319,832	1,319,832
070	FORCE READINESS OPERATIONS SUPPORT .....	3,447,174	3,447,174
080	LAND FORCES SYSTEMS READINESS .....	454,774	454,774
090	LAND FORCES DEPOT MAINTENANCE .....	1,762,757	1,762,757
100	BASE OPERATIONS SUPPORT .....	7,401,613	7,349,613
	Army requested transfer to Other Procurement, Army for emergency mananagement mod- ernization prgram .....		[-52,000]
110	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	3,041,074	3,259,674
	Restoration and Modernization of Facilities .....		[218,600]
120	MANAGEMENT AND OPERATIONAL HQ'S .....	410,171	410,171
130	COMBATANT COMMANDERS CORE OPERATIONS	177,819	177,819
170	COMBATANT COMMANDERS ANCILLARY MIS- SIONS .....	461,333	461,333
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>22,436,871</b>	<b>22,603,471</b>
<b>MOBILIZATION</b>			
180	STRATEGIC MOBILITY .....	405,496	405,496
190	ARMY PREPOSITIONING STOCKS .....	195,349	195,349
200	INDUSTRIAL PREPAREDNESS .....	6,379	6,379
	<b>SUBTOTAL MOBILIZATION .....</b>	<b>607,224</b>	<b>607,224</b>
<b>TRAINING AND RECRUITING</b>			
210	OFFICER ACQUISITION .....	112,866	112,866
220	RECRUIT TRAINING .....	73,265	73,265
230	ONE STATION UNIT TRAINING .....	51,227	51,227
240	SENIOR RESERVE OFFICERS TRAINING CORPS ..	443,306	443,306
250	SPECIALIZED SKILL TRAINING .....	1,099,556	1,099,556
260	FLIGHT TRAINING .....	1,130,627	1,130,627
270	PROFESSIONAL DEVELOPMENT EDUCATION .....	191,683	191,683
280	TRAINING SUPPORT .....	652,095	652,095
290	RECRUITING AND ADVERTISING .....	507,510	507,510
300	EXAMINING .....	156,964	156,964
310	OFF-DUTY AND VOLUNTARY EDUCATION .....	244,343	244,343
320	CIVILIAN EDUCATION AND TRAINING .....	212,477	212,477
330	JUNIOR ROTC .....	182,691	182,691
	<b>SUBTOTAL TRAINING AND RECRUITING ..</b>	<b>5,058,610</b>	<b>5,058,610</b>
<b>ADMIN &amp; SRVWIDE ACTIVITIES</b>			
350	SERVICEWIDE TRANSPORTATION .....	601,331	601,331
360	CENTRAL SUPPLY ACTIVITIES .....	741,324	741,324
370	LOGISTIC SUPPORT ACTIVITIES .....	610,136	610,136
380	AMMUNITION MANAGEMENT .....	478,707	478,707
390	ADMINISTRATION .....	556,307	556,307
400	SERVICEWIDE COMMUNICATIONS .....	1,547,925	1,547,925



SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
410	MANPOWER MANAGEMENT .....	362,205	338,205
	Army-Identified Excess for Civilian Personnel Re- sources Support .....		[-24,000]
420	OTHER PERSONNEL SUPPORT .....	220,754	220,754
430	OTHER SERVICE SUPPORT .....	1,153,556	1,150,509
	Army Museum Funding (Early to need) .....		[-3,047]
440	ARMY CLAIMS ACTIVITIES .....	250,970	250,970
450	REAL ESTATE MANAGEMENT .....	222,351	222,351
460	BASE OPERATIONS SUPPORT .....	222,379	222,379
470	SUPPORT OF NATO OPERATIONS .....	459,710	459,710
480	MISC. SUPPORT OF OTHER NATIONS .....	25,637	25,637
490	CLASSIFIED PROGRAMS .....	1,052,595	1,052,595
	<b>SUBTOTAL ADMIN &amp; SRVWIDE ACTIVI- TIES .....</b>	<b>8,505,887</b>	<b>8,478,840</b>
	<b>UNDISTRIBUTED ADJUSTMENTS</b>		
500	UNDISTRIBUTED ADJUSTMENTS .....		-266,600
	Excess Working Capital Fund Carry Over .....		[-146,600]
	Historical unobligated balances .....		[-120,000]
	<b>SUBTOTAL UNDISTRIBUTED ADJUST- MENTS .....</b>		<b>-266,600</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, ARMY .....</b>	<b>36,608,592</b>	<b>36,481,545</b>
	<b>OPERATION &amp; MAINTENANCE, NAVY OPERATING FORCES</b>		
010	MISSION AND OTHER FLIGHT OPERATIONS .....	4,918,144	4,927,144
	Cruiser Retention .....		[9,000]
020	FLEET AIR TRAINING .....	1,886,825	1,886,825
030	AVIATION TECHNICAL DATA & ENGINEERING SERVICES .....	44,032	44,032
040	AIR OPERATIONS AND SAFETY SUPPORT .....	101,565	101,565
050	AIR SYSTEMS SUPPORT .....	374,827	374,827
060	AIRCRAFT DEPOT MAINTENANCE .....	960,802	960,802
070	AIRCRAFT DEPOT OPERATIONS SUPPORT .....	37,545	37,545
080	AVIATION LOGISTICS .....	328,805	328,805
090	MISSION AND OTHER SHIP OPERATIONS .....	4,686,535	4,711,185
	Cruiser Retention .....		[24,650]
100	SHIP OPERATIONS SUPPORT & TRAINING .....	769,204	769,204
110	SHIP DEPOT MAINTENANCE .....	5,089,981	5,157,944
	Cruiser Retention .....		[67,963]
120	SHIP DEPOT OPERATIONS SUPPORT .....	1,315,366	1,329,237
	Cruiser Retention .....		[13,871]
130	COMBAT COMMUNICATIONS .....	619,909	619,909
140	ELECTRONIC WARFARE .....	92,364	92,364
150	SPACE SYSTEMS AND SURVEILLANCE .....	174,437	174,437
160	WARFARE TACTICS .....	441,035	441,035
170	OPERATIONAL METEOROLOGY AND OCEANOGR- APHY .....	333,554	333,554
180	COMBAT SUPPORT FORCES .....	910,087	910,087
190	EQUIPMENT MAINTENANCE .....	167,158	167,158
200	DEPOT OPERATIONS SUPPORT .....	4,183	4,183
210	COMBATANT COMMANDERS CORE OPERATIONS	95,528	95,528
220	COMBATANT COMMANDERS DIRECT MISSION SUPPORT .....	204,569	204,569
230	CRUISE MISSILE .....	111,884	111,884
240	FLEET BALLISTIC MISSILE .....	1,181,038	1,181,038
250	IN-SERVICE WEAPONS SYSTEMS SUPPORT .....	87,606	87,606

SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
260	WEAPONS MAINTENANCE .....	519,583	519,583
270	OTHER WEAPON SYSTEMS SUPPORT .....	300,435	300,435
280	ENTERPRISE INFORMATION .....	1,077,924	1,077,924
290	SUSTAINMENT, RESTORATION AND MOD- ERNIZATION .....	2,101,279	2,155,879
	Restoration and Modernization of Facilities .....		[54,600]
300	BASE OPERATING SUPPORT .....	4,822,093	4,822,093
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>33,758,297</b>	<b>33,928,381</b>
<b>MOBILIZATION</b>			
310	SHIP PREPOSITIONING AND SURGE .....	334,659	334,659
320	AIRCRAFT ACTIVATIONS/INACTIVATIONS .....	6,562	6,562
330	SHIP ACTIVATIONS/INACTIVATIONS .....	1,066,329	1,057,329
	Cruiser Retention .....		[-9,000]
340	EXPEDITIONARY HEALTH SERVICES SYSTEMS ..	83,901	83,901
350	INDUSTRIAL READINESS .....	2,695	2,695
360	COAST GUARD SUPPORT .....	23,502	23,502
	<b>SUBTOTAL MOBILIZATION .....</b>	<b>1,517,648</b>	<b>1,508,648</b>
<b>TRAINING AND RECRUITING</b>			
370	OFFICER ACQUISITION .....	147,807	147,807
380	RECRUIT TRAINING .....	10,473	10,473
390	RESERVE OFFICERS TRAINING CORPS .....	139,220	139,220
400	SPECIALIZED SKILL TRAINING .....	582,177	582,177
410	FLIGHT TRAINING .....	5,456	5,456
420	PROFESSIONAL DEVELOPMENT EDUCATION .....	170,746	170,746
430	TRAINING SUPPORT .....	153,403	153,403
440	RECRUITING AND ADVERTISING .....	241,329	242,267
	Naval Sea Cadet Corps .....		[938]
450	OFF-DUTY AND VOLUNTARY EDUCATION .....	108,226	108,226
460	CIVILIAN EDUCATION AND TRAINING .....	105,776	105,776
470	JUNIOR ROTC .....	51,817	51,817
	<b>SUBTOTAL TRAINING AND RECRUITING ..</b>	<b>1,716,430</b>	<b>1,717,368</b>
<b>ADMIN &amp; SRVWD ACTIVITIES</b>			
480	ADMINISTRATION .....	797,177	797,177
490	EXTERNAL RELATIONS .....	12,872	12,872
500	CIVILIAN MANPOWER AND PERSONNEL MAN- AGEMENT .....	120,181	120,181
510	MILITARY MANPOWER AND PERSONNEL MAN- AGEMENT .....	235,753	235,753
520	OTHER PERSONNEL SUPPORT .....	263,060	263,060
530	SERVICEWIDE COMMUNICATIONS .....	363,213	363,213
550	SERVICEWIDE TRANSPORTATION .....	182,343	182,343
570	PLANNING, ENGINEERING AND DESIGN .....	282,464	282,464
580	ACQUISITION AND PROGRAM MANAGEMENT .....	1,092,123	1,092,123
590	HULL, MECHANICAL AND ELECTRICAL SUP- PORT .....	53,560	53,560
600	COMBAT/WEAPONS SYSTEMS .....	25,299	25,299
610	SPACE AND ELECTRONIC WARFARE SYSTEMS ...	64,418	64,418
620	NAVAL INVESTIGATIVE SERVICE .....	580,042	580,042
680	INTERNATIONAL HEADQUARTERS AND AGEN- CIES .....	4,984	4,984
710	CLASSIFIED PROGRAMS .....	537,079	537,079
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES</b>	<b>4,614,568</b>	<b>4,614,568</b>
<b>UNDISTRIBUTED ADJUSTMENTS</b>			
720	UNDISTRIBUTED ADJUSTMENTS .....		-23,000
	Historical unobligated balances .....		[-23,000]

SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	<b>SUBTOTAL UNDISTRIBUTED ADJUST- MENTS .....</b>		<b>-23,000</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, NAVY .....</b>	<b>41,606,943</b>	<b>41,745,965</b>
	<b>OPERATION &amp; MAINTENANCE, MARINE CORPS</b>		
	<b>OPERATING FORCES</b>		
010	OPERATIONAL FORCES .....	788,055	788,055
020	FIELD LOGISTICS .....	762,614	762,614
030	DEPOT MAINTENANCE .....	168,447	168,447
040	MARITIME PREPOSITIONING .....	100,374	100,374
050	SUSTAINMENT, RESTORATION & MODERNIZA- TION .....	825,039	847,839
	Restoration and Modernization of Facilities .....		[22,800]
060	BASE OPERATING SUPPORT .....	2,188,883	2,188,883
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>4,833,412</b>	<b>4,856,212</b>
	<b>TRAINING AND RECRUITING</b>		
070	RECRUIT TRAINING .....	18,251	18,251
080	OFFICER ACQUISITION .....	869	869
090	SPECIALIZED SKILL TRAINING .....	80,914	80,914
100	PROFESSIONAL DEVELOPMENT EDUCATION .....	42,744	42,744
110	TRAINING SUPPORT .....	292,150	292,150
120	RECRUITING AND ADVERTISING .....	168,609	168,609
130	OFF-DUTY AND VOLUNTARY EDUCATION .....	56,865	56,865
140	JUNIOR ROTC .....	19,912	19,912
	<b>SUBTOTAL TRAINING AND RECRUITING ..</b>	<b>680,314</b>	<b>680,314</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
150	SERVICEWIDE TRANSPORTATION .....	39,962	39,962
170	ACQUISITION AND PROGRAM MANAGEMENT .....	83,404	83,404
190	CLASSIFIED PROGRAMS .....	346,071	346,071
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES</b>	<b>469,437</b>	<b>469,437</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, MARINE CORPS .....</b>	<b>5,983,163</b>	<b>6,005,963</b>
	<b>OPERATION &amp; MAINTENANCE, AIR FORCE OPERATING FORCES</b>		
010	PRIMARY COMBAT FORCES .....	2,973,141	2,973,141
020	COMBAT ENHANCEMENT FORCES .....	1,611,032	1,744,032
	Global Hawk Block 30 .....		[133,000]
030	AIR OPERATIONS TRAINING (OJT, MAINTAIN SKILLS) .....	1,472,806	1,472,806
040	DEPOT MAINTENANCE .....	5,545,470	5,545,470
050	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	1,353,987	1,489,386
	Restoration and Modernization of Facilities .....		[135,399]
060	BASE SUPPORT .....	2,595,032	2,595,032
070	GLOBAL C3I AND EARLY WARNING .....	957,040	957,040
080	OTHER COMBAT OPS SPT PROGRAMS .....	916,200	916,200
100	TACTICAL INTEL AND OTHER SPECIAL ACTIVI- TIES .....	733,716	733,716
110	LAUNCH FACILITIES .....	314,490	314,490
120	SPACE CONTROL SYSTEMS .....	488,762	488,762
130	COMBATANT COMMANDERS DIRECT MISSION SUPPORT .....	862,979	850,979

SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	Joint Forces Command restructuring .....		[-12,000]
140	COMBATANT COMMANDERS CORE OPERATIONS .....	222,429	222,429
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>20,047,084</b>	<b>20,303,483</b>
	<b>MOBILIZATION</b>		
150	AIRLIFT OPERATIONS .....	1,785,379	1,785,379
160	MOBILIZATION PREPAREDNESS .....	154,049	154,049
170	DEPOT MAINTENANCE .....	1,477,396	1,477,396
180	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	309,699	309,699
190	BASE SUPPORT .....	707,574	707,574
	<b>SUBTOTAL MOBILIZATION .....</b>	<b>4,434,097</b>	<b>4,434,097</b>
	<b>TRAINING AND RECRUITING</b>		
200	OFFICER ACQUISITION .....	115,427	115,427
210	RECRUIT TRAINING .....	17,619	17,619
220	RESERVE OFFICERS TRAINING CORPS (ROTC) ....	92,949	92,949
230	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	336,433	336,433
240	BASE SUPPORT .....	842,441	842,441
250	SPECIALIZED SKILL TRAINING .....	482,634	482,634
260	FLIGHT TRAINING .....	750,609	750,609
270	PROFESSIONAL DEVELOPMENT EDUCATION ....	235,114	235,114
280	TRAINING SUPPORT .....	101,231	101,231
290	DEPOT MAINTENANCE .....	233,330	233,330
310	RECRUITING AND ADVERTISING .....	130,217	130,217
320	EXAMINING .....	2,738	2,738
330	OFF-DUTY AND VOLUNTARY EDUCATION .....	155,170	155,170
340	CIVILIAN EDUCATION AND TRAINING .....	175,147	175,147
350	JUNIOR ROTC .....	74,809	74,809
	<b>SUBTOTAL TRAINING AND RECRUITING ..</b>	<b>3,745,868</b>	<b>3,745,868</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
360	LOGISTICS OPERATIONS .....	1,029,734	1,029,734
370	TECHNICAL SUPPORT ACTIVITIES .....	913,843	913,843
390	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	303,610	303,610
400	BASE SUPPORT .....	1,266,800	1,266,800
410	ADMINISTRATION .....	587,654	587,654
420	SERVICEWIDE COMMUNICATIONS .....	667,910	667,910
430	OTHER SERVICEWIDE ACTIVITIES .....	1,094,509	1,094,509
440	CIVIL AIR PATROL .....	23,904	23,904
470	INTERNATIONAL SUPPORT .....	81,307	81,307
480	CLASSIFIED PROGRAMS .....	1,239,040	1,239,040
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES</b>	<b>7,208,311</b>	<b>7,208,311</b>
	<b>UNDISTRIBUTED ADJUSTMENTS</b>		
490	UNDISTRIBUTED ADJUSTMENTS .....		-32,000
	Historical unobligated balances .....		[-32,000]
	<b>SUBTOTAL UNDISTRIBUTED ADJUST- MENTS .....</b>		<b>-32,000</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, AIR FORCE .....</b>	<b>35,435,360</b>	<b>35,659,759</b>
	<b>OPERATION &amp; MAINTENANCE, DEFENSE- WIDE</b>		
	<b>OPERATING FORCES</b>		
010	JOINT CHIEFS OF STAFF .....	485,708	485,708

SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
020	SPECIAL OPERATIONS COMMAND .....		5,091,001
	Transfer from line 025 .....		[5,091,001]
025	CLASSIFIED PROGRAMS .....	5,091,001	0
	Transfer to Line 020 .....		[-5,091,001]
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>5,576,709</b>	<b>5,576,709</b>
<b>TRAINING AND RECRUITING</b>			
030	DEFENSE ACQUISITION UNIVERSITY .....	147,210	147,210
040	NATIONAL DEFENSE UNIVERSITY .....	84,999	84,999
	<b>SUBTOTAL TRAINING AND RECRUITING ..</b>	<b>232,209</b>	<b>232,209</b>
<b>ADMIN &amp; SRVWD ACTIVITIES</b>			
050	CIVIL MILITARY PROGRAMS .....	161,294	161,294
080	DEFENSE CONTRACT AUDIT AGENCY .....	573,973	573,973
090	DEFENSE CONTRACT MANAGEMENT AGENCY ...	1,293,196	1,293,196
100	DEFENSE FINANCE AND ACCOUNTING SERVICE .....	17,513	17,513
110	DEFENSE HUMAN RESOURCES ACTIVITY .....	676,186	676,186
120	DEFENSE INFORMATION SYSTEMS AGENCY .....	1,346,847	1,346,847
140	DEFENSE LEGAL SERVICES AGENCY .....	35,137	35,137
150	DEFENSE LOGISTICS AGENCY .....	431,893	431,893
160	DEFENSE MEDIA ACTIVITY .....	224,013	224,013
170	DEFENSE POW/MIA OFFICE .....	21,964	21,964
180	DEFENSE SECURITY COOPERATION AGENCY .....	557,917	557,917
190	DEFENSE SECURITY SERVICE .....		506,662
	Transfer from Line 280 .....		[506,662]
200	DEFENSE TECHNOLOGY SECURITY ADMINIS- TRATION .....	35,319	35,319
210	DEFENSE THREAT REDUCTION AGENCY .....		443,382
	Transfer from Line 280 .....		[443,382]
220	DEPARTMENT OF DEFENSE EDUCATION ACTIV- ITY .....	2,744,971	2,744,971
230	MISSILE DEFENSE AGENCY .....	259,975	259,975
250	OFFICE OF ECONOMIC ADJUSTMENT .....	253,437	253,437
260	OFFICE OF THE SECRETARY OF DEFENSE .....	2,095,362	2,105,362
	Office of Net Assessment .....		[10,000]
270	WASHINGTON HEADQUARTERS SERVICE .....	521,297	521,297
280	CLASSIFIED PROGRAMS .....	14,933,801	14,033,757
	Additional ISR Support to Operation Observant Compass .....		[50,000]
	Transfer to Line 190 .....		[-506,662]
	Transfer to Line 210 .....		[-443,382]
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES .....</b>	<b>26,184,095</b>	<b>26,244,095</b>
<b>UNDISTRIBUTED ADJUSTMENTS</b>			
290	UNDISTRIBUTED ADJUSTMENTS .....		35,000
	DOD Impact Aid .....		[30,000]
	Impact aid for children with severe disabilities ....		[5,000]
	<b>SUBTOTAL UNDISTRIBUTED ADJUST- MENTS .....</b>		<b>35,000</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, DEFENSE-WIDE .....</b>	<b>31,993,013</b>	<b>32,088,013</b>
<b>OPERATION &amp; MAINTENANCE, ARMY RES OPERATING FORCES</b>			
010	MANEUVER UNITS .....	1,391	1,391
020	MODULAR SUPPORT BRIGADES .....	20,889	20,889
030	ECHELONS ABOVE BRIGADE .....	592,724	592,724
040	THEATER LEVEL ASSETS .....	114,983	114,983

SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
050	LAND FORCES OPERATIONS SUPPORT .....	633,091	633,091
060	AVIATION ASSETS .....	76,823	76,823
070	FORCE READINESS OPERATIONS SUPPORT .....	481,997	481,997
080	LAND FORCES SYSTEMS READINESS .....	70,118	70,118
090	LAND FORCES DEPOT MAINTENANCE .....	141,205	141,205
100	BASE OPERATIONS SUPPORT .....	561,878	561,878
110	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	287,399	308,099
	Restoration and Modernization of Facilities .....		[20,700]
120	MANAGEMENT AND OPERATIONAL HQ'S .....	52,431	52,431
	<b>SUBTOTAL OPERATING FORCES</b> .....	<b>3,034,929</b>	<b>3,055,629</b>
<b>ADMIN &amp; SRVWD ACTIVITIES</b>			
140	SERVICEWIDE TRANSPORTATION .....	12,995	12,995
150	ADMINISTRATION .....	32,432	32,432
160	SERVICEWIDE COMMUNICATIONS .....	4,895	4,895
170	MANPOWER MANAGEMENT .....	16,074	11,574
	Unjustified growth for civilian personnel .....		[-4,500]
180	RECRUITING AND ADVERTISING .....	60,683	60,683
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES</b> .....	<b>127,079</b>	<b>122,579</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, ARMY RES</b> .....	<b>3,162,008</b>	<b>3,178,208</b>
<b>OPERATION &amp; MAINTENANCE, NAVY RES OPERATING FORCES</b>			
010	MISSION AND OTHER FLIGHT OPERATIONS .....	616,776	616,776
020	INTERMEDIATE MAINTENANCE .....	15,076	15,076
030	AIR OPERATIONS AND SAFETY SUPPORT .....	1,479	1,479
040	AIRCRAFT DEPOT MAINTENANCE .....	107,251	107,251
050	AIRCRAFT DEPOT OPERATIONS SUPPORT .....	355	355
060	MISSION AND OTHER SHIP OPERATIONS .....	82,186	82,186
070	SHIP OPERATIONS SUPPORT & TRAINING .....	589	589
080	SHIP DEPOT MAINTENANCE .....	48,593	48,593
090	COMBAT COMMUNICATIONS .....	15,274	15,274
100	COMBAT SUPPORT FORCES .....	124,917	124,917
110	WEAPONS MAINTENANCE .....	1,978	1,978
120	ENTERPRISE INFORMATION .....	43,699	43,699
130	SUSTAINMENT, RESTORATION AND MOD- ERNIZATION .....	60,646	60,646
140	BASE OPERATING SUPPORT .....	105,227	105,227
	<b>SUBTOTAL OPERATING FORCES</b> .....	<b>1,224,046</b>	<b>1,224,046</b>
<b>ADMIN &amp; SRVWD ACTIVITIES</b>			
150	ADMINISTRATION .....	3,117	3,117
160	MILITARY MANPOWER AND PERSONNEL MAN- AGEMENT .....	14,337	14,337
170	SERVICEWIDE COMMUNICATIONS .....	2,392	2,392
180	ACQUISITION AND PROGRAM MANAGEMENT .....	3,090	3,090
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES</b> .....	<b>22,936</b>	<b>22,936</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, NAVY RES</b> .....	<b>1,246,982</b>	<b>1,246,982</b>
<b>OPERATION &amp; MAINTENANCE, MC RESERVE OPERATING FORCES</b>			
010	OPERATING FORCES .....	89,690	89,690
020	DEPOT MAINTENANCE .....	16,735	16,735
030	SUSTAINMENT, RESTORATION AND MOD- ERNIZATION .....	37,913	37,913

SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
040	BASE OPERATING SUPPORT .....	103,746	103,746
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>248,084</b>	<b>248,084</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
050	SERVICEWIDE TRANSPORTATION .....	873	873
060	ADMINISTRATION .....	14,330	14,330
070	RECRUITING AND ADVERTISING .....	8,998	8,998
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES .....</b>	<b>24,201</b>	<b>24,201</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, MC RESERVE .....</b>	<b>272,285</b>	<b>272,285</b>
	<b>OPERATION &amp; MAINTENANCE, AF RESERVE OPERATING FORCES</b>		
010	PRIMARY COMBAT FORCES .....	2,089,326	2,089,326
020	MISSION SUPPORT OPERATIONS .....	112,992	112,992
030	DEPOT MAINTENANCE .....	406,101	406,101
040	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	71,564	78,264
	Restoration and Modernization of Facilities .....		[6,700]
050	BASE SUPPORT .....	364,862	364,862
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>3,044,845</b>	<b>3,051,545</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
060	ADMINISTRATION .....	78,824	78,824
070	RECRUITING AND ADVERTISING .....	16,020	16,020
080	MILITARY MANPOWER AND PERS MGMT (ARPC) .....	19,496	19,496
090	OTHER PERS SUPPORT (DISABILITY COMP) .....	6,489	6,489
100	AUDIOVISUAL .....	808	808
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES .....</b>	<b>121,637</b>	<b>121,637</b>
	<b>UNDISTRIBUTED ADJUSTMENTS</b>		
110	UNDISTRIBUTED ADJUSTMENTS .....		33,900
	Retain Air Force Reserve Force Structure .....		[33,900]
	<b>SUBTOTAL UNDISTRIBUTED ADJUST- MENTS .....</b>		<b>33,900</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, AF RESERVE .....</b>	<b>3,166,482</b>	<b>3,207,082</b>
	<b>OPERATION &amp; MAINTENANCE, ARNG OPERATING FORCES</b>		
010	MANEUVER UNITS .....	680,206	680,206
020	MODULAR SUPPORT BRIGADES .....	186,408	186,408
030	ECHELONS ABOVE BRIGADE .....	865,628	865,628
040	THEATER LEVEL ASSETS .....	112,651	112,651
050	LAND FORCES OPERATIONS SUPPORT .....	36,091	36,091
060	AVIATION ASSETS .....	907,011	907,011
070	FORCE READINESS OPERATIONS SUPPORT .....	751,606	751,606
080	LAND FORCES SYSTEMS READINESS .....	60,043	60,043
090	LAND FORCES DEPOT MAINTENANCE .....	411,940	411,940
100	BASE OPERATIONS SUPPORT .....	995,423	995,423
110	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	688,189	737,589
	Restoration and Modernization of Facilities .....		[49,400]
120	MANAGEMENT AND OPERATIONAL HQ'S .....	953,716	953,716
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>6,648,912</b>	<b>6,698,312</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		

SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
130	SERVICEWIDE TRANSPORTATION .....	11,806	11,806
140	REAL ESTATE MANAGEMENT .....	1,656	1,656
150	ADMINISTRATION .....	89,358	89,358
160	SERVICEWIDE COMMUNICATIONS .....	39,513	39,513
170	MANPOWER MANAGEMENT .....	7,224	7,224
180	RECRUITING AND ADVERTISING .....	310,143	310,143
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES</b>	<b>459,700</b>	<b>459,700</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, ARNG .....</b>	<b>7,108,612</b>	<b>7,158,012</b>
	<b>OPERATION &amp; MAINTENANCE, ANG OPERATING FORCES</b>		
010	AIRCRAFT OPERATIONS .....	3,559,824	3,559,824
020	MISSION SUPPORT OPERATIONS .....	721,225	721,225
030	DEPOT MAINTENANCE .....	774,875	774,875
040	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION .....	270,709	295,409
	Restoration and Modernization of Facilities .....		[24,700]
050	BASE SUPPORT .....	624,443	624,443
	<b>SUBTOTAL OPERATING FORCES</b> .....	<b>5,951,076</b>	<b>5,975,776</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
060	ADMINISTRATION .....	32,358	32,358
070	RECRUITING AND ADVERTISING .....	32,021	32,021
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES</b>	<b>64,379</b>	<b>64,379</b>
	<b>UNDISTRIBUTED ADJUSTMENTS</b>		
080	UNDISTRIBUTED ADJUSTMENTS .....		145,400
	Retain Air National Guard Force Structure .....		[145,400]
	<b>SUBTOTAL UNDISTRIBUTED ADJUST- MENTS</b> .....		<b>145,400</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, ANG .....</b>	<b>6,015,455</b>	<b>6,185,555</b>
	<b>MISCELLANEOUS APPROPRIATIONS</b>		
	<b>MISCELLANEOUS APPROPRIATIONS</b>		
020	OVERSEAS HUMANITARIAN, DISASTER AND CIVIC AID .....	108,759	108,759
030	COOPERATIVE THREAT REDUCTION .....	519,111	519,111
040	ACQ WORKFORCE DEV FD .....	274,198	274,198
050	ENVIRONMENTAL RESTORATION, ARMY .....	335,921	335,921
	<b>SUBTOTAL MISCELLANEOUS APPROPRIA- TIONS</b> .....	<b>1,237,989</b>	<b>1,237,989</b>
	<b>MISCELLANEOUS APPROPRIATIONS</b>		
060	ENVIRONMENTAL RESTORATION, NAVY .....	310,594	310,594
	<b>SUBTOTAL MISCELLANEOUS APPROPRIA- TIONS</b> .....	<b>310,594</b>	<b>310,594</b>
	<b>MISCELLANEOUS APPROPRIATIONS</b>		
070	ENVIRONMENTAL RESTORATION, AIR FORCE ....	529,263	529,263
	<b>SUBTOTAL MISCELLANEOUS APPROPRIA- TIONS</b> .....	<b>529,263</b>	<b>529,263</b>
	<b>MISCELLANEOUS APPROPRIATIONS</b>		
010	US COURT OF APPEALS FOR THE ARMED FORCES, DEFENSE .....	13,516	13,516



SEC. 4301. OPERATION AND MAINTENANCE (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
080	ENVIRONMENTAL RESTORATION, DEFENSE .....	11,133	11,133
	<b>SUBTOTAL MISCELLANEOUS APPROPRIATIONS .....</b>	<b>24,649</b>	<b>24,649</b>
	<b>MISCELLANEOUS APPROPRIATIONS</b>		
090	ENVIRONMENTAL RESTORATION FORMERLY USED SITES .....	237,543	237,543
	<b>SUBTOTAL MISCELLANEOUS APPROPRIATIONS .....</b>	<b>237,543</b>	<b>237,543</b>
	<b>TOTAL MISCELLANEOUS APPROPRIATIONS .....</b>	<b>2,340,038</b>	<b>2,340,038</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE ....</b>	<b>174,938,933</b>	<b>175,569,407</b>

**SEC. 4302. OPERATION AND MAINTENANCE FOR OVERSEAS CONTINGENCY OPERATIONS.**

SEC. 4302. OPERATION AND MAINTENANCE FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	<b>OPERATION &amp; MAINTENANCE, ARMY</b>		
	<b>OPERATING FORCES</b>		
040	THEATER LEVEL ASSETS .....	2,758,162	2,758,162
050	LAND FORCES OPERATIONS SUPPORT .....	991,396	991,396
060	AVIATION ASSETS .....	40,300	40,300
070	FORCE READINESS OPERATIONS SUPPORT .....	1,755,445	1,755,445
080	LAND FORCES SYSTEMS READINESS .....	307,244	307,244
100	BASE OPERATIONS SUPPORT .....	393,165	393,165
110	FACILITIES SUSTAINMENT, RESTORATION & MOD- ERNIZATION .....	250,000	250,000
140	ADDITIONAL ACTIVITIES .....	12,524,137	12,514,137
	Task Force for Stability Operations: Operations/ Sustainment Request .....		[-10,000]
150	COMMANDERS EMERGENCY RESPONSE PROGRAM .....	400,000	200,000
	Historical underexecution .....		[-200,000]
160	RESET .....	3,687,973	3,687,973
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>23,107,822</b>	<b>22,897,822</b>
	<b>ADMIN &amp; SRVWIDE ACTIVITIES</b>		
350	SERVICEWIDE TRANSPORTATION .....	3,238,310	3,238,310
360	CENTRAL SUPPLY ACTIVITIES .....	129,000	129,000
380	AMMUNITION MANAGEMENT .....	78,022	78,022
420	OTHER PERSONNEL SUPPORT .....	137,277	97,277
	Transfer to OPA OCO Line 061 at SOUTHCOM re- quest .....		[-40,000]
430	OTHER SERVICE SUPPORT .....	72,293	72,293
490	CLASSIFIED PROGRAMS .....	1,828,717	1,828,717
	<b>SUBTOTAL ADMIN &amp; SRVWIDE ACTIVITIES ....</b>	<b>5,483,619</b>	<b>5,443,619</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, ARMY .....</b>	<b>28,591,441</b>	<b>28,341,441</b>
	<b>OPERATION &amp; MAINTENANCE, NAVY</b>		
	<b>OPERATING FORCES</b>		
010	MISSION AND OTHER FLIGHT OPERATIONS .....	937,098	937,098
030	AVIATION TECHNICAL DATA & ENGINEERING SERVICES .....	1,000	1,000

SEC. 4302. OPERATION AND MAINTENANCE FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
040	AIR OPERATIONS AND SAFETY SUPPORT .....	15,794	15,794
050	AIR SYSTEMS SUPPORT .....	19,013	19,013
060	AIRCRAFT DEPOT MAINTENANCE .....	201,912	201,912
070	AIRCRAFT DEPOT OPERATIONS SUPPORT .....	3,000	3,000
080	AVIATION LOGISTICS .....	44,150	44,150
090	MISSION AND OTHER SHIP OPERATIONS .....	463,738	463,738
100	SHIP OPERATIONS SUPPORT & TRAINING .....	24,774	24,774
110	SHIP DEPOT MAINTENANCE .....	1,310,010	1,310,010
130	COMBAT COMMUNICATIONS .....	42,965	42,965
160	WARFARE TACTICS .....	25,970	25,970
170	OPERATIONAL METEOROLOGY AND OCEANOGRAPHY .....	19,226	19,226
180	COMBAT SUPPORT FORCES .....	1,668,359	1,668,359
190	EQUIPMENT MAINTENANCE .....	7,954	7,954
250	IN-SERVICE WEAPONS SYSTEMS SUPPORT .....	94,655	94,655
260	WEAPONS MAINTENANCE .....	303,087	303,087
290	SUSTAINMENT, RESTORATION AND MODERNIZATION .....	3,218	3,218
300	BASE OPERATING SUPPORT .....	143,442	143,442
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>5,329,365</b>	<b>5,329,365</b>
	<b>MOBILIZATION</b>		
340	EXPEDITIONARY HEALTH SERVICES SYSTEMS .....	31,395	31,395
360	COAST GUARD SUPPORT .....	254,461	254,461
	<b>SUBTOTAL MOBILIZATION .....</b>	<b>285,856</b>	<b>285,856</b>
	<b>TRAINING AND RECRUITING</b>		
400	SPECIALIZED SKILL TRAINING .....	50,903	50,903
	<b>SUBTOTAL TRAINING AND RECRUITING .....</b>	<b>50,903</b>	<b>50,903</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
480	ADMINISTRATION .....	1,377	1,377
490	EXTERNAL RELATIONS .....	487	487
510	MILITARY MANPOWER AND PERSONNEL MANAGEMENT .....	6,022	6,022
520	OTHER PERSONNEL SUPPORT .....	3,514	3,514
550	SERVICEWIDE TRANSPORTATION .....	184,864	184,864
580	ACQUISITION AND PROGRAM MANAGEMENT .....	2,026	2,026
620	NAVAL INVESTIGATIVE SERVICE .....	1,425	1,425
710	CLASSIFIED PROGRAMS .....	14,556	14,556
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES .....</b>	<b>214,271</b>	<b>214,271</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, NAVY</b>	<b>5,880,395</b>	<b>5,880,395</b>
	<b>OPERATION &amp; MAINTENANCE, MARINE CORPS OPERATING FORCES</b>		
010	OPERATIONAL FORCES .....	1,921,258	1,921,258
020	FIELD LOGISTICS .....	1,094,028	1,094,028
030	DEPOT MAINTENANCE .....	222,824	222,824
060	BASE OPERATING SUPPORT .....	88,690	88,690
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>3,326,800</b>	<b>3,326,800</b>
	<b>TRAINING AND RECRUITING</b>		
110	TRAINING SUPPORT .....	215,212	215,212
	<b>SUBTOTAL TRAINING AND RECRUITING .....</b>	<b>215,212</b>	<b>215,212</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
150	SERVICEWIDE TRANSPORTATION .....	512,627	512,627
190	CLASSIFIED PROGRAMS .....	11,701	11,701

SEC. 4302. OPERATION AND MAINTENANCE FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES .....</b>	<b>524,328</b>	<b>524,328</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, MA- RINE CORPS .....</b>	<b>4,066,340</b>	<b>4,066,340</b>
	<b>OPERATION &amp; MAINTENANCE, AIR FORCE OPERATING FORCES</b>		
010	PRIMARY COMBAT FORCES .....	1,494,144	1,494,144
020	COMBAT ENHANCEMENT FORCES .....	809,531	809,531
030	AIR OPERATIONS TRAINING (OJT, MAINTAIN SKILLS) .....	13,095	13,095
040	DEPOT MAINTENANCE .....	1,403,238	1,403,238
050	FACILITIES SUSTAINMENT, RESTORATION & MOD- ERNIZATION .....	155,954	155,954
060	BASE SUPPORT .....	342,226	342,226
070	GLOBAL C3I AND EARLY WARNING .....	15,108	15,108
080	OTHER COMBAT OPS SPT PROGRAMS .....	271,390	271,390
100	TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES .....	25,400	25,400
120	SPACE CONTROL SYSTEMS .....	5,110	5,110
130	COMBATANT COMMANDERS DIRECT MISSION SUP- PORT .....	52,173	52,173
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>4,587,369</b>	<b>4,587,369</b>
	<b>MOBILIZATION</b>		
150	AIRLIFT OPERATIONS .....	3,187,211	3,187,211
160	MOBILIZATION PREPAREDNESS .....	43,509	43,509
170	DEPOT MAINTENANCE .....	554,943	554,943
180	FACILITIES SUSTAINMENT, RESTORATION & MOD- ERNIZATION .....	4,431	4,431
190	BASE SUPPORT .....	9,256	9,256
	<b>SUBTOTAL MOBILIZATION .....</b>	<b>3,799,350</b>	<b>3,799,350</b>
	<b>TRAINING AND RECRUITING</b>		
230	FACILITIES SUSTAINMENT, RESTORATION & MOD- ERNIZATION .....	424	424
240	BASE SUPPORT .....	1,036	1,036
250	SPECIALIZED SKILL TRAINING .....	10,923	10,923
260	FLIGHT TRAINING .....	72	72
270	PROFESSIONAL DEVELOPMENT EDUCATION .....	323	323
280	TRAINING SUPPORT .....	352	352
	<b>SUBTOTAL TRAINING AND RECRUITING .....</b>	<b>13,130</b>	<b>13,130</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
360	LOGISTICS OPERATIONS .....	100,429	100,429
390	FACILITIES SUSTAINMENT, RESTORATION & MOD- ERNIZATION .....	47,200	47,200
400	BASE SUPPORT .....	7,242	7,242
410	ADMINISTRATION .....	1,552	1,552
420	SERVICEWIDE COMMUNICATIONS .....	82,094	82,094
430	OTHER SERVICEWIDE ACTIVITIES .....	582,977	582,977
480	CLASSIFIED PROGRAMS .....	20,270	20,270
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES .....</b>	<b>841,764</b>	<b>841,764</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, AIR FORCE .....</b>	<b>9,241,613</b>	<b>9,241,613</b>
	<b>OPERATION &amp; MAINTENANCE, DEFENSE-WIDE OPERATING FORCES</b>		
010	JOINT CHIEFS OF STAFF .....	2,000	2,000

SEC. 4302. OPERATION AND MAINTENANCE FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
020	SPECIAL OPERATIONS COMMAND .....	2,503,060	2,503,060
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>2,505,060</b>	<b>2,505,060</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
080	DEFENSE CONTRACT AUDIT AGENCY .....	30,674	30,674
090	DEFENSE CONTRACT MANAGEMENT AGENCY .....	69,803	69,803
110	DEFENSE HUMAN RESOURCES ACTIVITY .....	3,334	3,334
120	DEFENSE INFORMATION SYSTEMS AGENCY .....	152,925	152,925
140	DEFENSE LEGAL SERVICES AGENCY .....	102,322	102,322
160	DEFENSE MEDIA ACTIVITY .....	10,823	10,823
180	DEFENSE SECURITY COOPERATION AGENCY .....	2,200,000	2,100,000
	Program Decrease—Coalition Support Funds .....		[−100,000]
220	DEPARTMENT OF DEFENSE EDUCATION ACTIVITY .....	139,830	139,830
260	OFFICE OF THE SECRETARY OF DEFENSE .....	87,805	87,805
280	CLASSIFIED PROGRAMS .....	2,522,003	2,522,003
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES .....</b>	<b>5,319,519</b>	<b>5,219,519</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, DE- FENSE-WIDE .....</b>	<b>7,824,579</b>	<b>7,724,579</b>
	<b>OPERATION &amp; MAINTENANCE, ARMY RES OPERATING FORCES</b>		
030	ECHELONS ABOVE BRIGADE .....	78,600	78,600
050	LAND FORCES OPERATIONS SUPPORT .....	20,811	20,811
070	FORCE READINESS OPERATIONS SUPPORT .....	20,726	20,726
100	BASE OPERATIONS SUPPORT .....	34,400	34,400
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>154,537</b>	<b>154,537</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, ARMY RES .....</b>	<b>154,537</b>	<b>154,537</b>
	<b>OPERATION &amp; MAINTENANCE, NAVY RES OPERATING FORCES</b>		
010	MISSION AND OTHER FLIGHT OPERATIONS .....	24,834	24,834
020	INTERMEDIATE MAINTENANCE .....	300	300
040	AIRCRAFT DEPOT MAINTENANCE .....	13,364	13,364
060	MISSION AND OTHER SHIP OPERATIONS .....	8,213	8,213
080	SHIP DEPOT MAINTENANCE .....	929	929
100	COMBAT SUPPORT FORCES .....	8,244	8,244
140	BASE OPERATING SUPPORT .....	40	40
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>55,924</b>	<b>55,924</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, NAVY RES .....</b>	<b>55,924</b>	<b>55,924</b>
	<b>OPERATION &amp; MAINTENANCE, MC RESERVE OPERATING FORCES</b>		
010	OPERATING FORCES .....	22,657	22,657
040	BASE OPERATING SUPPORT .....	2,820	2,820
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>25,477</b>	<b>25,477</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, MC RESERVE .....</b>	<b>25,477</b>	<b>25,477</b>
	<b>OPERATION &amp; MAINTENANCE, AF RESERVE OPERATING FORCES</b>		
010	PRIMARY COMBAT FORCES .....	7,600	7,600
030	DEPOT MAINTENANCE .....	106,768	106,768
050	BASE SUPPORT .....	6,250	6,250

SEC. 4302. OPERATION AND MAINTENANCE FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>120,618</b>	<b>120,618</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, AF RESERVE .....</b>	<b>120,618</b>	<b>120,618</b>
	<b>OPERATION &amp; MAINTENANCE, ARNG OPERATING FORCES</b>		
010	MANEUVER UNITS .....	38,485	38,485
020	MODULAR SUPPORT BRIGADES .....	1,959	1,959
030	ECHELONS ABOVE BRIGADE .....	20,076	20,076
040	THEATER LEVEL ASSETS .....	2,028	2,028
060	AVIATION ASSETS .....	183,811	183,811
070	FORCE READINESS OPERATIONS SUPPORT .....	43,780	43,780
100	BASE OPERATIONS SUPPORT .....	70,237	70,237
120	MANAGEMENT AND OPERATIONAL HQ'S .....	20,072	20,072
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>380,448</b>	<b>380,448</b>
	<b>ADMIN &amp; SRVWD ACTIVITIES</b>		
160	SERVICEWIDE COMMUNICATIONS .....	2,000	2,000
	<b>SUBTOTAL ADMIN &amp; SRVWD ACTIVITIES .....</b>	<b>2,000</b>	<b>2,000</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, ARNG .....</b>	<b>382,448</b>	<b>382,448</b>
	<b>OPERATION &amp; MAINTENANCE, ANG OPERATING FORCES</b>		
020	MISSION SUPPORT OPERATIONS .....	19,975	19,975
	<b>SUBTOTAL OPERATING FORCES .....</b>	<b>19,975</b>	<b>19,975</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE, ANG</b>	<b>19,975</b>	<b>19,975</b>
	<b>AFGHANISTAN SECURITY FORCES FUND MINISTRY OF DEFENSE</b>		
010	SUSTAINMENT .....	2,523,825	2,523,825
020	INFRASTRUCTURE .....	190,000	190,000
030	EQUIPMENT AND TRANSPORTATION .....	241,521	241,521
040	TRAINING AND OPERATIONS .....	758,380	758,380
	<b>SUBTOTAL MINISTRY OF DEFENSE .....</b>	<b>3,713,726</b>	<b>3,713,726</b>
	<b>MINISTRY OF INTERIOR</b>		
050	SUSTAINMENT .....	1,305,950	1,305,950
060	INFRASTRUCTURE .....	50,000	50,000
070	EQUIPMENT AND TRANSPORTATION .....	84,859	84,859
080	TRAINING AND OPERATIONS .....	569,868	569,868
	<b>SUBTOTAL MINISTRY OF INTERIOR .....</b>	<b>2,010,677</b>	<b>2,010,677</b>
	<b>RELATED ACTIVITIES</b>		
090	SUSTAINMENT .....	18,325	18,325
100	INFRASTRUCTURE .....	1,200	1,200
110	EQUIPMENT & TRANSPORTATION .....	1,239	1,239
120	TRAINING AND OPERATIONS .....	4,000	4,000
	<b>SUBTOTAL RELATED ACTIVITIES .....</b>	<b>24,764</b>	<b>24,764</b>
	<b>TOTAL AFGHANISTAN SECURITY FORCES FUND .....</b>	<b>5,749,167</b>	<b>5,749,167</b>
	<b>AFGHANISTAN INFRASTRUCTURE FUND AFGHANISTAN INFRASTRUCTURE FUND</b>		
010	POWER .....	400,000	350,000

SEC. 4302. OPERATION AND MAINTENANCE FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
Line	Item	FY 2013 Request	Conference Authorized
	Program Decrease .....		[–50,000]
	<b>SUBTOTAL AFGHANISTAN INFRASTRUCTURE FUND</b> .....	<b>400,000</b>	<b>350,000</b>
	<b>TOTAL AFGHANISTAN INFRASTRUCTURE FUND</b> .....	<b>400,000</b>	<b>350,000</b>
	<b>TOTAL OPERATION &amp; MAINTENANCE</b> .....	<b>62,512,514</b>	<b>62,112,514</b>

## TITLE XLIV—MILITARY PERSONNEL

### SEC. 4401. MILITARY PERSONNEL.

SEC. 4401. MILITARY PERSONNEL (In Thousands of Dollars)			
	Item	FY 2013 Request	Conference Authorized
MILITARY PERSONNEL .....		135,111,799	135,777,368
	USMC military personnel in lieu of LAV funding .....		[129,729]
	Retain Global Hawk .....		[22,000]
	Restore accrual payments to the Medicare eligible health care trust fund .....		[672,000]
	Unobligated balances .....		[–295,250]
	Basic allowance for housing for members of the Na- tional Guard (Section 603) .....		[6,000]
	Retain 128 Air National Guard AGRs for two air sov- ereignty alert locations .....		[8,300]
	Retain Air National Guard Force Structure .....		[86,600]
	Retain Air Force Reserve Force Structure .....		[17,100]

### SEC. 4402. MILITARY PERSONNEL FOR OVERSEAS CONTINGENCY OPERATIONS.

SEC. 4402. MILITARY PERSONNEL FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)			
	Item	FY 2013 Request	Conference Authorized
MILITARY PERSONNEL .....		14,060,094	14,055,094
	Navy identified excess to requirement .....		[–5,000]

## TITLE XLV—OTHER AUTHORIZATIONS

### SEC. 4501. OTHER AUTHORIZATIONS.

SEC. 4501. OTHER AUTHORIZATIONS (In Thousands of Dollars)			
	Program Title	FY 2013 Request	Conference Authorized
<b>WORKING CAPITAL FUND, ARMY</b>			
	PREPOSITIONED WAR RESERVE STOCKS .....	60,037	60,037
	<b>TOTAL WORKING CAPITAL FUND, ARMY</b> .....	<b>60,037</b>	<b>60,037</b>
<b>WORKING CAPITAL FUND, AIR FORCE CONTAINER DECONSOLIDATION</b>			

SEC. 4501. OTHER AUTHORIZATIONS (In Thousands of Dollars)		
Program Title	FY 2013 Request	Conference Authorized
SUPPLIES AND MATERIALS (MEDICAL/DENTAL) .....	45,452	45,452
<b>TOTAL WORKING CAPITAL FUND, AIR FORCE .....</b>	<b>45,452</b>	<b>45,452</b>
<b>WORKING CAPITAL FUND, DEFENSE-WIDE</b>		
DEFENSE LOGISTICS AGENCY (DLA) .....	39,135	39,135
<b>TOTAL WORKING CAPITAL FUND, DEFENSE- WIDE .....</b>	<b>39,135</b>	<b>39,135</b>
<b>WORKING CAPITAL FUND, DECA</b>		
WORKING CAPITAL FUND, DECA .....	1,371,560	1,371,560
<b>TOTAL WORKING CAPITAL FUND, DECA .....</b>	<b>1,371,560</b>	<b>1,371,560</b>
<b>NATIONAL DEFENSE SEALIFT FUND</b>		
<b>T-AKE</b>		
MPF MLP .....	38,000	38,000
POST DELIVERY AND OUTFITTING .....	39,386	39,386
<b>NATIONAL DEF SEALIFT VESSEL</b>		
LG MED SPD RO/RO MAINTENANCE .....	128,819	128,819
DOD MOBILIZATION ALTERATIONS .....	26,598	26,598
TAH MAINTENANCE .....	29,199	29,199
RESEARCH AND DEVELOPMENT .....	42,811	42,811
READY RESERVE FORCE .....	303,323	303,323
<b>TOTAL NATIONAL DEFENSE SEALIFT FUND .....</b>	<b>608,136</b>	<b>608,136</b>
<b>DEFENSE HEALTH PROGRAM</b>		
IN-HOUSE CARE .....	8,625,507	8,625,507
PRIVATE SECTOR CARE .....	16,148,263	15,788,263
Pilot program for treatment of Autism .....		[40,000]
TRICARE historical underexecution .....		[–400,000]
CONSOLIDATED HEALTH SUPPORT .....	2,309,185	2,309,185
INFORMATION MANAGEMENT .....	1,465,328	1,465,328
MANAGEMENT ACTIVITIES .....	332,121	332,121
EDUCATION AND TRAINING .....	722,081	722,081
BASE OPERATIONS/COMMUNICATIONS .....	1,746,794	1,746,794
UNDISTRIBUTED, OPERATION & MAINTENANCE .....		452,000
Restore estimated savings in TRICARE Prime and Standard enrollment fees and deductables for TRICARE Standard .....		[273,000]
Restore pharmacy co-pay estimated savings .....		[179,000]
RDT&E .....	672,977	672,977
PROCUREMENT .....	506,462	506,462
<b>TOTAL DEFENSE HEALTH PROGRAM .....</b>	<b>32,528,718</b>	<b>32,620,718</b>
<b>CHEM AGENTS &amp; MUNITIONS DESTRUCTION</b>		
OPERATION & MAINTENANCE .....	635,843	635,843
RDT&E .....	647,351	647,351
PROCUREMENT .....	18,592	18,592
<b>TOTAL CHEM AGENTS &amp; MUNITIONS DESTRUC- TION .....</b>	<b>1,301,786</b>	<b>1,301,786</b>
<b>DRUG INTERDICTION &amp; CTR-DRUG ACTIVITIES, DEF</b>		
DRUG INTERDICTION AND COUNTER-DRUG ACTIVI- TIES, DEFENSE .....	889,545	889,545
DRUG DEMAND REDUCTION PROGRAM .....	109,818	135,718
Authorization increase expanded drug testing .....		[25,900]
<b>TOTAL DRUG INTERDICTION &amp; CTR-DRUG AC- TIVITIES, DEF .....</b>	<b>999,363</b>	<b>1,025,263</b>
<b>OFFICE OF THE INSPECTOR GENERAL</b>		

SEC. 4501. OTHER AUTHORIZATIONS (In Thousands of Dollars)		
Program Title	FY 2013 Request	Conference Authorized
OPERATION & MAINTENANCE .....	272,821	331,921
DoD IG growth plan .....		[59,100]
<b>RD&amp;E</b>		
PROCUREMENT .....	1,000	1,000
<b>TOTAL OFFICE OF THE INSPECTOR GENERAL ....</b>	<b>273,821</b>	<b>332,921</b>
<b>TOTAL OTHER AUTHORIZATIONS .....</b>	<b>37,228,008</b>	<b>37,405,008</b>

**SEC. 4502. OTHER AUTHORIZATIONS FOR OVERSEAS CONTINGENCY OPERATIONS.**

SEC. 4502. OTHER AUTHORIZATIONS FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)		
Program Title	FY 2013 Request	Conference Authorized
<b>WORKING CAPITAL FUND, ARMY</b>		
PREPOSITIONED WAR RESERVE STOCKS .....	42,600	42,600
<b>TOTAL WORKING CAPITAL FUND, ARMY .....</b>	<b>42,600</b>	<b>42,600</b>
<b>WORKING CAPITAL FUND, AIR FORCE</b>		
C-17 CLS ENGINE REPAIR .....	230,400	230,400
TRANSPORTATION FALLEN HEROES .....	10,000	10,000
<b>TOTAL WORKING CAPITAL FUND, AIR FORCE .....</b>	<b>240,400</b>	<b>240,400</b>
<b>WORKING CAPITAL FUND, DEFENSE-WIDE</b>		
DEFENSE LOGISTICS AGENCY (DLA) .....	220,364	220,364
<b>TOTAL WORKING CAPITAL FUND, DEFENSE-WIDE ....</b>	<b>220,364</b>	<b>220,364</b>
<b>DEFENSE HEALTH PROGRAM</b>		
IN-HOUSE CARE .....	483,326	483,326
PRIVATE SECTOR CARE .....	376,982	376,982
CONSOLIDATED HEALTH SUPPORT .....	111,675	111,675
INFORMATION MANAGEMENT .....	4,773	4,773
MANAGEMENT ACTIVITIES .....	660	660
EDUCATION AND TRAINING .....	15,370	15,370
BASE OPERATIONS/COMMUNICATIONS .....	1,112	1,112
<b>TOTAL DEFENSE HEALTH PROGRAM .....</b>	<b>993,898</b>	<b>993,898</b>
<b>DRUG INTERDICTION &amp; CTR-DRUG ACTIVITIES, DEF</b>		
DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE .....	469,025	469,025
<b>TOTAL DRUG INTERDICTION &amp; CTR-DRUG ACTIVI- TIES, DEF .....</b>	<b>469,025</b>	<b>469,025</b>
<b>OFFICE OF THE INSPECTOR GENERAL</b>		
OPERATION & MAINTENANCE .....	10,766	10,766
<b>TOTAL OFFICE OF THE INSPECTOR GENERAL .....</b>	<b>10,766</b>	<b>10,766</b>
<b>TOTAL OTHER AUTHORIZATIONS .....</b>	<b>1,977,053</b>	<b>1,977,053</b>



**TITLE XLVI—MILITARY CONSTRUCTION****SEC. 4601. MILITARY CONSTRUCTION.**

<b>SEC. 4601. MILITARY CONSTRUCTION</b> <b>(In Thousands of Dollars)</b>				
<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2013 Request</b>	<b>Conference Authorized</b>
	Alaska			
Army	Fort Wainwright	Modified Record Fire Range .....	10,400	10,400
Army	Joint Base Elmendorf-Richardson	Modified Record Fire Range .....	7,900	7,900
	California			
Army	Concord	Engineering/Housing Maintenance Shop	3,100	3,100
Army	Concord	Lightning Protection System .....	5,800	5,800
	Colorado			
Army	Fort Carson	Central Energy Plant .....	0	0
Army	Fort Carson	Digital Multipurpose Training Range .....	18,000	18,000
	District of Columbia			
Army	Fort McNair	Vehicle Storage Building, Installation ....	7,200	7,200
	Georgia			
Army	Fort Benning	Ground Source Heat Transfer System ....	16,000	16,000
Army	Fort Gordon	Ground Source Heat Transfer System ....	12,200	12,200
Army	Fort Gordon	Modified Record Fire Range .....	4,000	4,000
Army	Fort Gordon	Multipurpose Machine Gun Range .....	7,100	7,100
Army	Fort Stewart	Automated Combat Pistol Qual Crse .....	3,650	3,650
Army	Fort Stewart	Digital Multipurpose Training Range .....	22,000	22,000
Army	Fort Stewart	Unmanned Aerial Vehicle Complex .....	24,000	24,000
	Hawaii			
Army	Pohakuloa Training Area	Automated Infantry Platoon Battle Course.	29,000	29,000
Army	Schofield Barracks	Barracks .....	55,000	55,000
Army	Schofield Barracks	Barracks .....	41,000	41,000
Army	Wheeler Army Air Field	Combat Aviation Brigade Barracks .....	85,000	85,000
	Italy			
Army	Camp Ederle	Barracks .....	36,000	36,000
Army	Vicenza	Simulations Center .....	32,000	32,000
	Japan			
Army	Okinawa	Satellite Communications Facility .....	78,000	78,000
Army	Sagami	Vehicle Maintenance Shop .....	18,000	18,000
	Kansas			
Army	Fort Riley	Unmanned Aerial Vehicle Complex .....	12,200	12,200
	Kentucky			
Army	Fort Campbell	Battalion Headquarters Complex .....	55,000	55,000
Army	Fort Campbell	Live Fire Exercise Shootouse .....	3,800	3,800
Army	Fort Campbell	Unmanned Aerial Vehicle Complex .....	23,000	23,000
Army	Fort Knox	Automated Infantry Squad Battle Course.	6,000	6,000
	Korea			
Army	Camp Humphreys	Battalion Headquarters Complex .....	45,000	45,000
	Kwajalein Atoll			
Army	Kwajalein Atoll	Pier .....	0	0
	Missouri			
Army	Fort Leonard Wood	Battalion Complex Facilities .....	26,000	26,000
Army	Fort Leonard Wood	Trainee Barracks Complex 3, Ph 2 .....	58,000	58,000
Army	Fort Leonard Wood	Vehicle Maintenance Shop .....	39,000	39,000
	New Jersey			
Army	Joint Base McGuire-Dix-Lakehurst	Flight Equipment Complex .....	47,000	47,000
Army	Picatinny Arsenal	Ballistic Evaluation Center .....	10,200	10,200
Army	New York Fort Drum, New York	Aircraft Maintenance Hangar .....	95,000	95,000

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
Army	U.S. Military Academy North Carolina	Cadet Barracks, Inc 1 .....	192,000	86,000
Army	Fort Bragg	Aerial Gunnery Range .....	42,000	42,000
Army	Fort Bragg	Infrastructure .....	30,000	0
Army	Fort Bragg Oklahoma	Unmanned Aerial Vehicle Complex .....	26,000	26,000
Army	Fort Sill South Carolina	Modified Record Fire Range .....	4,900	4,900
Army	Fort Jackson Texas	Trainee Barracks Complex 2, Ph 2 .....	24,000	24,000
Army	Corpus Christi	Aircraft Component Maintenance Shop ..	13,200	13,200
Army	Corpus Christi	Aircraft Paint Shop .....	24,000	24,000
Army	Fort Bliss	Multipurpose Machine Gun Range .....	7,200	7,200
Army	Fort Hood	Modified Record Fire Range .....	4,200	4,200
Army	Fort Hood	Training Aids Center .....	25,000	25,000
Army	Fort Hood	Unmanned Aerial Vehicle Complex .....	22,000	22,000
Army	Joint Base San Antonio	Barracks .....	21,000	21,000
Army	Virginia Arlington	Cemetery Expansion Millennium Site ....	84,000	0
Army	Fort Belvoir	Secure Admin/Operations Facility .....	94,000	94,000
Army	Fort Lee	Adv Individual Training Barracks Cplx, Ph2.	81,000	81,000
Army	Washington Joint Base Lewis- Mcchord	Battalion Complex .....	73,000	73,000
Army	Joint Base Lewis- Mcchord	Waste Water Treatment Plant .....	91,000	91,000
Army	Yakima	Convoy Live Fire Range .....	5,100	5,100
Army	Worldwide Unspec- ified	Host Nation Support Fy 13 .....	34,000	34,000
Army	Unspecified Worldwide Lo- cations	Minor Construction Fy 13 .....	25,000	25,000
Army	Unspecified Worldwide Lo- cations	Planning and Design Fy13 .....	65,173	46,173
<b>Total Military Construction, Army .....</b>			<b>1,923,323</b>	<b>1,684,323</b>
Navy	Arizona Yuma	Combat Aircraft Loading Apron .....	15,985	15,985
Navy	Yuma	Security Operations Complex .....	13,300	13,300
Navy	Bahrain Island Sw Asia	Combined Dining Facility .....	9,819	9,819
Navy	Sw Asia	Transient Quarters .....	41,529	41,529
Navy	California Camp Pendleton	Comm. Information Systems Ops Com- plex.	78,897	78,897
Navy	Camp Pendleton	Mv22 Aviation Simulator Building .....	4,139	4,139
Navy	Camp Pendleton	San Jacinto Road Extension .....	5,074	5,074
Navy	Coronado	Bachelor Quarters .....	76,063	76,063
Navy	Coronado	H–60s Simulator Training Facility .....	2,478	2,478
Navy	Lemoore	Bams Maintenance Training Facility .....	14,843	0
Navy	Miramar	Hangar 5 Renovations & Addition .....	27,897	27,897
Navy	Point Mugu	Bams Maintenance Training Facility .....	0	12,790
Navy	San Diego	Entry Control Point (Gate Five) .....	11,752	11,752
Navy	San Diego	Lcs Training Facility .....	59,436	59,436
Navy	Seal Beach	Strategic Systems Weapons Eval. Test Lab.	30,594	30,594
Navy	Twentynine Palms Diego Garcia	Land Expansion Phase 2 .....	47,270	47,270

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
Navy	Diego Garcia	Communications Infrastructure .....	1,691	1,691
	Djibouti			
Navy	Camp Lemonnier	Containerized Living and Work Units ....	7,510	0
Navy	Camp Lemonnier	Fitness Center .....	26,960	0
Navy	Camp Lemonnier	Galley Addition and Warehouse .....	22,220	0
Navy	Camp Lemonnier	Joint HQ/Joint Operations Center Facility.	42,730	0
	Florida			
Navy	Jacksonville	Bams Mission Control Complex .....	21,980	21,980
	Greece			
Navy	Souda Bay	Aircraft Parking Apron Expansion .....	20,493	20,493
Navy	Souda Bay	Intermodal Access Road .....	4,630	4,630
	Guam			
Navy	Joint Region Marianas	North Ramp Parking (Andersen AFB)—Inc 2.	25,904	25,904
	Hawaii			
Navy	Kaneohe Bay	Aircraft Staging Area .....	14,680	14,680
Navy	Kaneohe Bay	Mv–22 Hangar and Infrastructure .....	82,630	82,630
	Japan			
Navy	Iwakuni	Maintenance Hangar Improvements .....	5,722	5,722
Navy	Iwakuni	Vertical Take-Off and Landing Pad North.	7,416	7,416
Navy	Okinawa	Bachelor Quarters .....	8,206	8,206
	Mississippi			
Navy	Meridian	Dining Facility .....	10,926	10,926
	New Jersey			
Navy	Earle	Combat System Engineering Building Addition.	33,498	32,670
	North Carolina			
Navy	Camp Lejeune	Base Access and Road—Phase 3 .....	40,904	40,904
Navy	Camp Lejeune	Staff Nco Academy Facilities .....	28,986	28,986
Navy	Cherry Point Marine Corps Air Station	Armory .....	11,581	11,581
Navy	Cherry Point Marine Corps Air Station	Marine Air Support Squadron Compound.	34,310	34,310
Navy	New River	Personnel Administration Center .....	8,525	8,525
	Romania			
Navy	Deveselu, Romania	Aegis Ashore Missile Defense Complex ..	45,205	45,205
	South Carolina			
Navy	Beaufort	Aircraft Maintenance Hangar .....	42,010	42,010
Navy	Beaufort	Airfield Security Upgrades .....	13,675	13,675
Navy	Beaufort	Ground Support Equipment Shop .....	9,465	9,465
Navy	Beaufort	Recycling/Hazardous Waste Facility .....	3,743	3,743
Navy	Beaufort	Simulated Lhd Flight Deck .....	12,887	12,887
Navy	Parris Island	Front Gate Atfp Improvements .....	10,135	10,135
	Spain			
Navy	Rota	General Purpose Warehouse .....	3,378	3,378
Navy	Rota	High Explosive Magazine .....	13,837	13,837
	Virginia			
Navy	Dahlgren	Cruiser/Destroyer Upgrade Training Facility.	16,494	16,494
Navy	Dahlgren	Physical Fitness Center .....	11,734	11,734
Navy	Oceana Naval Air Station	A School Barracks .....	39,086	39,086
Navy	Portsmouth	Drydock 8 Electrical Distribution Upgrade.	32,706	32,706
Navy	Quantico	Infrastructure—Widen Russell Road .....	14,826	14,826
Navy	Quantico	The Basic School Student Quarters—Phase 7.	31,012	31,012
Navy	Quantico	Weapons Training Battalion Mess Hall ..	12,876	12,876
Navy	Yorktown	Armory .....	4,259	4,259
Navy	Yorktown	Bachelor Enlisted Quarters .....	18,422	18,422
Navy	Yorktown	Motor Transportation Facility .....	6,188	6,188
Navy	Yorktown	Regimental Headquarters .....	11,015	11,015

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
Navy	Yorktown	Supply Warehouse Facility .....	8,939	8,939
Navy	Washington			
Navy	Kitsap	Explosives Handling Wharf #2 (Inc) .....	280,041	254,241
Navy	Whidbey Island	Ea-18g Flight Simulator Facility .....	6,272	6,272
Navy	Worldwide Unspec- ified			
Navy	Unspecified	Mcon Design Funds .....	102,619	102,619
Navy	Worldwide Lo- cations			
Navy	Unspecified	Unspecified Minor Construction .....	16,535	16,535
Navy	Worldwide Lo- cations			
Navy	Various World- wide Locations	Bams Operational Facilities .....	34,048	34,048
<b>Total Military Construction, Navy .....</b>			<b>1,701,985</b>	<b>1,573,884</b>
AF	Arkansas			
AF	Little Rock AFB	C-130J Flight Simulator Addition .....	4,178	4,178
AF	Little Rock AFB	C-130J Fuel Systems Maintenance Hangar.	26,000	26,000
AF	Florida			
AF	Tyndall AFB	F-22 Adal Hangar for Low Observable/ Composite.	14,750	14,750
AF	Georgia			
AF	Fort Stewart, Georgia	Air Support Operations Center (ASOC) ..	7,250	7,250
AF	Moody AFB	HC-130J Simulator Facility .....	8,500	8,500
AF	Greenland			
AF	Thule Ab	Consolidated Engineer Shop and Supply Facility.	0	0
AF	Thule Ab	Dormitory (48 Pn) .....	24,500	24,500
AF	Guam			
AF	Andersen AFB	Fuel Systems Hangar .....	0	0
AF	Italy			
AF	Aviano Ab	F-16 Mission Training Center .....	9,400	9,400
AF	Nebraska			
AF	Offutt AFB	US STRATCOM Replacement Facility, Incr 2.	161,000	128,000
AF	New Mexico			
AF	Holloman AFB	Mq-9 Maintenance Hangar .....	25,000	25,000
AF	North Dakota			
AF	Minot AFB	B-52 Add/Alter Munitions Age Facility ..	4,600	4,600
AF	Texas			
AF	Joint Base San Antonio	Dormitory (144 Rm) .....	18,000	18,000
AF	Utah			
AF	Hill AFB	F-35 Adal Building 118 for Flight Simu- lator.	4,000	4,000
AF	Hill AFB	F-35 Adal Hangar 45w/AMU .....	7,250	7,250
AF	Hill AFB	F-35 Modular Storage Magazines .....	2,280	2,280
AF	Worldwide Unspec- ified			
AF	Lajes AFB	Sanitary Sewer Lift/Pump Station .....	2,000	2,000
AF	Rota	Transient Aircraft Hangars .....	15,032	0
AF	Rota	Transient Contingency Dormitory—100 Rm.	17,625	0
AF	Unspecified	Planning and Design .....	18,635	18,635
AF	Worldwide Lo- cations			
AF	Various World- wide Locations	Unspecified Minor Construction .....	18,200	18,200
<b>Total Military Construction, Air Force .....</b>			<b>388,200</b>	<b>322,543</b>
Def-Wide	Arizona			
Def-Wide	Marana	SOF Parachute Training Facility .....	6,477	6,477

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
Def-Wide	Yuma	Truck Unload Facility .....	1,300	1,300
Def-Wide	Belgium			
Def-Wide	Brussels	NATO Headquarters Facility .....	26,969	26,969
Def-Wide	California			
Def-Wide	Coronado	SOF Close Quarters Combat/Dynamic Shoot Fac.	13,969	13,969
Def-Wide	Coronado	SOF Indoor Dynamic Shooting Facility ..	31,170	31,170
Def-Wide	Coronado	SOF Mobile Comm Detachment Support Facility.	10,120	10,120
Def-Wide	Def Fuel Support Point—San Diego	Replace Fuel Pier .....	91,563	91,563
Def-Wide	Edwards Air Force Base	Replace Fuel Storage .....	27,500	27,500
Def-Wide	Twentynine Palms, Cali- fornia	Medical Clinic Replacement .....	27,400	27,400
Def-Wide	Colorado			
Def-Wide	Buckley Air Force Base	Denver Power House .....	30,000	30,000
Def-Wide	Fort Carson, Colo- rado	SOF Battalion Operations Complex .....	56,673	56,673
Def-Wide	Pikes Peak	High Altitude Medical Research Lab .....	3,600	3,600
Def-Wide	Delaware			
Def-Wide	Dover AFB	Replace Truck Off-Load Facility .....	2,000	2,000
Def-Wide	Florida			
Def-Wide	Eglin AFB	SOF Avfid Ops and Maintenance Facili- ties.	41,695	41,695
Def-Wide	Hurlburt Field	Construct Fuel Storage Facility .....	16,000	16,000
Def-Wide	Macdill AFB	SOF Joint Special Ops University Fac (Jsou).	34,409	34,409
Def-Wide	Germany			
Def-Wide	Rhine Ordnance Barracks	Medical Center Replacement Incr 2 .....	127,000	127,000
Def-Wide	Stuttgart-Patch Barracks	DISA Europe Facility Upgrades .....	2,413	2,413
Def-Wide	Vogelweh	Replace Vogelweh Elementary School .....	61,415	61,415
Def-Wide	Weisbaden	Weisbaden High School Addition .....	52,178	52,178
Def-Wide	Guam			
Def-Wide	Andersen AFB	Upgrade Fuel Pipeline .....	67,500	67,500
Def-Wide	Guantanamo Bay, Cuba			
Def-Wide	Guantanamo Bay	Replace Fuel Pier .....	37,600	37,600
Def-Wide	Guantanamo Bay	Replace Truck Load Facility .....	2,600	2,600
Def-Wide	Hawaii			
Def-Wide	Joint Base Pearl Harbor-Hickam	SOF Sdvt-1 Waterfront Operations Fa- cility.	24,289	24,289
Def-Wide	Illinois			
Def-Wide	Great Lakes	Drug Laboratory Replacement .....	28,700	28,700
Def-Wide	Scott AFB	DISA Facility Upgrades .....	84,111	84,111
Def-Wide	Scott AFB	Medical Logistics Warehouse .....	2,600	2,600
Def-Wide	Indiana			
Def-Wide	Grisson ARB	Replace Hydrant Fuel System .....	26,800	26,800
Def-Wide	Japan			
Def-Wide	Camp Zama	Renovate Zama High School .....	13,273	13,273
Def-Wide	Kadena Ab	Replace Elementary School .....	71,772	71,772
Def-Wide	Kadena Ab	Replace Stearley Heights Elementary School.	71,773	71,773
Def-Wide	Sasebo	Replace Sasebo Elementary School .....	35,733	35,733
Def-Wide	Zukeran	Replace Zukeran Elementary School .....	79,036	79,036
Def-Wide	Kentucky			
Def-Wide	Fort Campbell, Kentucky	Replace Barkley Elementary School .....	41,767	41,767
Def-Wide	Fort Campbell, Kentucky	SOF Ground Support Battalion .....	26,313	26,313
Def-Wide	Fort Campbell, Kentucky	SOF Landgraf Hangar Extension .....	3,559	3,559

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
	Korea			
Def-Wide	Kunsan Air Base	Medical/Dental Clinic Addition .....	13,000	13,000
Def-Wide	Osan AFB	Hospital Addition/Alteration .....	34,600	34,600
Def-Wide	Osan AFB	Replace Osan Elementary School .....	42,692	42,692
	Louisiana			
Def-Wide	Barksdale AFB	Upgrade Pumphouse .....	11,700	11,700
	Maryland			
Def-Wide	Annapolis	Health Clinic Replacement .....	66,500	66,500
Def-Wide	Bethesda Naval Hospital	Base Installation Access/Appearance Plan.	7,000	7,000
Def-Wide	Bethesda Naval Hospital	Electrical Capacity and Cooling Towers	35,600	35,600
Def-Wide	Bethesda Naval Hospital	Temporary Medical Facilities .....	26,600	26,600
Def-Wide	Fort Detrick	USAMRIID Stage I, Incr 7 .....	19,000	19,000
Def-Wide	Fort Meade	High Performance Computing Center Inc 2.	300,521	225,521
Def-Wide	Fort Meade	NSAW Recapitalize Building #1/Site M Inc 1.	25,000	25,000
	Missouri			
Def-Wide	Fort Leonard Wood	Dental Clinic .....	18,100	18,100
	New Mexico			
Def-Wide	Cannon AFB	Medical/Dental Clinic Repalcement .....	71,023	71,023
Def-Wide	Cannon AFB	SOF Ac-130J Combat Parking Apron .....	22,062	22,062
	New York			
Def-Wide	Fort Drum, New York	Idt Complex .....	25,900	25,900
Def-Wide	Fort Drum, New York	Soldier Specialty Care Clinic .....	17,300	17,300
	North Carolina			
Def-Wide	Camp Lejeune, North Carolina	Medical Clinic Replacement .....	21,200	21,200
Def-Wide	Camp Lejeune, North Carolina	SOF Marine Battalion Company/Team Facilities.	53,399	53,399
Def-Wide	Camp Lejeune, North Carolina	SOF Survival Evasion Resist. Escape Tng Fac.	5,465	5,465
Def-Wide	Fort Bragg	SOF Battalion Operations Facility .....	40,481	70,481
Def-Wide	Fort Bragg	SOF Civil Affairs Battalion Complex .....	31,373	31,373
Def-Wide	Fort Bragg	SOF Support Addition .....	3,875	3,875
Def-Wide	Fort Bragg	SOF Sustainment Brigade Complex .....	24,693	24,693
Def-Wide	Seymour Johnson AFB	Medical Clinic Replacement .....	53,600	53,600
Def-Wide	Seymour Johnson AFB	Replace Pipeline .....	1,850	1,850
	Pennsylvania			
Def-Wide	Def Distribution Depot New Cumberland	Replace Communications Building .....	6,800	6,800
Def-Wide	Def Distribution Depot New Cumberland	Replace Reservoir .....	4,300	4,300
Def-Wide	Def Distribution Depot New Cumberland	Replace Sewage Treatment Plant .....	6,300	6,300
	Romania			
Def-Wide	Deveselu, Roma- nia	Aegis Ashore Missile Defense System Complex (Inc 1).	157,900	120,000
	South Carolina			
Def-Wide	Shaw AFB	Medical Clinic Replacement .....	57,200	57,200
	Texas			
Def-Wide	Fort Bliss	Hospital Replacement Incr 4 .....	207,400	132,400
Def-Wide	Joint Base San Antonio	Ambulatory Care Center Phase 3 Incr ...	80,700	26,400
Def-Wide	Red River Army Depot	Dfas Facility .....	16,715	16,715
	United Kingdom			

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
Def-Wide	Menwith Hill Sta- tion	Mhs Utilities and Roads .....	3,795	3,795
Def-Wide	Menwith Hill Sta- tion	Replace Menwith Hill Elementary/High School.	46,488	46,488
Def-Wide	Raf Feltwell	Feltwell Elementary School Addition .....	30,811	30,811
Def-Wide	Raf Mildenhall	SOF CV–22 Simulator Facility .....	6,490	6,490
Def-Wide	Utah Camp Williams	Ic Cnci Data Center 1 Inc 4 .....	191,414	191,414
Def-Wide	Virginia Dam Neck	SOF Magazines .....	0	0
Def-Wide	Joint Expedi- tionary Base Little Creek— Story	SOF Combat Services Support Facility— East.	11,132	11,132
Def-Wide	Norfolk Washington	Veterinary Facility Replacement .....	8,500	8,500
Def-Wide	Fort Lewis	SOF Battalion Operations Facility .....	46,553	46,553
Def-Wide	Fort Lewis	SOF Military Working Dog Kennel .....	3,967	3,967
Def-Wide	Worldwide Unspec- ified	Contingency Construction .....	10,000	0
Def-Wide	Unspecified Worldwide Lo- cations	Energy Conservation Investment Pro- gram.	150,000	150,000
Def-Wide	Unspecified Worldwide Lo- cations	Exercise Related Minor Construction .....	6,440	6,440
Def-Wide	Unspecified Worldwide Lo- cations	Minor Construction .....	5,000	5,000
Def-Wide	Unspecified Worldwide Lo- cations	Planning & Design .....	5,000	5,000
Def-Wide	Unspecified Worldwide Lo- cations	Planning and Design .....	105,700	105,700
Def-Wide	Unspecified Worldwide Lo- cations	Planning and Design .....	47,978	47,978
Def-Wide	Unspecified Worldwide Lo- cations	Planning and Design .....	7,928	7,928
Def-Wide	Unspecified Worldwide Lo- cations	Planning and Design .....	105,569	105,569
Def-Wide	Unspecified Worldwide Lo- cations	Planning and Design .....	2,919	2,919
Def-Wide	Unspecified Worldwide Lo- cations	Planning and Design .....	8,300	8,300
Def-Wide	Unspecified Worldwide Lo- cations	Planning and Design .....	27,620	27,620
Def-Wide	Unspecified Worldwide Lo- cations	Planning and Design .....	4,548	4,548
Def-Wide	Unspecified Worldwide Lo- cations	SOF Operations and Skills Training Complex.	0	0
Def-Wide	Unspecified Worldwide Lo- cations	Unspecified Minor Const .....	10,000	10,000

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
Def-Wide	Unspecified Worldwide Lo- cations	Unspecified Minor Construction .....	3,000	3,000
Def-Wide	Unspecified Worldwide Lo- cations	Unspecified Minor Construction .....	7,254	7,254
Def-Wide	Unspecified Worldwide Lo- cations	Unspecified Minor Construction .....	4,091	4,091
Def-Wide	Unspecified Worldwide Lo- cations	Unspecified Minor Milcon .....	3,000	3,000
<b>Total Military Construction, Defense-Wide .....</b>			<b>3,654,623</b>	<b>3,432,423</b>
Chem Demil	Colorado Pueblo Depot	Ammunition Demilitarization Facility, Ph Xiv.	36,000	36,000
Chem Demil	Kentucky Blue Grass Army Depot	Ammunition Demilitarization Ph Xiii .....	115,000	115,000
<b>Total Chemical Demilitarization Construction, Defense .....</b>			<b>151,000</b>	<b>151,000</b>
NATO	Worldwide Unspec- ified NATO Security Investment Pro- gram	NATO Security Investment Program .....	254,163	254,163
<b>Total NATO Security Investment Program .....</b>			<b>254,163</b>	<b>254,163</b>
Army NG	Alabama Fort MC Clellan	Live Fire Shoot House .....	5,400	5,400
Army NG	Arkansas Searcy	Field Maintenance Shop .....	6,800	6,800
Army NG	California Fort Irwin	Maneuver Area Training & Equipment Site Ph3.	25,000	25,000
Army NG	Connecticut Camp Hartell	Combined Support Maintenance Shop ....	32,000	32,000
Army NG	Delaware Bethany Beach	Regional Training Institute Ph1 .....	5,500	5,500
Army NG	Florida Camp Blanding	Combined Arms Collective Training Fac	9,000	9,000
Army NG	Miramar	Readiness Center .....	20,000	20,000
Army NG	Guam Barrigada	JFHQ Ph4 .....	8,500	8,500
Army NG	Hawaii Kapolei	Army Aviation Support Facility Ph1 .....	28,000	28,000
Army NG	Idaho Orchard Trainig Area	Ortc(Barracks)Ph2 .....	40,000	40,000
Army NG	Indiana South Bend	Armed Forces Reserve Center Add/Alt ...	21,000	21,000
Army NG	Terre Haute	Field Maintenance Shop .....	9,000	9,000
Army NG	Iowa Camp Dodge	Urban Assault Course .....	3,000	3,000
Army NG	Kansas Topeka	Taxiway, Ramp & Hangar Alterations ...	9,500	9,500
Army NG	Kentucky Frankfort	Army Aviation Support Facility .....	32,000	32,000
Army NG	Massachusetts Camp Edwards	Ground Water Extraction, Treatment, and Recharge System.	0	0
Army NG	Michigan Camp Edwards	Unit Training Equipment Site .....	22,000	22,000



SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)						
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized		
Army NG	Camp Grayling	Operational Readiness Training Complex (Ortc) Barracks.	0	0		
	Minnesota					
Army NG	Arden Hills	Readiness Center .....	0	17,000		
Army NG	Camp Ripley	Scout Reconnaissance Range .....	17,000	17,000		
Army NG	St Paul	Readiness Center .....	17,000	0		
	Missouri					
Army NG	Fort Leonard Wood	Regional Training Institute .....	18,000	18,000		
Army NG	Kansas City	Readiness Center Add/Alt .....	1,900	1,900		
Army NG	Monett	Readiness Center Add/Alt .....	820	820		
Army NG	Perryville	Readiness Center Add/Alt .....	700	700		
	Montana					
Army NG	Miles City	Readiness Center .....	11,000	11,000		
	New Jersey					
Army NG	Sea Girt	Regional Training Institute .....	34,000	34,000		
	New York					
Army NG	Stormville	Combined Support Maint Shop Ph1 .....	24,000	24,000		
	Ohio					
Army NG	Chillicothe	Field Maintenance Shop Add/Alt .....	3,100	3,100		
Army NG	Delaware	Readiness Center .....	12,000	12,000		
	Oklahoma					
Army NG	Camp Gruber	Operations Readiness Training Complex	25,000	25,000		
	Puerto Rico					
Army NG	Camp Santiago	Readiness Center .....	3,800	3,800		
Army NG	Ceiba	Refill Station Building .....	2,200	2,200		
Army NG	Guaynabo	Readiness Center (JFHQ) .....	15,000	15,000		
Army NG	Gurabo	Readiness Center .....	14,700	14,700		
	Utah					
Army NG	Camp Williams	BEQ Facility (Regional Training Institute).	15,000	15,000		
Army NG	Camp Williams	Regional Training Institute Ph2 .....	21,000	21,000		
	Vermont					
Army NG	North Hyde Park	Field Maintenance Shop .....	0	0		
	Washington					
Army NG	Fort Lewis	Readiness Center .....	35,000	35,000		
	West Virginia					
Army NG	Logan	Readiness Center .....	14,200	14,200		
	Wisconsin					
Army NG	Wausau	Field Maintenance Shop .....	10,000	10,000		
	Worldwide Unspecified					
Army NG	Unspecified Worldwide Locations	Planning and Design .....	26,622	26,622		
Army NG	Unspecified Worldwide Locations	Unspecified Minor Construction .....	15,057	15,057		
<b>Total Military Construction, Army National Guard .....</b>			<b>613,799</b>	<b>613,799</b>		
	California					
Army Res	Fort Hunter Liggett	Access Control Point .....	0	0		
Army Res	Fort Hunter Liggett	Ortc .....	64,000	64,000		
Army Res	Fort Hunter Liggett	Uph Barracks .....	4,300	4,300		
Army Res	Tustin	Army Reserve Center .....	27,000	27,000		
	Illinois					
Army Res	Fort Sheridan	Army Reserve Center .....	28,000	28,000		
	Maryland					
Army Res	Aberdeen Proving Ground	Army Reserve Center .....	21,000	21,000		
Army Res	Baltimore	Add/Alt Army Reserve Center .....	10,000	10,000		
	Massachusetts					

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
Army Res	Devens Reserve Forces Training Area	Automatic Record Fire Range .....	4,800	4,800
Army Res	Devens Reserve Forces Training Area	Combat Pistol/MP Firearms Qualifica- tion.	3,700	3,700
Army Res	Nevada Las Vegas	Army Reserve Center/AMSA .....	21,000	21,000
Army Res	New Jersey Joint Base Mcguire-Dix- Lakehurst	Automated Infantry Squad Battle Course.	7,400	7,400
Army Res	Pennsylvania Conneaut Lake	Defense Access Road .....	0	0
Army Res	Washington Joint Base Lewis- McChord	Army Reserve Center .....	40,000	40,000
Army Res	Wisconsin Fort McCoy	Central Issue Facility .....	12,200	12,200
Army Res	Fort McCoy	Dining Facility .....	8,600	8,600
Army Res	Fort McCoy	Ecs Tactical Equip. Maint. Facility (Temf).	27,000	27,000
Army Res	Worldwide Unspec- ified	Planning and Design .....	15,951	15,951
Army Res	Unspecified Worldwide Lo- cations	Unspecified Minor Construction .....	10,895	10,895
<b>Total Military Construction, Army Reserve .....</b>			<b>305,846</b>	<b>305,846</b>
N/MC Res	Arizona Yuma	Reserve Training Facility—Yuma AZ ....	5,379	5,379
N/MC Res	Iowa Fort Des Moines	Joint Reserve Center—Des Moines IA ....	19,162	19,162
N/MC Res	Louisiana New Orleans	Transient Quarters .....	7,187	7,187
N/MC Res	New York Brooklyn	Vehicle Maint. Fac.—Brooklyn NY .....	4,430	4,430
N/MC Res	Texas Fort Worth	Commercial Vehicle Inspection Site .....	11,256	11,256
N/MC Res	Worldwide Unspec- ified	Planning and Design .....	2,118	2,118
<b>Total Military Construction, Naval Reserve .....</b>			<b>49,532</b>	<b>49,532</b>
Air NG	California Fresno Yosemite IAP ANG	F–15 Conversion .....	11,000	11,000
Air NG	Hawaii Joint Base Pearl Harbor-Hickam	TFI—F–22 Combat Apron Addition .....	6,500	6,500
Air NG	New Mexico Kirtland AFB	Alter Target Intelligence Facility .....	8,500	8,500
Air NG	Tennessee McGhee-Tyson Airport	Dormitory Classroom Facility .....	0	0
Air NG	Worldwide Unspec- ified	Planning and Design .....	4,000	4,000
Air NG	Various World- wide Locations			

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
Air NG	Various World- wide Locations	Unspecified Minor Construction .....	5,900	5,900
Air NG	Wyoming Cheyenne Map	C–130 Flight Simulator Training Facil- ity.	6,486	6,486
<b>Total Military Construction, Air National Guard .....</b>			<b>42,386</b>	<b>42,386</b>
AF Res	California March Air Re- serve Base	Joint Regional Deployment Processing Center.	0	0
AF Res	New York Niagara Falls IAP	Flight Simulator Facility .....	6,100	6,100
AF Res	Worldwide Unspec- ified	Planning and Design .....	2,879	2,879
AF Res	Various World- wide Locations	Unspecified Minor Constrution .....	2,000	2,000
<b>Total Military Construction, Air Force Reserve .....</b>			<b>10,979</b>	<b>10,979</b>
FH Con Army	Worldwide Unspec- ified Unspecified Worldwide Lo- cations	Family Housing P&d .....	4,641	4,641
<b>Total Family Housing Construction, Army .....</b>			<b>4,641</b>	<b>4,641</b>
FH Ops Army	Worldwide Unspec- ified Unspecified Worldwide Lo- cations	Furnishings Account .....	31,785	31,785
FH Ops Army	Unspecified Worldwide Lo- cations	Leasing .....	203,533	203,533
FH Ops Army	Unspecified Worldwide Lo- cations	Maintenance of Real Property .....	109,534	109,534
FH Ops Army	Unspecified Worldwide Lo- cations	Management Account .....	56,970	56,970
FH Ops Army	Unspecified Worldwide Lo- cations	Miscellaneous Account .....	620	620
FH Ops Army	Unspecified Worldwide Lo- cations	Privatization Support Costs .....	26,010	26,010
FH Ops Army	Unspecified Worldwide Lo- cations	Services Account .....	13,487	13,487
FH Ops Army	Unspecified Worldwide Lo- cations	Utilities Account .....	88,112	88,112
<b>Total Family Housing Operation And Maintenance, Army .....</b>			<b>530,051</b>	<b>530,051</b>
FH Con AF	Worldwide Unspec- ified Unspecified Worldwide Lo- cations	Improvements .....	79,571	79,571
FH Con AF	Unspecified Worldwide Lo- cations	Planning and Design .....	4,253	4,253

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
<b>Total Family Housing Construction, Air Force .....</b>			<b>83,824</b>	<b>83,824</b>
	Worldwide Unspec- ified			
FH Ops AF	Unspecified	Furnishings Account .....	37,878	37,878
	Worldwide Lo- cations			
FH Ops AF	Unspecified	Housing Privatization .....	46,127	46,127
	Worldwide Lo- cations			
FH Ops AF	Unspecified	Leasing .....	62,730	62,730
	Worldwide Lo- cations			
FH Ops AF	Unspecified	Maintenance (Rpma Rpmc) .....	201,937	201,937
	Worldwide Lo- cations			
FH Ops AF	Unspecified	Management Account .....	55,002	55,002
	Worldwide Lo- cations			
FH Ops AF	Unspecified	Miscellaneous Account .....	1,943	1,943
	Worldwide Lo- cations			
FH Ops AF	Unspecified	Services Account .....	16,550	16,550
	Worldwide Lo- cations			
FH Ops AF	Unspecified	Utilities Account .....	75,662	75,662
	Worldwide Lo- cations			
<b>Total Family Housing Operation And Maintenance, Air Force .....</b>			<b>497,829</b>	<b>497,829</b>
	Worldwide Unspec- ified			
FH Con Navy	Unspecified	Design .....	4,527	4,527
	Worldwide Lo- cations			
FH Con Navy	Unspecified	Improvements .....	97,655	97,655
	Worldwide Lo- cations			
<b>Total Family Housing Construction, Navy And Marine Corps .....</b>			<b>102,182</b>	<b>102,182</b>
	Worldwide Unspec- ified			
FH Ops Navy	Unspecified	Furnishings Account .....	17,697	17,697
	Worldwide Lo- cations			
FH Ops Navy	Unspecified	Leasing .....	83,774	83,774
	Worldwide Lo- cations			
FH Ops Navy	Unspecified	Maintenance of Real Property .....	85,254	85,254
	Worldwide Lo- cations			
FH Ops Navy	Unspecified	Management Account .....	62,741	62,741
	Worldwide Lo- cations			
FH Ops Navy	Unspecified	Miscellaneous Account .....	491	491
	Worldwide Lo- cations			
FH Ops Navy	Unspecified	Privatization Support Costs .....	27,798	27,798
	Worldwide Lo- cations			
FH Ops Navy	Unspecified	Services Account .....	19,615	19,615
	Worldwide Lo- cations			

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
FH Ops Navy	Unspecified Worldwide Lo- cations	Utilities Account .....	80,860	80,860
<b>Total Family Housing Operation And Maintenance, Navy And Ma- rine Corps.</b>			<b>378,230</b>	<b>378,230</b>
FH Ops DW	Worldwide Unspec- ified Unspecified Worldwide Lo- cations	Furnishings Account .....	20	20
FH Ops DW	Unspecified Worldwide Lo- cations	Furnishings Account .....	4,660	4,660
FH Ops DW	Unspecified Worldwide Lo- cations	Furnishings Account .....	66	66
FH Ops DW	Unspecified Worldwide Lo- cations	Leasing .....	10,822	10,822
FH Ops DW	Unspecified Worldwide Lo- cations	Leasing .....	35,333	35,333
FH Ops DW	Unspecified Worldwide Lo- cations	Maintenance of Real Property .....	73	73
FH Ops DW	Unspecified Worldwide Lo- cations	Maintenance of Real Property .....	567	567
FH Ops DW	Unspecified Worldwide Lo- cations	Management Account .....	371	371
FH Ops DW	Unspecified Worldwide Lo- cations	Services Account .....	31	31
FH Ops DW	Unspecified Worldwide Lo- cations	Utilities Account .....	12	12
FH Ops DW	Unspecified Worldwide Lo- cations	Utilities Account .....	283	283
<b>Total Family Housing Operation And Maintenance, Defense-Wide ...</b>			<b>52,238</b>	<b>52,238</b>
FHIF	Worldwide Unspec- ified Unspecified Worldwide Lo- cations	Family Housing Improvement Fund .....	1,786	1,786
<b>Total DOD Family Housing Improvement Fund .....</b>			<b>1,786</b>	<b>1,786</b>
BRAC 05	Worldwide Unspec- ified Unspecified Worldwide Lo- cations	Comm Add 3: Galena Fol, AK .....	1,337	1,337
BRAC 05	Unspecified Worldwide Lo- cations	Don–100: Planing, Design and Manage- ment.	5,038	5,038
BRAC 05	Unspecified Worldwide Lo- cations	Don–101: Various Locations .....	4,176	4,176
BRAC 05	Unspecified Worldwide Lo- cations	Don–138: NAS Brunswick, ME .....	4,897	4,897

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
BRAC 05	Unspecified Worldwide Lo- cations	Don–157: Mcsa Kansas City, MO .....	39	39
BRAC 05	Unspecified Worldwide Lo- cations	Don–168: Ns Newport, RI .....	1,742	1,742
BRAC 05	Unspecified Worldwide Lo- cations	Don–172: NWS Seal Beach, Concord, CA	2,129	2,129
BRAC 05	Unspecified Worldwide Lo- cations	Don–84: JRB Willow Grove & Cambria Reg Ap.	189	189
BRAC 05	Unspecified Worldwide Lo- cations	Ind–106: Kansas Army Ammunition Plant, KS.	7,280	7,280
BRAC 05	Unspecified Worldwide Lo- cations	Ind–110: Mississippi Army Ammo Plant, MS.	160	160
BRAC 05	Unspecified Worldwide Lo- cations	Ind–112: River Bank Army Ammo Plant, CA.	22,431	22,431
BRAC 05	Unspecified Worldwide Lo- cations	Ind–119: Newport Chemical Depot, IN ...	197	197
BRAC 05	Unspecified Worldwide Lo- cations	Ind–122: Lone Star Army Ammo Plant, TX.	11,379	11,379
BRAC 05	Unspecified Worldwide Lo- cations	Med–2: Walter Reed Nmmc, Bethesda, MD.	7,787	7,787
BRAC 05	Unspecified Worldwide Lo- cations	Med–57: Brooks City Base, TX .....	326	326
BRAC 05	Unspecified Worldwide Lo- cations	Program Management Various Locations	605	605
BRAC 05	Unspecified Worldwide Lo- cations	Program Management Various Locations	20,453	20,453
BRAC 05	Unspecified Worldwide Lo- cations	Usa–113: Fort Monroe, VA .....	12,184	12,184
BRAC 05	Unspecified Worldwide Lo- cations	Usa–121: Fort Gillem, GA .....	4,976	4,976
BRAC 05	Unspecified Worldwide Lo- cations	Usa–167: USAR Command and Con- trol—NE.	175	175
BRAC 05	Unspecified Worldwide Lo- cations	Usa–212: USAR Cmd & Cntrl—New England.	222	222
BRAC 05	Unspecified Worldwide Lo- cations	Usa–222: Fort Mepherston, GA .....	6,772	6,772
BRAC 05	Unspecified Worldwide Lo- cations	Usa–223: Fort Monmouth, NJ .....	9,989	9,989
BRAC 05	Unspecified Worldwide Lo- cations	Usa–236: Rc Transformation in CT .....	557	557
BRAC 05	Unspecified Worldwide Lo- cations	Usa–242: Rc Transformation in NY .....	172	172
BRAC 05	Unspecified Worldwide Lo- cations	Usa–253: Rc Transformation in PA .....	100	100

SEC. 4601. MILITARY CONSTRUCTION (In Thousands of Dollars)				
Account	State/Country and Installation	Project Title	FY 2013 Request	Conference Authorized
BRAC 05	Unspecified Worldwide Lo- cations	Usa-36: Red River Army Depot .....	1,385	1,385
<b>Total Base Realignment and Closure Account 2005 .....</b>			<b>126,697</b>	<b>126,697</b>
BRAC IV	Worldwide Unspec- ified Base Realignment & Closure, Air Force	Base Realignment & Closure .....	122,552	122,552
BRAC IV	Base Realignment & Closure, Army	Base Realignment & Closure .....	79,893	79,893
BRAC IV	Base Realignment & Closure, Navy	Base Realignment & Closure .....	146,951	146,951
<b>Total Base Realignment and Closure Account 1990 .....</b>			<b>349,396</b>	<b>349,396</b>
PYS	Worldwide Unspec- ified Unspecified Worldwide Lo- cations	BRAC 2005 .....	0	–132,513
PYS	Unspecified Worldwide Lo- cations	Contingency Construction .....	0	–20,000
<b>Total Prior Year Savings .....</b>			<b>0</b>	<b>–152,513</b>
GR	Worldwide Unspec- ified Unspecified Worldwide Lo- cations	Civilian Pay Raise Reduction .....	0	–2,334
<b>Total General Reductions .....</b>			<b>0</b>	<b>–2,334</b>
<b>Total Military Construction, Base Funding .....</b>			<b>11,222,710</b>	<b>10,412,905</b>

## SEC. 4602. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS.

SEC. 4602. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS (In Thousands of Dollars)				
Service	Country and Location	Project	FY 2013 Request	Conference Authorized
Navy	Sw Asia .....	Combined Dining Facility .....	0	0
Navy	Sw Asia .....	Transient Quarters .....	0	0
Navy	Camp Lemonier, Djibouti.	Containerized Living and Work Units .....	0	7,510
Navy	Camp Lemonier, Djibouti.	Fitness Center .....	0	26,960
Navy	Camp Lemonier, Djibouti.	Galley Addition and Warehouse .....	0	22,220
Navy	Camp Lemonier, Djibouti.	Joint HQ/Joint Operations Center Facility ..	0	42,730
<b>Total Military Construction, Navy .....</b>			<b>0</b>	<b>99,420</b>
PYS	Unspecified Worldwide Locations.	112–10 and Title Iv of Division H P.L. 112– 74.	0	–150,768
<b>Total Prior Year Savings .....</b>			<b>0</b>	<b>–150,768</b>

**SEC. 4602. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS**  
(In Thousands of Dollars)

Service	Country and Location	Project	FY 2013 Request	Conference Authorized
Total Military Construction, OCO Funding .....			0	–51,348

## TITLE XLVII—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

**SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.**

**SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**  
(In Thousands of Dollars)

Program	FY 2013 Request	Conference Authorized
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**Discretionary Summary By Appropriation**

**Energy And Water Development, And Related Agencies**

**Appropriation Summary:**

**Energy Programs**

Electricity delivery and energy reliability .....	6,000	0
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**Atomic Energy Defense Activities**

**National nuclear security administration:**

Weapons activities .....	7,577,341	7,657,921
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Defense nuclear nonproliferation .....	2,458,631	2,485,631
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Naval reactors .....	1,088,635	1,088,635
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Office of the administrator .....	411,279	382,000
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<b>Total, National nuclear security administration</b>	<b>11,535,886</b>	<b>11,614,187</b>
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**Environmental and other defense activities:**

Defense environmental cleanup .....	5,472,001	5,009,001
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Other defense activities .....	735,702	731,299
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<b>Total, Environmental &amp; other defense activities</b>	<b>6,207,703</b>	<b>5,740,300</b>
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<b>Total, Atomic Energy Defense Activities</b>	<b>17,743,589</b>	<b>17,354,487</b>
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<b>Total, Discretionary Funding</b>	<b>17,749,589</b>	<b>17,354,487</b>
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**Electricity Delivery & Energy Reliability**

**Electricity Delivery & Energy Reliability**

Infrastructure security & energy restoration .....	6,000	0
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**Weapons Activities**

**Directed stockpile work**

**Life extension programs**

B61 Life extension program .....	369,000	369,000
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W76 Life extension program .....	174,931	219,931
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<b>Total, Life extension programs</b>	<b>543,931</b>	<b>588,931</b>
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**Stockpile assessment and design**

W78 Life extension study .....		0
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W88 Alt 370 .....		0
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<b>Total, Stockpile assessment and design</b>	<b>0</b>	<b>0</b>
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**Stockpile systems**

Stockpile systems .....	0	
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B61 Stockpile systems .....	72,364	72,364
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W76 Stockpile systems .....	65,445	65,445
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W78 Stockpile systems .....	139,207	139,207
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W80 Stockpile systems .....	46,540	46,540
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B83 Stockpile systems .....	57,947	57,947
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W87 Stockpile systems .....	85,689	85,689
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W88 Stockpile systems .....	123,217	123,217
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SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS (In Thousands of Dollars)		
Program	FY 2013 Request	Conference Authorized
<b>Total, Stockpile systems</b> .....	<b>590,409</b>	<b>590,409</b>
<b>Weapons dismantlement and disposition</b>		
Operations and maintenance .....	51,265	51,265
<b>Stockpile services</b>		
Production support .....	365,405	371,405
Research and development support .....	28,103	28,103
R&D certification and safety .....	191,632	199,632
Management, technology, and production .....	175,844	175,844
Plutonium sustainment .....	141,685	141,685
<b>Total, Stockpile services</b> .....	<b>902,669</b>	<b>916,669</b>
<b>Total, Directed stockpile work</b> .....	<b>2,088,274</b>	<b>2,147,274</b>
<b>Campaigns:</b>		
<b>Science campaign</b>		
Advanced certification .....	44,104	54,104
Primary assessment technologies .....	94,000	99,000
Dynamic materials properties .....	97,000	106,000
Advanced radiography .....	30,000	30,000
Secondary assessment technologies .....	85,000	85,000
<b>Total, Science campaign</b> .....	<b>350,104</b>	<b>374,104</b>
<b>Engineering campaign</b>		
Enhanced surety .....	46,421	54,421
Weapon systems engineering assessment technology .....	18,983	18,983
Nuclear survivability .....	21,788	21,788
Enhanced surveillance .....	63,379	63,379
<b>Total, Engineering campaign</b> .....	<b>150,571</b>	<b>158,571</b>
<b>Inertial confinement fusion ignition and high yield campaign</b>		
Diagnostics, cryogenics and experimental support .....	81,942	81,942
Ignition .....	84,172	84,172
Support of other stockpile programs .....	14,817	14,817
NIF diagnostics, cryogenics and experimental support .....	0	0
Pulsed power inertial confinement fusion .....	6,044	6,044
Joint program in high energy density laboratory plasmas .....	8,334	8,334
Facility operations and target production .....	264,691	264,691
<b>Total, Inertial confinement fusion and high yield campaign</b> .....	<b>460,000</b>	<b>460,000</b>
Advanced simulation and computing campaign .....	600,000	600,000
<b>Readiness Campaign</b>		
Stockpile readiness .....	0	0
High explosives and weapon operations .....	0	0
Nonnuclear readiness .....	64,681	64,681
Tritium readiness .....	65,414	65,414
Advanced design and production technologies .....	0	0
<b>Total, Readiness campaign</b> .....	<b>130,095</b>	<b>130,095</b>
<b>Total, Campaigns</b> .....	<b>1,690,770</b>	<b>1,722,770</b>
<b>Readiness in technical base and facilities (RTBF)</b>		
<b>Operations of facilities</b>		
Kansas City Plant .....	163,602	163,602
Lawrence Livermore National Laboratory .....	89,048	89,048

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS (In Thousands of Dollars)		
Program	FY 2013 Request	Conference Authorized
Los Alamos National Laboratory .....	335,978	335,978
Nevada National Security Site .....	115,697	115,697
Pantex .....	172,020	172,020
Sandia National Laboratory .....	167,384	167,384
Savannah River Site .....	120,577	120,577
Y-12 National security complex .....	255,097	255,097
Institutional site support .....	0	0
<b>Total, Operations of facilities .....</b>	<b>1,419,403</b>	<b>1,419,403</b>
Program Readiness .....	0	0
Science, technology and engineering capability support ....	166,945	166,945
Maintenance and repair of facilities .....	0	0
Nuclear operations capability support .....	203,346	203,346
<b>Subtotal, Readiness in technical base and facilities .....</b>	<b>1,789,694</b>	<b>1,789,694</b>
<b>Construction:</b>		
13-D-301 Electrical infrastructure upgrades, LANL/ LLNL .....	23,000	23,000
12-D-301 TRU waste facilities, LANL .....	24,204	24,204
11-D-801 TA-55 Reinvestment project, LANL .....	8,889	8,889
10-D-501 Nuclear facilities risk reduction Y-12 Na- tional security complex, Oakridge, TN .....	17,909	17,909
09-D-404 Test capabilities revitalization II, Sandia National Laboratories, Albuquerque, NM .....	11,332	11,332
08-D-802 High explosive pressing facility Pantex Plant, Amarillo, TX .....	24,800	24,800
07-D-140 Project engineering and design (PED) var- ious locations .....	0	0
06-D-140 Project engineering design (PED) various locations .....	0	0
06-D-141 PED/Construction, Uranium Capabilities Replacement Project Y-12 , Oak Ridge, TN .....	340,000	0
06-D-141 PED/Construction, Uranium Capabilities Replacement Project Y-12 , Phase 1, Oak Ridge, TN .....	0	340,000
04-D-125 Chemistry and metallurgy facility replace- ment project, Los Alamos National Laboratory, Los Alamos, NM .....	0	0
<b>Total, Construction .....</b>	<b>450,134</b>	<b>450,134</b>
<b>Total, Readiness in technical base and facilities .....</b>	<b>2,239,828</b>	<b>2,239,828</b>
<b>Secure transportation asset</b>		
Operations and equipment .....	114,965	114,965
Program direction .....	104,396	104,396
<b>Total, Secure transportation asset .....</b>	<b>219,361</b>	<b>219,361</b>
Nuclear counterterrorism incident response .....	247,552	247,552
<b>Site stewardship</b>		
Operations and maintenance .....	90,001	79,581
<b>Construction</b>		
11-D-601 Sanitary effluent reclamation facility, LANL .....	0	0
<b>Total, Site stewardship .....</b>	<b>90,001</b>	<b>79,581</b>
<b>Defense nuclear security</b>		
Operations and maintenance .....	643,285	643,285

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS (In Thousands of Dollars)		
Program	FY 2013 Request	Conference Authorized
NNSA CIO activities .....	155,022	155,022
Legacy contractor pensions .....	185,000	185,000
Science, Technology and Engineering Capability .....	0	0
National security applications .....	18,248	18,248
<b>Subtotal, Weapons activities .....</b>	<b>7,577,341</b>	<b>7,657,921</b>
Rescission .....		0
<b>Total, Weapons Activities .....</b>	<b>7,577,341</b>	<b>7,657,921</b>
<b>Defense Nuclear Nonproliferation</b>		
<b>Nonproliferation and verification R&amp;D</b>		
Operations and maintenance .....	398,186	398,186
Domestic Enrichment R&D .....	150,000	150,000
<b>Subtotal, Nonproliferation and verification R&amp;D .....</b>	<b>548,186</b>	<b>548,186</b>
Nonproliferation and international security .....	150,119	150,119
International nuclear materials protection and cooperation ....	311,000	311,000
<b>Fissile materials disposition</b>		
<b>U.S. surplus fissile materials disposition</b>		
<b>Operations and maintenance</b>		
U.S. plutonium disposition .....	498,979	498,979
U.S. uranium disposition .....	29,736	29,736
<b>Total, Operations and maintenance .....</b>	<b>528,715</b>	<b>528,715</b>
<b>Construction:</b>		
99–D–143 Mixed oxide fuel fabrication facility, Savannah River, SC .....	388,802	388,802
99–D–141–01 Pit disassembly and conversion fa- cility, Savannah River, SC .....	0	0
99–D–141–02 Waste Solidification Building, Sa- vannah River, SC .....	0	0
<b>Total, Construction .....</b>	<b>388,802</b>	<b>388,802</b>
<b>Total, U.S. surplus fissile materials disposition .....</b>	<b>917,517</b>	<b>917,517</b>
Russian surplus fissile materials disposition .....	3,788	3,788
<b>Total, Fissile materials disposition .....</b>	<b>921,305</b>	<b>921,305</b>
Global threat reduction initiative .....	466,021	493,021
Legacy contractor pensions .....	62,000	62,000
<b>Subtotal, Defense Nuclear Nonproliferation .....</b>	<b>2,458,631</b>	<b>2,507,211</b>
Rescission .....		0
<b>Total, Defense Nuclear Nonproliferation .....</b>	<b>2,458,631</b>	<b>2,485,631</b>
<b>Naval Reactors</b>		
Naval reactors development .....	418,072	418,072
Ohio replacement reactor systems development .....	89,700	89,700
S8G Prototype refueling .....	121,100	121,100
Naval reactors operations and infrastructure .....	366,961	366,961
<b>Construction:</b>		
13–D–905 Remote-handled low-level waste facility, INL ..	8,890	8,890
13–D–904 KS Radiological work and storage building, KSO .....	2,000	2,000
13–D–903, KS Prototype Staff Building, KSO .....	14,000	14,000

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS (In Thousands of Dollars)		
Program	FY 2013 Request	Conference Authorized
10-D-903, Security upgrades, KAPL .....	19,000	19,000
10-D-904, NRF infrastructure upgrades, Idaho .....	0	0
09-D-902, NRF Office Building #2 ECC Upgrade, Idaho .....	0	0
08-D-190 Expended Core Facility M-290 recovering dis- charge station, Naval Reactor Facility, ID .....	5,700	5,700
07-D-190 Materials research technology complex (MRTC) .....	0	0
<b>Total, Construction</b> .....	<b>49,590</b>	<b>49,590</b>
Program direction .....	43,212	43,212
<b>Subtotal, Naval Reactors</b> .....	<b>1,088,635</b>	<b>1,088,635</b>
<b>Adjustments:</b>		
Rescission of prior year balances .....	0	0
<b>Total, Naval Reactors</b> .....	<b>1,088,635</b>	<b>1,088,635</b>
<b>Office Of The Administrator</b>		
Office of the administrator .....	411,279	382,000
<b>Total, Office Of The Administrator</b> .....	<b>411,279</b>	<b>382,000</b>
<b>Defense Environmental Cleanup</b>		
<b>Closure sites:</b>		
Closure sites administration .....	1,990	1,990
<b>Hanford site:</b>		
River corridor and other cleanup operations .....	389,347	389,347
Central plateau remediation .....	558,820	558,820
Richland community and regulatory support .....	15,156	15,156
<b>Total, Hanford site</b> .....	<b>963,323</b>	<b>963,323</b>
<b>Idaho National Laboratory:</b>		
Idaho cleanup and waste disposition .....	396,607	396,607
Idaho community and regulatory support .....	3,000	3,000
<b>Total, Idaho National Laboratory</b> .....	<b>399,607</b>	<b>399,607</b>
<b>NNSA sites</b>		
Lawrence Livermore National Laboratory .....	1,484	1,484
Nuclear facility D & D Separations Process Research Unit .....	24,000	24,000
Nevada .....	64,641	64,641
Sandia National Laboratories .....	5,000	5,000
Los Alamos National Laboratory .....	239,143	239,143
<b>Total, NNSA sites and Nevada off-sites</b> .....	<b>334,268</b>	<b>334,268</b>
<b>Oak Ridge Reservation:</b>		
Building 3019 .....	0	0
OR Nuclear facility D & D .....	67,525	67,525
OR cleanup and disposition .....	109,470	109,470
OR reservation community and regulatory support .....	4,500	4,500
<b>Total, Oak Ridge Reservation</b> .....	<b>181,495</b>	<b>181,495</b>
<b>Office of River Protection:</b>		
<b>Waste treatment and immobilization plant</b>		
01-D-416 A-E/ORP-0060 / Major construction .....	690,000	690,000
<b>Tank farm activities</b>		
Rad liquid tank waste stabilization and disposition ...	482,113	482,113

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS (In Thousands of Dollars)		
Program	FY 2013 Request	Conference Authorized
<b>Total, Office of River protection .....</b>	<b>1,172,113</b>	<b>1,172,113</b>
<b>Savannah River sites:</b>		
Savannah River risk management operations .....	444,089	444,089
SR community and regulatory support .....	16,584	16,584
<b>Radioactive liquid tank waste:</b>		
Radioactive liquid tank waste stabilization and dis- position .....	698,294	698,294
<b>Construction:</b>		
05-D-405 Salt waste processing facility, Savan- nah River .....	22,549	22,549
PE&D glass waste storage building #3 .....	0	0
<b>Total, Radioactive liquid tank waste .....</b>	<b>720,843</b>	<b>720,843</b>
<b>Total, Savannah River site .....</b>	<b>1,181,516</b>	<b>1,181,516</b>
<b>Waste Isolation Pilot Plant</b>		
Waste isolation pilot plant .....	198,010	198,010
<b>Total, Waste Isolation Pilot Plant .....</b>	<b>198,010</b>	<b>198,010</b>
Program direction .....	323,504	323,504
Program support .....	18,279	18,279
<b>Safeguards and Security:</b>		
Oak Ridge Reservation .....	18,817	18,817
Paducah .....	8,909	8,909
Portsmouth .....	8,578	8,578
Richland/Hanford Site .....	71,746	71,746
Savannah River Site .....	121,977	121,977
Waste Isolation Pilot Project .....	4,977	4,977
West Valley .....	2,015	2,015
<b>Total, Safeguards and Security .....</b>	<b>237,019</b>	<b>237,019</b>
Technology development .....	20,000	20,000
Uranium enrichment D&D fund contribution .....	463,000	0
<b>Subtotal, Defense environmental cleanup .....</b>	<b>5,494,124</b>	<b>5,031,124</b>
<b>Adjustments</b>		
Use of prior year balances .....	-12,123	-12,123
Use of unobligated balances .....	-10,000	-10,000
<b>Rescission</b>		
<b>Total, Adjustments .....</b>	<b>-22,123</b>	<b>-22,123</b>
<b>Total, Defense Environmental Cleanup .....</b>	<b>5,472,001</b>	<b>5,009,001</b>
<b>Other Defense Activities</b>		
<b>Health, safety and security</b>		
Health, safety and security .....	139,325	139,325
Program direction .....	106,175	106,175
Undistributed adjustment .....		-4,403
<b>Total, Health, safety and security .....</b>	<b>245,500</b>	<b>241,097</b>
Specialized security activities .....	188,619	188,619
<b>Office of Legacy Management</b>		
Legacy management .....	164,477	164,477
Program direction .....	13,469	13,469
<b>Total, Office of Legacy Management .....</b>	<b>177,946</b>	<b>177,946</b>

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS (In Thousands of Dollars)		
Program	FY 2013 Request	Conference Authorized
<b>Defense-related activities</b>		
<b>Infrastructure</b>		
Idaho sitewide safeguards and security .....	0	0
Defense related administrative support .....	118,836	118,836
Office of hearings and appeals .....	4,801	4,801
<b>Subtotal, Other defense activities .....</b>	<b>735,702</b>	<b>731,299</b>
<b>Total, Other Defense Activities .....</b>	<b>735,702</b>	<b>731,299</b>

Approved January 2, 2013.

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**LEGISLATIVE HISTORY—H.R. 4310 (S. 3254):**

HOUSE REPORTS: Nos. 112-479, Pt. 1 and 2 (Comm. on Armed Services) and 112-705 (Comm. of Conference).

SENATE REPORTS: No. 112-173 (Comm. on Armed Services) accompanying S. 3254.

CONGRESSIONAL RECORD, Vol. 158 (2012):

May 16-18, considered and passed House.

Dec. 4, considered and passed Senate, amended, in lieu of S. 3254.

Dec. 12, Senate vitiated passage; reconsidered and passed, amended.

Dec. 20, House agreed to conference report.

Dec. 21, Senate agreed to conference report.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2013):

Jan. 3, Presidential statement.



Public Law 112–240  
112th Congress

An Act

Entitled the “American Taxpayer Relief Act of 2012”.

Jan. 2, 2013

[H.R. 8]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE, ETC.**

(a) **SHORT TITLE.**—This Act may be cited as the “American Taxpayer Relief Act of 2012”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

American  
Taxpayer Relief  
Act of 2012.  
26 USC 1 note.

Sec. 1. Short title, etc.

**TITLE I—GENERAL EXTENSIONS**

Sec. 101. Permanent extension and modification of 2001 tax relief.

Sec. 102. Permanent extension and modification of 2003 tax relief.

Sec. 103. Extension of 2009 tax relief.

Sec. 104. Permanent alternative minimum tax relief.

**TITLE II—INDIVIDUAL TAX EXTENDERS**

Sec. 201. Extension of deduction for certain expenses of elementary and secondary school teachers.

Sec. 202. Extension of exclusion from gross income of discharge of qualified principal residence indebtedness.

Sec. 203. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.

Sec. 204. Extension of mortgage insurance premiums treated as qualified residence interest.

Sec. 205. Extension of deduction of State and local general sales taxes.

Sec. 206. Extension of special rule for contributions of capital gain real property made for conservation purposes.

Sec. 207. Extension of above-the-line deduction for qualified tuition and related expenses.

Sec. 208. Extension of tax-free distributions from individual retirement plans for charitable purposes.

Sec. 209. Improve and make permanent the provision authorizing the Internal Revenue Service to disclose certain return and return information to certain prison officials.

**TITLE III—BUSINESS TAX EXTENDERS**

Sec. 301. Extension and modification of research credit.

Sec. 302. Extension of temporary minimum low-income tax credit rate for non-federally subsidized new buildings.

Sec. 303. Extension of housing allowance exclusion for determining area median gross income for qualified residential rental project exempt facility bonds.

Sec. 304. Extension of Indian employment tax credit.

- Sec. 305. Extension of new markets tax credit.
- Sec. 306. Extension of railroad track maintenance credit.
- Sec. 307. Extension of mine rescue team training credit.
- Sec. 308. Extension of employer wage credit for employees who are active duty members of the uniformed services.
- Sec. 309. Extension of work opportunity tax credit.
- Sec. 310. Extension of qualified zone academy bonds.
- Sec. 311. Extension of 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
- Sec. 312. Extension of 7-year recovery period for motorsports entertainment complexes.
- Sec. 313. Extension of accelerated depreciation for business property on an Indian reservation.
- Sec. 314. Extension of enhanced charitable deduction for contributions of food inventory.
- Sec. 315. Extension of increased expensing limitations and treatment of certain real property as section 179 property.
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- Sec. 317. Extension of special expensing rules for certain film and television productions.
- Sec. 318. Extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 319. Extension of modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 320. Extension of treatment of certain dividends of regulated investment companies.
- Sec. 321. Extension of RIC qualified investment entity treatment under FIRPTA.
- Sec. 322. Extension of subpart F exception for active financing income.
- Sec. 323. Extension of look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
- Sec. 324. Extension of temporary exclusion of 100 percent of gain on certain small business stock.
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- Sec. 327. Extension of empowerment zone tax incentives.
- Sec. 328. Extension of tax-exempt financing for New York Liberty Zone.
- Sec. 329. Extension of temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 330. Modification and extension of American Samoa economic development credit.
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#### TITLE IV—ENERGY TAX EXTENDERS

- Sec. 401. Extension of credit for energy-efficient existing homes.
- Sec. 402. Extension of credit for alternative fuel vehicle refueling property.
- Sec. 403. Extension of credit for 2- or 3-wheeled plug-in electric vehicles.
- Sec. 404. Extension and modification of cellulosic biofuel producer credit.
- Sec. 405. Extension of incentives for biodiesel and renewable diesel.
- Sec. 406. Extension of production credit for Indian coal facilities placed in service before 2009.
- Sec. 407. Extension and modification of credits with respect to facilities producing energy from certain renewable resources.
- Sec. 408. Extension of credit for energy-efficient new homes.
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- Sec. 410. Extension and modification of special allowance for cellulosic biofuel plant property.
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#### TITLE V—UNEMPLOYMENT

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##### Subtitle A—Medicare Extensions

- Sec. 601. Medicare physician payment update.



- Sec. 602. Work geographic adjustment.
- Sec. 603. Payment for outpatient therapy services.
- Sec. 604. Ambulance add-on payments.
- Sec. 605. Extension of Medicare inpatient hospital payment adjustment for low-volume hospitals.
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- Sec. 607. Extension for specialized Medicare Advantage plans for special needs individuals.
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- Sec. 621. Extension of the qualifying individual (QI) program.
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- Sec. 625. Extension of Special Diabetes Program for Type I diabetes and for Indians.

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- Sec. 633. Treatment of multiple service payment policies for therapy services.
- Sec. 634. Payment for certain radiology services furnished under the Medicare hospital outpatient department prospective payment system.
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- Sec. 644. Consumer Operated and Oriented Plan program contingency fund.

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- Sec. 701. 1-year extension of agricultural programs.
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### TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Strategic delivery systems.
- Sec. 802. No cost of living adjustment in pay of members of congress.

### TITLE IX—BUDGET PROVISIONS

#### Subtitle A—Modifications of Sequestration

- Sec. 901. Treatment of sequester.
- Sec. 902. Amounts in applicable retirement plans may be transferred to designated Roth accounts without distribution.

#### Subtitle B—Budgetary Effects

- Sec. 911. Budgetary effects.

## TITLE I—GENERAL EXTENSIONS

### SEC. 101. PERMANENT EXTENSION AND MODIFICATION OF 2001 TAX RELIEF.

#### (a) PERMANENT EXTENSION.—

(1) IN GENERAL.—The Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking title IX.

26 USC 1 note.

(2) CONFORMING AMENDMENT.—The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 is amended by striking section 304.

26 USC 121 note.

Applicability.  
26 USC 1 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable, plan, or limitation years beginning after December 31, 2012, and estates of decedents dying, gifts made, or generation skipping transfers after December 31, 2012.

(b) APPLICATION OF INCOME TAX TO CERTAIN HIGH-INCOME TAXPAYERS.—

(1) INCOME TAX RATES.—

26 USC 1.

(A) TREATMENT OF 25-, 28-, AND 33-PERCENT RATE BRACKETS.—Paragraph (2) of section 1(i) is amended to read as follows:

“(2) 25-, 28-, AND 33-PERCENT RATE BRACKETS.—The tables under subsections (a), (b), (c), (d), and (e) shall be applied—

“(A) by substituting ‘25%’ for ‘28%’ each place it appears (before the application of subparagraph (B)),

“(B) by substituting ‘28%’ for ‘31%’ each place it appears, and

“(C) by substituting ‘33%’ for ‘36%’ each place it appears.”.

(B) 35-PERCENT RATE BRACKET.—Subsection (i) of section 1 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) MODIFICATIONS TO INCOME TAX BRACKETS FOR HIGH-INCOME TAXPAYERS.—

“(A) 35-PERCENT RATE BRACKET.—In the case of taxable years beginning after December 31, 2012—

“(i) the rate of tax under subsections (a), (b), (c), and (d) on a taxpayer’s taxable income in the highest rate bracket shall be 35 percent to the extent such income does not exceed an amount equal to the excess of—

“(I) the applicable threshold, over

“(II) the dollar amount at which such bracket begins, and

“(ii) the 39.6 percent rate of tax under such subsections shall apply only to the taxpayer’s taxable income in such bracket in excess of the amount to which clause (i) applies.

Definition.

“(B) APPLICABLE THRESHOLD.—For purposes of this paragraph, the term ‘applicable threshold’ means—

“(i) \$450,000 in the case of subsection (a),

“(ii) \$425,000 in the case of subsection (b),

“(iii) \$400,000 in the case of subsection (c), and

“(iv)  $\frac{1}{2}$  the amount applicable under clause (i) (after adjustment, if any, under subparagraph (C)) in the case of subsection (d).

“(C) INFLATION ADJUSTMENT.—For purposes of this paragraph, with respect to taxable years beginning in calendar years after 2013, each of the dollar amounts under clauses (i), (ii), and (iii) of subparagraph (B) shall be adjusted in the same manner as under paragraph (1)(C)(i), except that subsection (f)(3)(B) shall be applied by substituting ‘2012’ for ‘1992’.”.

(2) PHASEOUT OF PERSONAL EXEMPTIONS AND ITEMIZED DEDUCTIONS.—

(A) OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—  
Section 68 is amended—

26 USC 68.

(i) by striking subsection (b) and inserting the following:

“(b) APPLICABLE AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the term ‘applicable amount’ means—

Definition.

“(A) \$300,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

“(B) \$275,000 in the case of a head of household (as defined in section 2(b)),

“(C) \$250,000 in the case of an individual who is not married and who is not a surviving spouse or head of household, and

“(D)  $\frac{1}{2}$  the amount applicable under subparagraph (A) (after adjustment, if any, under paragraph (2)) in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

“(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in calendar years after 2013, each of the dollar amounts under subparagraphs (A), (B), and (C) of paragraph (1) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied by substituting ‘2012’ for ‘1992’.

If any amount after adjustment under the preceding sentence is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.”, and

(ii) by striking subsections (f) and (g).

(B) PHASEOUT OF DEDUCTIONS FOR PERSONAL EXEMPTIONS.—

(i) IN GENERAL.—Paragraph (3) of section 151(d) is amended—

(I) by striking “the threshold amount” in subparagraphs (A) and (B) and inserting “the applicable amount in effect under section 68(b)”,

(II) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C), and

(III) by striking subparagraphs (E) and (F).

(ii) CONFORMING AMENDMENTS.—Paragraph (4) of section 151(d) is amended—

(I) by striking subparagraph (B),

(II) by redesignating clauses (i) and (ii) of subparagraph (A) as subparagraphs (A) and (B), respectively, and by indenting such subparagraphs (as so redesignated) accordingly, and

(III) by striking all that precedes “in a calendar year after 1989,” and inserting the following:

“(4) INFLATION ADJUSTMENT.—In the case of any taxable year beginning”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2012.

26 USC 1 note.

(c) MODIFICATIONS OF ESTATE TAX.—

(1) **MAXIMUM ESTATE TAX RATE EQUAL TO 40 PERCENT.**—The table contained in subsection (c) of section 2001, as amended by section 302(a)(2) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, is amended by striking “Over \$500,000” and all that follows and inserting the following:

26 USC 2001.

“Over \$500,000 but not over \$155,800, plus 37 percent of the excess of such amount over \$500,000.	
Over \$750,000 but not over \$248,300, plus 39 percent of the excess of such amount over \$750,000.	
Over \$1,000,000 .....	\$345,800, plus 40 percent of the excess of such amount over \$1,000,000.”.

(2) **TECHNICAL CORRECTION.**—Clause (i) of section 2010(c)(4)(B) is amended by striking “basic exclusion amount” and inserting “applicable exclusion amount”.

26 USC 2001  
note.  
Applicability.

(3) **EFFECTIVE DATES.**—

(A) **IN GENERAL.**—Except as otherwise provided by in this paragraph, the amendments made by this subsection shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2012.

(B) **TECHNICAL CORRECTION.**—The amendment made by paragraph (2) shall take effect as if included in the amendments made by section 303 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

#### **SEC. 102. PERMANENT EXTENSION AND MODIFICATION OF 2003 TAX RELIEF.**

(a) **PERMANENT EXTENSION.**—The Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking section 303.

26 USC 1 note.

(b) **20-PERCENT CAPITAL GAINS RATE FOR CERTAIN HIGH INCOME INDIVIDUALS.**—

(1) **IN GENERAL.**—Paragraph (1) of section 1(h) is amended by striking subparagraph (C), by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) and by inserting after subparagraph (B) the following new subparagraphs:

“(C) 15 percent of the lesser of—

“(i) so much of the adjusted net capital gain (or, if less, taxable income) as exceeds the amount on which a tax is determined under subparagraph (B), or

“(ii) the excess of—

“(I) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 39.6 percent, over

“(II) the sum of the amounts on which a tax is determined under subparagraphs (A) and (B),

“(D) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the sum of the amounts on which tax is determined under subparagraphs (B) and (C).”.

(2) **MINIMUM TAX.**—Paragraph (3) of section 55(b) is amended by striking subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (B) the following new subparagraphs: 26 USC 55.

“(C) 15 percent of the lesser of—

“(i) so much of the adjusted net capital gain (or, if less, taxable excess) as exceeds the amount on which tax is determined under subparagraph (B), or

“(ii) the excess described in section 1(h)(1)(C)(ii), plus

“(D) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the sum of the amounts on which tax is determined under subparagraphs (B) and (C), plus”.

(c) **CONFORMING AMENDMENTS.**—

(1) The following provisions are each amended by striking “15 percent” and inserting “20 percent”:

(A) Section 531.

(B) Section 541.

(C) Section 1445(e)(1).

(D) The second sentence of section 7518(g)(6)(A).

(E) Section 53511(f)(2) of title 46, United States Code.

(2) Sections 1(h)(1)(B) and 55(b)(3)(B) are each amended by striking “5 percent (0 percent in the case of taxable years beginning after 2007)” and inserting “0 percent”.

(3) Section 1445(e)(6) is amended by striking “15 percent (20 percent in the case of taxable years beginning after December 31, 2010)” and inserting “20 percent”.

(d) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided, the amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2012.

(2) **WITHHOLDING.**—The amendments made by paragraphs (1)(C) and (3) of subsection (c) shall apply to amounts paid on or after January 1, 2013.

Applicability.  
26 USC 1 note.

### SEC. 103. EXTENSION OF 2009 TAX RELIEF.

(a) **5-YEAR EXTENSION OF AMERICAN OPPORTUNITY TAX CREDIT.**—

(1) **IN GENERAL.**—Section 25A(i) is amended by striking “in 2009, 2010, 2011, or 2012” and inserting “after 2008 and before 2018”.

(2) **TREATMENT OF POSSESSIONS.**—Section 1004(c)(1) of division B of the American Recovery and Reinvestment Tax Act of 2009 is amended by striking “in 2009, 2010, 2011, and 2012” each place it appears and inserting “after 2008 and before 2018”.

26 USC 25A note.

(b) **5-YEAR EXTENSION OF CHILD TAX CREDIT.**—Section 24(d)(4) is amended—

(1) by striking “2009, 2010, 2011, AND 2012” in the heading and inserting “FOR CERTAIN YEARS”, and

(2) by striking “in 2009, 2010, 2011, or 2012” and inserting “after 2008 and before 2018”.

(c) **5-YEAR EXTENSION OF EARNED INCOME TAX CREDIT.**—Section 32(b)(3) is amended—

(1) by striking “2009, 2010, 2011, AND 2012” in the heading and inserting “FOR CERTAIN YEARS”, and

(2) by striking “in 2009, 2010, 2011, or 2012” and inserting “after 2008 and before 2018”.

(d) PERMANENT EXTENSION OF RULE DISREGARDING REFUNDS IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Section 6409 is amended to read as follows:

**“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.**

Time period. “Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.”.

Applicability.  
26 USC 24 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2012.

(2) RULE REGARDING DISREGARD OF REFUNDS.—The amendment made by subsection (d) shall apply to amounts received after December 31, 2012.

**SEC. 104. PERMANENT ALTERNATIVE MINIMUM TAX RELIEF.**

(a) 2012 EXEMPTION AMOUNTS MADE PERMANENT.—

(1) IN GENERAL.—Paragraph (1) of section 55(d) is amended—

(A) by striking “\$45,000” and all that follows through “2011” in subparagraph (A) and inserting “\$78,750”,

(B) by striking “\$33,750” and all that follows through “2011” in subparagraph (B) and inserting “\$50,600”, and

(C) by striking “paragraph (1)(A)” in subparagraph (C) and inserting “subparagraph (A)”.

(b) EXEMPTION AMOUNTS INDEXED FOR INFLATION.—

(1) IN GENERAL.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

“(4) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2012, the amounts described in subparagraph (B) shall each be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(B) AMOUNTS DESCRIBED.—The amounts described in this subparagraph are—

“(i) each of the dollar amounts contained in subsection (b)(1)(A)(i),

“(ii) each of the dollar amounts contained in paragraph (1), and

“(iii) each of the dollar amounts in subparagraphs (A) and (B) of paragraph (3).

“(C) ROUNDING.—Any increase determined under subparagraph (A) shall be rounded to the nearest multiple of \$100.”.

(2) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 55(b)(1)(A) is amended by striking “by substituting” and all that follows through “appears.” and inserting “by substituting 50 percent of the dollar amount otherwise applicable under subclause (I) and subclause (II) thereof.” 26 USC 55.

(B) Paragraph (3) of section 55(d) is amended—

(i) by striking “or (2)” in subparagraph (A),

(ii) by striking “and” at the end of subparagraph

(B), and

(iii) by striking subparagraph (C) and inserting the following new subparagraphs:

“(C) 50 percent of the dollar amount applicable under subparagraph (A) in the case of a taxpayer described in subparagraph (C) or (D) of paragraph (1), and

“(D) \$150,000 in the case of a taxpayer described in paragraph (2).”.

(c) ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE CREDITS.—

(1) IN GENERAL.—Subsection (a) of section 26 is amended to read as follows:

“(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—

“(1) the taxpayer’s regular tax liability for the taxable year reduced by the foreign tax credit allowable under section 27(a), and

“(2) the tax imposed by section 55(a) for the taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) ADOPTION CREDIT.—

(i) Section 23(b) is amended by striking paragraph

(4).

(ii) Section 23(c) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 25D and 1400C), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.”.

(iii) Section 23(c) is amended by redesignating paragraph (3) as paragraph (2).

(B) CHILD TAX CREDIT.—

(i) Section 24(b) is amended by striking paragraph

(3).

(ii) Section 24(d)(1) is amended—

(I) by striking “section 26(a)(2) or subsection (b)(3), as the case may be,” each place it appears in subparagraphs (A) and (B) and inserting “section 26(a)”, and

(II) by striking “section 26(a)(2) or subsection (b)(3), as the case may be” in the second last sentence and inserting “section 26(a)”.

26 USC 25.

(C) CREDIT FOR INTEREST ON CERTAIN HOME MORTGAGES.—Section 25(e)(1)(C) is amended to read as follows:

“(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term ‘applicable tax limit’ means the limitation imposed by section 26(a) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 25D, and 1400C).”.

(D) HOPE AND LIFETIME LEARNING CREDITS.—Section 25A(i) is amended—

(i) by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively, and

(ii) by striking “section 26(a)(2) or paragraph (5), as the case may be” in paragraph (5), as redesignated by clause (i), and inserting “section 26(a)”.

(E) SAVERS’ CREDIT.—Section 25B is amended by striking subsection (g).

(F) RESIDENTIAL ENERGY EFFICIENT PROPERTY.—Section 25D(c) is amended to read as follows:

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.”.

(G) CERTAIN PLUG-IN ELECTRIC VEHICLES.—Section 30(c)(2) is amended to read as follows:

“(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.”.

(H) ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(g)(2) is amended to read as follows:

“(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.”.

(I) NEW QUALIFIED PLUG-IN ELECTRIC VEHICLE CREDIT.—Section 30D(c)(2) is amended to read as follows:

“(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.”.

(J) CROSS REFERENCES.—Section 55(c)(3) is amended by striking “26(a), 30C(d)(2),” and inserting “30C(d)(2)”.

(K) FOREIGN TAX CREDIT.—Section 904 is amended by striking subsection (i) and by redesignating subsections (j), (k), and (l) as subsections (i), (j), and (k), respectively.

(L) FIRST-TIME HOME BUYER CREDIT FOR THE DISTRICT OF COLUMBIA.—Section 1400C(d) is amended to read as follows:

“(d) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25D), such excess shall be carried to the



succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 23 note.

## TITLE II—INDIVIDUAL TAX EXTENDERS

### SEC. 201. EXTENSION OF DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking “or 2011” and inserting “2011, 2012, or 2013”. 26 USC 62.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 62 note.

### SEC. 202. EXTENSION OF EXCLUSION FROM GROSS INCOME OF DISCHARGE OF QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.

(a) IN GENERAL.—Subparagraph (E) of section 108(a)(1) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to indebtedness discharged after December 31, 2012. Applicability.  
26 USC 108 note.

### SEC. 203. EXTENSION OF PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 132(f) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months after December 31, 2011. 26 USC 132 note.

### SEC. 204. EXTENSION OF MORTGAGE INSURANCE PREMIUMS TREATED AS QUALIFIED RESIDENCE INTEREST.

(a) IN GENERAL.—Subclause (I) of section 163(h)(3)(E)(iv) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) TECHNICAL AMENDMENTS.—Clause (i) of section 163(h)(4)(E) is amended—

(1) by striking “Veterans Administration” and inserting “Department of Veterans Affairs”, and

(2) by striking “Rural Housing Administration” and inserting “Rural Housing Service”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued after December 31, 2011. Applicability.  
26 USC 163 note.

### SEC. 205. EXTENSION OF DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 164 note.

**SEC. 206. EXTENSION OF SPECIAL RULE FOR CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.**

26 USC 170.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.  
26 USC 170 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2011.

**SEC. 207. EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.**

26 USC 222 note.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

**SEC. 208. EXTENSION OF TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

26 USC 408 note.  
Applicability.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2011.

(2) SPECIAL RULES.—For purposes of subsections (a)(6), (b)(3), and (d)(8) of section 408 of the Internal Revenue Code of 1986, at the election of the taxpayer (at such time and in such manner as prescribed by the Secretary of the Treasury)—

(A) any qualified charitable distribution made after December 31, 2012, and before February 1, 2013, shall be deemed to have been made on December 31, 2012, and

(B) any portion of a distribution from an individual retirement account to the taxpayer after November 30, 2012, and before January 1, 2013, may be treated as a qualified charitable distribution to the extent that—

(i) such portion is transferred in cash after the distribution to an organization described in section 408(d)(8)(B)(i) before February 1, 2013, and

(ii) such portion is part of a distribution that would meet the requirements of section 408(d)(8) but for the fact that the distribution was not transferred directly to an organization described in section 408(d)(8)(B)(i).

**SEC. 209. IMPROVE AND MAKE PERMANENT THE PROVISION AUTHORIZING THE INTERNAL REVENUE SERVICE TO DISCLOSE CERTAIN RETURN AND RETURN INFORMATION TO CERTAIN PRISON OFFICIALS.**

(a) IN GENERAL.—Paragraph (10) of section 6103(k) is amended to read as follows:

“(10) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO CERTAIN PRISON OFFICIALS.—

“(A) IN GENERAL.—Under such procedures as the Secretary may prescribe, the Secretary may disclose to officers and employees of the Federal Bureau of Prisons and of any State agency charged with the responsibility for administration of prisons any returns or return information with respect to individuals incarcerated in Federal or State prison systems whom the Secretary has determined may have filed or facilitated the filing of a false or fraudulent return to the extent that the Secretary determines that such disclosure is necessary to permit effective Federal tax administration.

“(B) DISCLOSURE TO CONTRACTOR-RUN PRISONS.—Under such procedures as the Secretary may prescribe, the disclosures authorized by subparagraph (A) may be made to contractors responsible for the operation of a Federal or State prison on behalf of such Bureau or agency.

“(C) RESTRICTIONS ON USE OF DISCLOSED INFORMATION.—Any return or return information received under this paragraph shall be used only for the purposes of and to the extent necessary in taking administrative action to prevent the filing of false and fraudulent returns, including administrative actions to address possible violations of administrative rules and regulations of the prison facility and in administrative and judicial proceedings arising from such administrative actions.

“(D) RESTRICTIONS ON REDISCLOSURE AND DISCLOSURE TO LEGAL REPRESENTATIVES.—Notwithstanding subsection (h)—

“(i) RESTRICTIONS ON REDISCLOSURE.—Except as provided in clause (ii), any officer, employee, or contractor of the Federal Bureau of Prisons or of any State agency charged with the responsibility for administration of prisons shall not disclose any information obtained under this paragraph to any person other than an officer or employee or contractor of such Bureau or agency personally and directly engaged in the administration of prison facilities on behalf of such Bureau or agency.

“(ii) DISCLOSURE TO LEGAL REPRESENTATIVES.—The returns and return information disclosed under this paragraph may be disclosed to the duly authorized legal representative of the Federal Bureau of Prisons, State agency, or contractor charged with the responsibility for administration of prisons, or of the incarcerated individual accused of filing the false or fraudulent return who is a party to an action or proceeding described in subparagraph (C), solely in preparation for, or for use in, such action or proceeding.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6103(a) is amended by inserting “subsection (k)(10),” after “subsection (e)(1)(D)(iii),”.

(2) Paragraph (4) of section 6103(p) is amended—

(A) by inserting “subsection (k)(10),” before “subsection (l)(10),” in the matter preceding subparagraph (A),

(B) in subparagraph (F)(i)—

(i) by inserting “(k)(10),” before “or (l)(6),” and

- (ii) by inserting “subsection (k)(10) or” before “subsection (l)(10),”, and
- (C) by inserting “subsection (k)(10) or” before “subsection (l)(10),” both places it appears in the matter following subparagraph (F)(iii).
- 26 USC 7213. (3) Paragraph (2) of section 7213(a) is amended by inserting “(k)(10),” before “(l)(6),”.
- 26 USC 6103 note. (c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

## TITLE III—BUSINESS TAX EXTENDERS

### SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

#### (a) EXTENSION.—

(1) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

#### (b) INCLUSION OF QUALIFIED RESEARCH EXPENSES AND GROSS RECEIPTS OF AN ACQUIRED PERSON.—

(1) PARTIAL INCLUSION OF PRE-ACQUISITION QUALIFIED RESEARCH EXPENSES AND GROSS RECEIPTS.—Subparagraph (A) of section 41(f)(3) is amended to read as follows:

##### “(A) ACQUISITIONS.—

“(i) IN GENERAL.—If a person acquires the major portion of either a trade or business or a separate unit of a trade or business (hereinafter in this paragraph referred to as the ‘acquired business’) of another person (hereinafter in this paragraph referred to as the ‘predecessor’), then the amount of qualified research expenses paid or incurred by the acquiring person during the measurement period shall be increased by the amount determined under clause (ii), and the gross receipts of the acquiring person for such period shall be increased by the amount determined under clause (iii).

“(ii) AMOUNT DETERMINED WITH RESPECT TO QUALIFIED RESEARCH EXPENSES.—The amount determined under this clause is—

“(I) for purposes of applying this section for the taxable year in which such acquisition is made, the acquisition year amount, and

“(II) for purposes of applying this section for any taxable year after the taxable year in which such acquisition is made, the qualified research expenses paid or incurred by the predecessor with respect to the acquired business during the measurement period.

“(iii) AMOUNT DETERMINED WITH RESPECT TO GROSS RECEIPTS.—The amount determined under this clause is the amount which would be determined under clause (ii) if ‘the gross receipts of’ were substituted for ‘the qualified research expenses paid or incurred by’ each place it appears in clauses (ii) and (iv).

“(iv) ACQUISITION YEAR AMOUNT.—For purposes of clause (ii), the acquisition year amount is the amount equal to the product of—

“(I) the qualified research expenses paid or incurred by the predecessor with respect to the acquired business during the measurement period, and

“(II) the number of days in the period beginning on the date of the acquisition and ending on the last day of the taxable year in which the acquisition is made,

divided by the number of days in the acquiring person’s taxable year.

“(v) SPECIAL RULES FOR COORDINATING TAXABLE YEARS.—In the case of an acquiring person and a predecessor whose taxable years do not begin on the same date—

“(I) each reference to a taxable year in clauses (ii) and (iv) shall refer to the appropriate taxable year of the acquiring person,

“(II) the qualified research expenses paid or incurred by the predecessor, and the gross receipts of the predecessor, during each taxable year of the predecessor any portion of which is part of the measurement period shall be allocated equally among the days of such taxable year,

“(III) the amount of such qualified research expenses taken into account under clauses (ii) and (iv) with respect to a taxable year of the acquiring person shall be equal to the total of the expenses attributable under subclause (II) to the days occurring during such taxable year, and

“(IV) the amount of such gross receipts taken into account under clause (iii) with respect to a taxable year of the acquiring person shall be equal to the total of the gross receipts attributable under subclause (II) to the days occurring during such taxable year.

“(vi) MEASUREMENT PERIOD.—For purposes of this subparagraph, the term ‘measurement period’ means, with respect to the taxable year of the acquiring person for which the credit is determined, any period of the acquiring person preceding such taxable year which is taken into account for purposes of determining the credit for such year.”.

Definition.

(2) EXPENSES AND GROSS RECEIPTS OF A PREDECESSOR.—Subparagraph (B) of section 41(f)(3) is amended to read as follows:

26 USC 41.

“(B) DISPOSITIONS.—If the predecessor furnished to the acquiring person such information as is necessary for the application of subparagraph (A), then, for purposes of applying this section for any taxable year ending after such disposition, the amount of qualified research expenses paid or incurred by, and the gross receipts of, the predecessor during the measurement period (as defined in

subparagraph (A)(vi), determined by substituting ‘predecessor’ for ‘acquiring person’ each place it appears) shall be reduced by—

“(i) in the case of the taxable year in which such disposition is made, an amount equal to the product of—

“(I) the qualified research expenses paid or incurred by, or gross receipts of, the predecessor with respect to the acquired business during the measurement period (as so defined and so determined), and

“(II) the number of days in the period beginning on the date of acquisition (as determined for purposes of subparagraph (A)(iv)(II)) and ending on the last day of the taxable year of the predecessor in which the disposition is made, divided by the number of days in the taxable year of the predecessor, and

“(ii) in the case of any taxable year ending after the taxable year in which such disposition is made, the amount described in clause (i)(I).”.

26 USC 41. (c) AGGREGATION OF EXPENDITURES.—Paragraph (1) of section 41(f) is amended—

(1) by striking “shall be its proportionate shares of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, giving rise to the credit” in subparagraph (A)(ii) and inserting “shall be determined on a proportionate basis to its share of the aggregate of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, taken into account by such controlled group for purposes of this section”, and

(2) by striking “shall be its proportionate shares of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, giving rise to the credit” in subparagraph (B)(ii) and inserting “shall be determined on a proportionate basis to its share of the aggregate of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, taken into account by all such persons under common control for purposes of this section”.

Applicability.  
26 USC 41 note.

(d) EFFECTIVE DATE.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to amounts paid or incurred after December 31, 2011.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2011.

#### **SEC. 302. EXTENSION OF TEMPORARY MINIMUM LOW-INCOME TAX CREDIT RATE FOR NON-FEDERALLY SUBSIDIZED NEW BUILDINGS.**

(a) IN GENERAL.—Subparagraph (A) of section 42(b)(2) is amended by striking “and before December 31, 2013” and inserting “with respect to housing credit dollar amount allocations made before January 1, 2014”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 42 note.

**SEC. 303. EXTENSION OF HOUSING ALLOWANCE EXCLUSION FOR DETERMINING AREA MEDIAN GROSS INCOME FOR QUALIFIED RESIDENTIAL RENTAL PROJECT EXEMPT FACILITY BONDS.**

(a) **IN GENERAL.**—Subsection (b) of section 3005 of the Housing Assistance Tax Act of 2008 is amended by striking “January 1, 2012” each place it appears and inserting “January 1, 2014”. 26 USC 142 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in the enactment of section 3005 of the Housing Assistance Tax Act of 2008. 26 USC 142 note.

**SEC. 304. EXTENSION OF INDIAN EMPLOYMENT TAX CREDIT.**

(a) **IN GENERAL.**—Subsection (f) of section 45A is amended by striking “December 31, 2011” and inserting “December 31, 2013”. 26 USC 45A.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 45A note.

**SEC. 305. EXTENSION OF NEW MARKETS TAX CREDIT.**

(a) **IN GENERAL.**—Subparagraph (G) of section 45D(f)(1) is amended by striking “2010 and 2011” and inserting “2010, 2011, 2012, and 2013”.

(b) **CARRYOVER OF UNUSED LIMITATION.**—Paragraph (3) of section 45D(f) is amended by striking “2016” and inserting “2018”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to calendar years beginning after December 31, 2011. 26 USC 45D note.

**SEC. 306. EXTENSION OF RAILROAD TRACK MAINTENANCE CREDIT.**

(a) **IN GENERAL.**—Subsection (f) of section 45G is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2011. Applicability. 26 USC 45G note.

**SEC. 307. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.**

(a) **IN GENERAL.**—Subsection (e) of section 45N is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 45N note.

**SEC. 308. EXTENSION OF EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.**

(a) **IN GENERAL.**—Subsection (f) of section 45P is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to payments made after December 31, 2011. Applicability. 26 USC 45P note.

**SEC. 309. EXTENSION OF WORK OPPORTUNITY TAX CREDIT.**

(a) **IN GENERAL.**—Subparagraph (B) of section 51(c)(4) is amended by striking “after” and all that follows and inserting “after December 31, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 2011. Applicability. 26 USC 51 note.

**SEC. 310. EXTENSION OF QUALIFIED ZONE ACADEMY BONDS.**

26 USC 54E.

(a) **IN GENERAL.**—Paragraph (1) of section 54E(c) is amended by inserting “, 2012, and 2013” after “for 2011”.

Applicability.  
26 USC 54E note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to obligations issued after December 31, 2011.

**SEC. 311. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.**

(a) **IN GENERAL.**—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking “January 1, 2012” and inserting “January 1, 2014”.

Applicability.  
26 USC 168 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2011.

**SEC. 312. EXTENSION OF 7-YEAR RECOVERY PERIOD FOR MOTOR-SPORTS ENTERTAINMENT COMPLEXES.**

(a) **IN GENERAL.**—Subparagraph (D) of section 168(i)(15) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.  
26 USC 168 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service after December 31, 2011.

**SEC. 313. EXTENSION OF ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.**

(a) **IN GENERAL.**—Paragraph (8) of section 168(j) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.  
26 USC 168 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service after December 31, 2011.

**SEC. 314. EXTENSION OF ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.**

(a) **IN GENERAL.**—Clause (iv) of section 170(e)(3)(C) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.  
26 USC 170 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made after December 31, 2011.

**SEC. 315. EXTENSION OF INCREASED EXPENSING LIMITATIONS AND TREATMENT OF CERTAIN REAL PROPERTY AS SECTION 179 PROPERTY.**

(a) **IN GENERAL.**—

(1) **DOLLAR LIMITATION.**—Section 179(b)(1) is amended—

(A) by striking “2010 or 2011,” in subparagraph (B) and inserting “2010, 2011, 2012, or 2013, and”,

(B) by striking subparagraph (C),

(C) by redesignating subparagraph (D) as subparagraph (C), and

(D) in subparagraph (C), as so redesignated, by striking “2012” and inserting “2013”.

(2) **REDUCTION IN LIMITATION.**—Section 179(b)(2) is amended—

(A) by striking “2010 or 2011,” in subparagraph (B) and inserting “2010, 2011, 2012, or 2013, and”,

(B) by striking subparagraph (C),

(C) by redesignating subparagraph (D) as subparagraph (C), and



(D) in subparagraph (C), as so redesignated, by striking “2012” and inserting “2013”.

(3) CONFORMING AMENDMENT.—Subsection (b) of section 179 is amended by striking paragraph (6).

(b) COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking “2013” and inserting “2014”. 26 USC 179.

(c) ELECTION.—Section 179(c)(2) is amended by striking “2013” and inserting “2014”.

(d) SPECIAL RULES FOR TREATMENT OF QUALIFIED REAL PROPERTY.—

(1) IN GENERAL.—Section 179(f)(1) is amended by striking “2010 or 2011” and inserting “2010, 2011, 2012, or 2013”.

(2) CARRYOVER LIMITATION.—

(A) IN GENERAL.—Section 179(f)(4) is amended by striking “2011” each place it appears and inserting “2013”.

(B) CONFORMING AMENDMENT.—Subparagraph (C) of section 179(f)(4) is amended—

(i) in the heading, by striking “2010” and inserting “2010, 2011 AND 2012”, and

(ii) by adding at the end the following: “For the last taxable year beginning in 2013, the amount determined under subsection (b)(3)(A) for such taxable year shall be determined without regard to this paragraph.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 179 note.

**SEC. 316. EXTENSION OF ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.**

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011. Applicability. 26 USC 179E note.

**SEC. 317. EXTENSION OF SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.**

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2011. Applicability. 26 USC 181 note.

**SEC. 318. EXTENSION OF DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.**

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking “first 6 taxable years” and inserting “first 8 taxable years”, and

(2) by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 199 note.

**SEC. 319. EXTENSION OF MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.  
26 USC 512 note. (b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to payments received or accrued after December 31, 2011.

**SEC. 320. EXTENSION OF TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.**

26 USC 871. (a) **IN GENERAL.**—Paragraphs (1)(C)(v) and (2)(C)(v) of section 871(k) are each amended by striking “December 31, 2011” and inserting “December 31, 2013”.

26 USC 871 note. (b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

**SEC. 321. EXTENSION OF RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.**

26 USC 897 note. (a) **IN GENERAL.**—Clause (ii) of section 897(h)(4)(A) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by subsection (a) shall take effect on January 1, 2012. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) **AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.**—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2011, and before the date of the enactment of this Act; and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code, such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

**SEC. 322. EXTENSION OF SUBPART F EXCEPTION FOR ACTIVE FINANCING INCOME.**

(a) **EXEMPT INSURANCE INCOME.**—Paragraph (10) of section 953(e) is amended—

(1) by striking “January 1, 2012” and inserting “January 1, 2014”, and

(2) by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) **SPECIAL RULE FOR INCOME DERIVED IN THE ACTIVE CONDUCT OF BANKING, FINANCING, OR SIMILAR BUSINESSES.**—Paragraph (9) of section 954(h) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

Applicability.  
26 USC 953 note. (c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2011, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

**SEC. 323. EXTENSION OF LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.**

(a) **IN GENERAL.**—Subparagraph (C) of section 954(c)(6) is amended by striking “January 1, 2012” and inserting “January 1, 2014”. 26 USC 954.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2011, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end. Applicability.  
26 USC 954 note.

**SEC. 324. EXTENSION OF TEMPORARY EXCLUSION OF 100 PERCENT OF GAIN ON CERTAIN SMALL BUSINESS STOCK.**

(a) **IN GENERAL.**—Paragraph (4) of section 1202(a) is amended—  
(1) by striking “January 1, 2012” and inserting “January 1, 2014”, and

(2) by striking “AND 2011” and inserting “, 2011, 2012, AND 2013” in the heading thereof.

(b) **TECHNICAL AMENDMENTS.**—

(1) **SPECIAL RULE FOR 2009 AND CERTAIN PERIOD IN 2010.**—Paragraph (3) of section 1202(a) is amended by adding at the end the following new flush sentence:

“In the case of any stock which would be described in the preceding sentence (but for this sentence), the acquisition date for purposes of this subsection shall be the first day on which such stock was held by the taxpayer determined after the application of section 1223.”.

(2) **100 PERCENT EXCLUSION.**—Paragraph (4) of section 1202(a) is amended by adding at the end the following new flush sentence:

“In the case of any stock which would be described in the preceding sentence (but for this sentence), the acquisition date for purposes of this subsection shall be the first day on which such stock was held by the taxpayer determined after the application of section 1223.”.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by subsection (a) shall apply to stock acquired after December 31, 2011. 26 USC 1202 note.  
Applicability.

(2) **SUBSECTION (b)(1).**—The amendment made by subsection (b)(1) shall take effect as if included in section 1241(a) of division B of the American Recovery and Reinvestment Act of 2009.

(3) **SUBSECTION (b)(2).**—The amendment made by subsection (b)(2) shall take effect as if included in section 2011(a) of the Creating Small Business Jobs Act of 2010.

**SEC. 325. EXTENSION OF BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.**

(a) **IN GENERAL.**—Paragraph (2) of section 1367(a) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2011. Applicability.  
26 USC 1367 note.

**SEC. 326. EXTENSION OF REDUCTION IN S-CORPORATION RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.**

26 USC 1374. (a) IN GENERAL.—Paragraph (7) of section 1374(d) is amended—  
 (1) by redesignating subparagraph (C) as subparagraph (D), and  
 (2) by inserting after subparagraph (B) the following new subparagraph:

Applicability. “(C) SPECIAL RULE FOR 2012 AND 2013.—For purposes of determining the net recognized built-in gain for taxable years beginning in 2012 or 2013, subparagraphs (A) and (D) shall be applied by substituting ‘5-year’ for ‘10-year’.”,  
 and

(3) by adding at the end the following new subparagraph:

“(E) INSTALLMENT SALES.—If an S corporation sells an asset and reports the income from the sale using the installment method under section 453, the treatment of all payments received shall be governed by the provisions of this paragraph applicable to the taxable year in which such sale was made.”.

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1374(d)(2) is amended by inserting “described in subparagraph (A)” after “, for any taxable year”.

26 USC 1374 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

**SEC. 327. EXTENSION OF EMPOWERMENT ZONE TAX INCENTIVES.**

(a) IN GENERAL.—Clause (i) of section 1391(d)(1)(A) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking “December 31, 2016” and inserting “December 31, 2018”; and

(2) by striking “2016” in the heading and inserting “2018”.

26 USC 1391 note. (c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation if, after the date of the enactment of this section, the entity which made such nomination amends the nomination to provide for a new termination date in such manner as the Secretary of the Treasury (or the Secretary’s designee) may provide.

Applicability. 26 USC 1202 note. (d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2011.

**SEC. 328. EXTENSION OF TAX-EXEMPT FINANCING FOR NEW YORK LIBERTY ZONE.**

(a) IN GENERAL.—Subparagraph (D) of section 1400L(d)(2) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

Applicability. 26 USC 1400L note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2011.

**SEC. 329. EXTENSION OF TEMPORARY INCREASE IN LIMIT ON COVER  
OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE  
VIRGIN ISLANDS.**

(a) **IN GENERAL.**—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2012” and inserting “January 1, 2014”. 26 USC 7652.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2011. Applicability.  
26 USC 7652  
note.

**SEC. 330. MODIFICATION AND EXTENSION OF AMERICAN SAMOA ECO-  
NOMIC DEVELOPMENT CREDIT.**

(a) **MODIFICATION.**—

(1) **IN GENERAL.**—Subsection (a) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended by striking “if such corporation” and all that follows and inserting “if— 26 USC 30A note.

“(1) in the case of a taxable year beginning before January 1, 2012, such corporation—

“(A) is an existing credit claimant with respect to American Samoa, and

“(B) elected the application of section 936 of the Internal Revenue Code of 1986 for its last taxable year beginning before January 1, 2006, and

“(2) in the case of a taxable year beginning after December 31, 2011, such corporation meets the requirements of subsection (e).”.

(2) **REQUIREMENTS.**—Section 119 of division A of such Act is amended by adding at the end the following new subsection:

“(e) **QUALIFIED PRODUCTION ACTIVITIES INCOME REQUIREMENT.**—A corporation meets the requirement of this subsection if such corporation has qualified production activities income, as defined in subsection (c) of section 199 of the Internal Revenue Code of 1986, determined by substituting ‘American Samoa’ for ‘the United States’ each place it appears in paragraphs (3), (4), and (6) of such subsection (c), for the taxable year.”.

(b) **EXTENSION.**—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended by striking “shall apply” and all that follows and inserting “shall apply—

“(1) in the case of a corporation that meets the requirements of subparagraphs (A) and (B) of subsection (a)(1), to the first 8 taxable years of such corporation which begin after December 31, 2006, and before January 1, 2014, and

“(2) in the case of a corporation that does not meet the requirements of subparagraphs (A) and (B) of subsection (a)(1), to the first 2 taxable years of such corporation which begin after December 31, 2011, and before January 1, 2014.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 30A note.

**SEC. 331. EXTENSION AND MODIFICATION OF BONUS DEPRECIATION.**

(a) **IN GENERAL.**—Paragraph (2) of section 168(k) is amended—

(1) by striking “January 1, 2014” in subparagraph (A)(iv) and inserting “January 1, 2015”, and

(2) by striking “January 1, 2013” each place it appears and inserting “January 1, 2014”.

26 USC 460. (b) SPECIAL RULE FOR FEDERAL LONG-TERM CONTRACTS.—Clause (ii) of section 460(c)(6)(B) is amended by inserting “, or after December 31, 2012, and before January 1, 2014 (January 1, 2015, in the case of property described in section 168(k)(2)(B))” before the period.

(c) EXTENSION OF ELECTION TO ACCELERATE THE AMT CREDIT IN LIEU OF BONUS DEPRECIATION.—

(1) IN GENERAL.—Subclause (II) of section 168(k)(4)(D)(iii) is amended by striking “2013” and inserting “2014”.

(2) ROUND 3 EXTENSION PROPERTY.—Paragraph (4) of section 168(k) is amended by adding at the end the following new subparagraph:

“(J) SPECIAL RULES FOR ROUND 3 EXTENSION PROPERTY.—

Applicability.

“(i) IN GENERAL.—In the case of round 3 extension property, this paragraph shall be applied without regard to—

“(I) the limitation described in subparagraph (B)(i) thereof, and

“(II) the business credit increase amount under subparagraph (E)(iii) thereof.

“(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, or a taxpayer who made the election under subparagraph (I)(iii) for its first taxable year ending after December 31, 2010—

“(I) the taxpayer may elect not to have this paragraph apply to round 3 extension property, but

“(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 3 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 3 extension property.

“(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, nor made the election under subparagraph (I)(iii) for any taxable year ending after December 31, 2010—

“(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2012, and each subsequent taxable year, and

“(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to

Applicability.

eligible qualified property which is round 3 extension property.

“(iv) ROUND 3 EXTENSION PROPERTY.—For purposes of this subparagraph, the term ‘round 3 extension property’ means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 331(a) of the American Taxpayer Relief Act of 2012 (and the application of such extension to this paragraph pursuant to the amendment made by section 331(c)(1) of such Act).”

Definition.

(d) NORMALIZATION RULES AMENDMENT.—Clause (ii) of section 168(i)(9)(A) is amended by inserting “(respecting all elections made by the taxpayer under this section)” after “such property”.

26 USC 168.

(e) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking “JANUARY 1, 2013” and inserting “JANUARY 1, 2014”.

(2) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking “PRE-JANUARY 1, 2013” and inserting “PRE-JANUARY 1, 2014”.

(3) Subparagraph (C) of section 168(n)(2) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(4) Subparagraph (D) of section 1400L(b)(2) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(5) Subparagraph (B) of section 1400N(d)(3) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2012, in taxable years ending after such date.

Applicability.  
26 USC 168 note.

## TITLE IV—ENERGY TAX EXTENDERS

### SEC. 401. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT EXISTING HOMES.

(a) IN GENERAL.—Paragraph (2) of section 25C(g) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

Applicability.  
26 USC 25C note.

### SEC. 402. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 30C(g) is amended by striking “December 31, 2011.” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

Applicability.  
26 USC 30C note.

### SEC. 403. EXTENSION OF CREDIT FOR 2- OR 3-WHEELED PLUG-IN ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30D is amended by adding at the end the following new subsection:

“(g) CREDIT ALLOWED FOR 2- AND 3-WHEELED PLUG-IN ELECTRIC VEHICLES.—

“(1) IN GENERAL.—In the case of a qualified 2- or 3-wheeled plug-in electric vehicle—

“(A) there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the applicable amount with respect

to each such qualified 2- or 3-wheeled plug-in electric vehicle placed in service by the taxpayer during the taxable year, and

“(B) the amount of the credit allowed under subparagraph (A) shall be treated as a credit allowed under subsection (a).

“(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to the lesser of—

“(A) 10 percent of the cost of the qualified 2- or 3-wheeled plug-in electric vehicle, or

“(B) \$2,500.

“(3) QUALIFIED 2- OR 3-WHEELED PLUG-IN ELECTRIC VEHICLE.—The term ‘qualified 2- or 3-wheeled plug-in electric vehicle’ means any vehicle which—

“(A) has 2 or 3 wheels,

“(B) meets the requirements of subparagraphs (A), (B), (C), (E), and (F) of subsection (d)(1) (determined by substituting ‘2.5 kilowatt hours’ for ‘4 kilowatt hours’ in subparagraph (F)(i)),

“(C) is manufactured primarily for use on public streets, roads, and highways,

“(D) is capable of achieving a speed of 45 miles per hour or greater, and

“(E) is acquired after December 31, 2011, and before January 1, 2014.”.

(b) CONFORMING AMENDMENTS.—

(1) NO DOUBLE BENEFIT.—Paragraph (2) of section 30D(f) is amended—

(A) by striking “new qualified plug-in electric drive motor vehicle” and inserting “vehicle for which a credit is allowable under subsection (a)”, and

(B) by striking “allowed under subsection (a)” and inserting “allowed under such subsection”.

(2) AIR QUALITY AND SAFETY STANDARDS.—Section 30D(f)(7) is amended by striking “motor vehicle” and inserting “vehicle”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles acquired after December 31, 2011.

#### SEC. 404. EXTENSION AND MODIFICATION OF CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subparagraph (H) of section 40(b)(6) is amended to read as follows:

“(H) APPLICATION OF PARAGRAPH.—

“(i) IN GENERAL.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2014.

“(ii) NO CARRYOVER TO CERTAIN YEARS AFTER EXPIRATION.—If this paragraph ceases to apply for any period by reason of clause (i), rules similar to the rules of subsection (e)(2) shall apply.”.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 40(e) is amended by striking “or subsection (b)(6)(H)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 15321(b) of the Heartland, Habitat, and Horticulture Act of 2008.

(b) ALGAE TREATED AS A QUALIFIED FEEDSTOCK.—

26 USC 30D.

Applicability.  
26 USC 30D  
note.

26 USC 40 note.



(1) IN GENERAL.—Subclause (I) of section 40(b)(6)(E)(i) is amended to read as follows:

“(I) is derived by, or from, qualified feedstocks, and”.

(2) QUALIFIED FEEDSTOCK; SPECIAL RULES FOR ALGAE.—Paragraph (6) of section 40(b) is amended by redesignating subparagraphs (F), (G), and (H), as amended by this Act, as subparagraphs (H), (I), and (J), respectively, and by inserting after subparagraph (E) the following new subparagraphs:

“(F) QUALIFIED FEEDSTOCK.—For purposes of this paragraph, the term ‘qualified feedstock’ means—

“(i) any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

“(ii) any cultivated algae, cyanobacteria, or lemna.

“(G) SPECIAL RULES FOR ALGAE.—In the case of fuel which is derived by, or from, feedstock described in subparagraph (F)(ii) and which is sold by the taxpayer to another person for refining by such other person into a fuel which meets the requirements of subparagraph (E)(i)(II) and the refined fuel is not excluded under subparagraph (E)(iii)—

“(i) such sale shall be treated as described in subparagraph (C)(i),

“(ii) such fuel shall be treated as meeting the requirements of subparagraph (E)(i)(II) and as not being excluded under subparagraph (E)(iii) in the hands of such taxpayer, and

“(iii) except as provided in this subparagraph, such fuel (and any fuel derived from such fuel) shall not be taken into account under subparagraph (C) with respect to the taxpayer or any other person.”.

(3) CONFORMING AMENDMENTS.—

(A) Section 40, as amended by paragraph (2), is amended—

(i) by striking “cellulosic biofuel” each place it appears in the text thereof and inserting “second generation biofuel”,

(ii) by striking “CELLULOSIC” in the headings of subsections (b)(6), (b)(6)(E), and (d)(3)(D) and inserting “SECOND GENERATION”, and

(iii) by striking “CELLULOSIC” in the headings of subsections (b)(6)(C), (b)(6)(D), (b)(6)(H), (d)(6), and (e)(3) and inserting “SECOND GENERATION”.

(B) Clause (ii) of section 40(b)(6)(E) is amended by striking “Such term shall not” and inserting “The term ‘second generation biofuel’ shall not”.

(C) Paragraph (1) of section 4101(a) is amended by striking “cellulosic biofuel” and inserting “second generation biofuel”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to fuels sold or used after the date of the enactment of this Act.

26 USC 40.

Applicability.  
26 USC 40 note.

**SEC. 405. EXTENSION OF INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.**

26 USC 40A. (a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.  
26 USC 40A note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

**SEC. 406. EXTENSION OF PRODUCTION CREDIT FOR INDIAN COAL FACILITIES PLACED IN SERVICE BEFORE 2009.**

(a) IN GENERAL.—Subparagraph (A) of section 45(e)(10) is amended by striking “7-year period” each place it appears and inserting “8-year period”.

Applicability.  
26 USC 45 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to coal produced after December 31, 2012.

**SEC. 407. EXTENSION AND MODIFICATION OF CREDITS WITH RESPECT TO FACILITIES PRODUCING ENERGY FROM CERTAIN RENEWABLE RESOURCES.**

(a) PRODUCTION TAX CREDIT.—

(1) EXTENSION FOR WIND FACILITIES.—Paragraph (1) of section 45(d) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(2) EXCLUSION OF PAPER WHICH IS COMMONLY RECYCLED FROM DEFINITION OF MUNICIPAL SOLID WASTE.—Section 45(c)(6) is amended by inserting “, except that such term does not include paper which is commonly recycled and which has been segregated from other solid waste (as so defined)” after “(42 U.S.C. 6903)”.

(3) MODIFICATION TO DEFINITION OF QUALIFIED FACILITY.—

(A) IN GENERAL.—The following provisions of section 45(d), as amended by paragraph (1), are each amended by striking “before January 1, 2014” and inserting “the construction of which begins before January 1, 2014”:

(i) Paragraph (1).

(ii) Paragraph (2)(A)(i).

(iii) Paragraph (3)(A)(i)(I).

(iv) Paragraph (6).

(v) Paragraph (7).

(vi) Paragraph (9)(B).

(vii) Paragraph (11)(B).

(B) CERTAIN CLOSED-LOOP BIOMASS FACILITIES.—Subparagraph (A) of section 45(d)(2) is amended by adding at the end the following new flush sentence:

“For purposes of clause (ii), a facility shall be treated as modified before January 1, 2014, if the construction of such modification begins before such date.”.

(C) CERTAIN OPEN-LOOP BIOMASS FACILITIES.—Clause (ii) of section 45(d)(3)(A) is amended by striking “is originally placed in service” and inserting “the construction of which begins”. 26 USC 45.

(D) GEOTHERMAL FACILITIES.—

(i) IN GENERAL.—Paragraph (4) of section 45(d) is amended by striking “and before January 1, 2014” and all that follows and inserting “and which—

“(A) in the case of a facility using solar energy, is placed in service before January 1, 2006, or

“(B) in the case of a facility using geothermal energy, the construction of which begins before January 1, 2014. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.”.

(E) INCREMENTAL HYDROPOWER PRODUCTION.—Paragraph (9) of section 45(d) is amended—

(i) by redesignating subparagraphs (A) and (B), as amended by subparagraph (A), as clauses (i) and (ii), respectively, and by moving such clauses (as so redesignated) 2 ems to the right,

(ii) by striking “In the case of a facility” and inserting the following:

“(A) IN GENERAL.—In the case of a facility”,

(iii) by redesignating subparagraph (C) as subparagraph (B), and

(iv) by adding at the end the following new subparagraph:

“(C) SPECIAL RULE.—For purposes of subparagraph (A)(i), an efficiency improvement or addition to capacity shall be treated as placed in service before January 1, 2014, if the construction of such improvement or addition begins before such date.”.

(b) EXTENSION OF ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY.—Subparagraph (C) of section 48(a)(5) is amended to read as follows:

“(C) QUALIFIED INVESTMENT CREDIT FACILITY.—For purposes of this paragraph, the term ‘qualified investment credit facility’ means any facility—

“(i) which is a qualified facility (within the meaning of section 45) described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d),

“(ii) which is placed in service after 2008 and the construction of which begins before January 1, 2014, and

“(iii) with respect to which—

“(I) no credit has been allowed under section 45, and

“(II) the taxpayer makes an irrevocable election to have this paragraph apply.”.

(c) TECHNICAL CORRECTIONS.—

(1) Subparagraph (D) of section 48(a)(5) is amended—

(A) by striking “and” at the end of clause (i)(II),

(B) by striking the period at the end of clause (ii) and inserting a comma, and

(C) by adding at the end the following new clauses:

“(iii) which is constructed, reconstructed, erected, or acquired by the taxpayer, and

“(iv) the original use of which commences with the taxpayer.”.

(2) Paragraphs (1) and (2) of subsection (a) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009 are each amended by striking “placed in service” and inserting “originally placed in service by such person”.

26 USC 48 note.

Applicability.  
26 USC 45 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) MODIFICATION TO DEFINITION OF MUNICIPAL SOLID WASTE.—The amendments made by subsection (a)(2) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TECHNICAL CORRECTIONS.—The amendments made by subsection (c) shall apply as if included in the enactment of the provisions of the American Recovery and Reinvestment Act of 2009 to which they relate.

#### **SEC. 408. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT NEW HOMES.**

26 USC 45L.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) ENERGY SAVINGS REQUIREMENTS.—Clause (i) of section 45L(c)(1)(A) is amended by striking “2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section” and inserting “2006 International Energy Conservation Code, as such Code (including supplements) is in effect on January 1, 2006”.

Applicability.  
26 USC 45L note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2011.

#### **SEC. 409. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT APPLIANCES.**

(a) IN GENERAL.—Section 45M(b) is amended by striking “2011” each place it appears other than in the provisions specified in subsection (b) and inserting “2011, 2012, or 2013”.

(b) PROVISIONS SPECIFIED.—The provisions of section 45M(b) specified in this subsection are subparagraph (C) of paragraph (1) and subparagraph (E) of paragraph (2).

Applicability.  
26 USC 45M  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2011.

#### **SEC. 410. EXTENSION AND MODIFICATION OF SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.**

(a) EXTENSION.—

(1) IN GENERAL.—Subparagraph (D) of section 168(l)(2) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

Applicability.  
26 USC 168 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2012.

(b) ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR PURPOSES OF BONUS DEPRECIATION FOR BIOFUEL PLANT PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(l)(2) is amended by striking “solely to produce cellulosic biofuel” and

inserting “solely to produce second generation biofuel (as defined in section 40(b)(6)(E))”.

(2) CONFORMING AMENDMENTS.—Subsection (l) of section 168, as amended by subsection (a), is amended—

26 USC 168.

(A) by striking “cellulosic biofuel” each place it appears in the text thereof and inserting “second generation biofuel”,

(B) by striking paragraph (3) and redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively,

(C) by striking “CELLULOSIC” in the heading of such subsection and inserting “SECOND GENERATION”, and

(D) by striking “CELLULOSIC” in the heading of paragraph (2) and inserting “SECOND GENERATION”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act.

Applicability.  
26 USC 168 note.

**SEC. 411. EXTENSION OF SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.**

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after December 31, 2011.

Applicability.  
26 USC 451 note.

**SEC. 412. EXTENSION OF ALTERNATIVE FUELS EXCISE TAX CREDITS.**

(a) IN GENERAL.—Sections 6426(d)(5) and 6426(e)(3) are each amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) OUTLAY PAYMENTS FOR ALTERNATIVE FUELS.—Paragraph (6) of section 6427(e) is amended—

(1) in subparagraph (C)—

(A) by striking “or alternative fuel mixture (as defined in subsection (d)(2) or (e)(3) of section 6426)” and inserting “(as defined in section 6426(d)(2))”, and

(B) by striking “December 31, 2011, and” and inserting “December 31, 2013,”

(2) in subparagraph (D)—

(A) by striking “or alternative fuel mixture”, and

(B) by striking the period at the end and inserting “, and”, and

(3) by adding at the end the following new subparagraph:  
“(E) any alternative fuel mixture (as defined in section 6426(e)(2)) sold or used after December 31, 2011.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

Applicability.  
26 USC 6426  
note.

## **TITLE V—UNEMPLOYMENT**

**SEC. 501. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.**

(a) EXTENSION.—Section 4007(a)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking “January 2, 2013” and inserting “January 1, 2014”.

(b) **FUNDING.**—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (H), by striking “and” at the end; and

(2) by inserting after subparagraph (I) the following:

“(J) the amendments made by section 501(a) of the American Taxpayer Relief Act of 2012;”.

26 USC 3304  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Benefits Extension Act of 2012 (Public Law 112–96).

**SEC. 502. TEMPORARY EXTENSION OF EXTENDED BENEFIT PROVISIONS.**

(a) **IN GENERAL.**—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note), is amended—

(1) by striking “December 31, 2012” each place it appears and inserting “December 31, 2013”; and

(2) in subsection (c), by striking “June 30, 2013” and inserting “June 30, 2014”.

(b) **EXTENSION OF MATCHING FOR STATES WITH NO WAITING WEEK.**—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking “June 30, 2013” and inserting “June 30, 2014”.

(c) **EXTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.**—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) in subsection (d), by striking “December 31, 2012” and inserting “December 31, 2013”; and

(2) in subsection (f)(2), by striking “December 31, 2012” and inserting “December 31, 2013”.

26 USC 3304  
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Benefits Extension Act of 2012 (Public Law 112–96).

**SEC. 503. EXTENSION OF FUNDING FOR REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.**

(a) **IN GENERAL.**—Section 4004(c)(2)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking “through fiscal year 2013” and inserting “through fiscal year 2014”.

26 USC 3304  
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Benefits Extension Act of 2012 (Public Law 112–96).

**SEC. 504. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.**

(a) **EXTENSION.**—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92), section 505 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111–312), section 202 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public

Law 112–78), and section 2124 of the Unemployment Benefits Extension Act of 2012 (Public Law 112–96), is amended—

45 USC 352.

(1) by striking “June 30, 2012” and inserting “June 30, 2013”; and

(2) by striking “December 31, 2012” and inserting “December 31, 2013”.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of enactment of this Act.

45 USC 352 note.

(c) FUNDING FOR ADMINISTRATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$250,000 for administrative expenses associated with the payment of additional extended unemployment benefits provided under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

## TITLE VI—MEDICARE AND OTHER HEALTH EXTENSIONS

### Subtitle A—Medicare Extensions

#### SEC. 601. MEDICARE PHYSICIAN PAYMENT UPDATE.

(a) IN GENERAL.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraph:

“(14) UPDATE FOR 2013.—

“(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), (11)(B), (12)(B), and (13)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2013, the update to the single conversion factor for such year shall be zero percent.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2014 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2014 and subsequent years as if subparagraph (A) had never applied.”.

(b) ADVANCEMENT OF CLINICAL DATA REGISTRIES TO IMPROVE THE QUALITY OF HEALTH CARE.—

(1) IN GENERAL.—Section 1848(m)(3) of the Social Security Act (42 U.S.C. 1395w–4(m)(3)) is amended—

(A) by redesignating subparagraph (D) as subparagraph (F); and

(B) by inserting after subparagraph (C) the following new subparagraphs:

“(D) SATISFACTORY REPORTING MEASURES THROUGH PARTICIPATION IN A QUALIFIED CLINICAL DATA REGISTRY.—For 2014 and subsequent years, the Secretary shall treat

an eligible professional as satisfactorily submitting data on quality measures under subparagraph (A) if, in lieu of reporting measures under subsection (k)(2)(C), the eligible professional is satisfactorily participating, as determined by the Secretary, in a qualified clinical data registry (as described in subparagraph (E)) for the year.

“(E) QUALIFIED CLINICAL DATA REGISTRY.—

“(i) IN GENERAL.—The Secretary shall establish requirements for an entity to be considered a qualified clinical data registry. Such requirements shall include a requirement that the entity provide the Secretary with such information, at such times, and in such manner, as the Secretary determines necessary to carry out this subsection.

“(ii) CONSIDERATIONS.—In establishing the requirements under clause (i), the Secretary shall consider whether an entity—

“(I) has in place mechanisms for the transparency of data elements and specifications, risk models, and measures;

“(II) requires the submission of data from participants with respect to multiple payers;

“(III) provides timely performance reports to participants at the individual participant level; and

“(IV) supports quality improvement initiatives for participants.

“(iii) MEASURES.—With respect to measures used by a qualified clinical data registry—

“(I) sections 1890(b)(7) and 1890A(a) shall not apply; and

“(II) measures endorsed by the entity with a contract with the Secretary under section 1890(a) may be used.

“(iv) CONSULTATION.—In carrying out this subparagraph, the Secretary shall consult with interested parties.

Process.

“(v) DETERMINATION.—The Secretary shall establish a process to determine whether or not an entity meets the requirements established under clause (i). Such process may involve one or both of the following:

“(I) A determination by the Secretary.

“(II) A designation by the Secretary of one or more independent organizations to make such determination.”.

(2) GAO STUDY AND REPORT ON INCORPORATING REGISTRY DATA INTO THE MEDICARE PROGRAM IN ORDER TO IMPROVE QUALITY AND EFFICIENCY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on the potential of clinical data registries to improve the quality and efficiency of care in the Medicare program, including through payment system incentives. Such study shall include an analysis of the role of health information technology in facilitating clinical data registries and the use of data from such registries among private health insurers as well as other entities the Comptroller General determines appropriate.



(B) REPORT.—Not later than November 15, 2013, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

Recommendations.

#### SEC. 602. WORK GEOGRAPHIC ADJUSTMENT.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)) is amended by striking “before January 1, 2013” and inserting “before January 1, 2014”.

#### SEC. 603. PAYMENT FOR OUTPATIENT THERAPY SERVICES.

(a) EXTENSION.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) is amended—

(1) in paragraph (5)(A), in the first sentence, by striking “December 31, 2012” and inserting “December 31, 2013”; and

(2) in paragraph (6)—

(A) by striking “December 31, 2012” and inserting “December 31, 2013”; and

(B) by inserting “or 2013” after “during 2012”.

(b) APPLICATION OF THERAPY CAP TO THERAPY FURNISHED AS PART OF OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—Section 1833(g)(6) of the Social Security Act (42 U.S.C. 1395l(g)(6)), as amended by subsection (a), is amended—

(1) by striking “In applying” and inserting “(A) In applying”; and

(2) by adding at the end the following new subparagraph:

“(B)(i) With respect to outpatient therapy services furnished beginning on or after January 1, 2013, and before January 1, 2014, for which payment is made under section 1834(g), the Secretary shall count toward the uniform dollar limitations described in paragraphs (1) and (3) and the threshold described in paragraph (5)(C) the amount that would be payable under this part if such services were paid under section 1834(k)(1)(B) instead of being paid under section 1834(g).”

Time period.

“(ii) Nothing in clause (i) shall be construed as changing the method of payment for outpatient therapy services under section 1834(g).”

(c) BENEFICIARY PROTECTIONS.—Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by adding at the end the following new subparagraph:

“(D) With respect to services furnished on or after January 1, 2013, where payment may not be made as a result of application of paragraphs (1) and (3), section 1879 shall apply in the same manner as such section applies to a denial that is made by reason of section 1862(a)(1).”

Applicability.

(d) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the provisions of, and the amendments made by, this section by program instruction or otherwise.

42 USC 1395l note.

#### SEC. 604. AMBULANCE ADD-ON PAYMENTS.

(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is amended—

(1) in the matter preceding clause (i), by striking “January 1, 2013” and inserting “January 1, 2014”; and

(2) in each of clauses (i) and (ii), by striking “January 1, 2013” and inserting “January 1, 2014” each place it appears.

42 USC 1395m  
note.

(b) AIR AMBULANCE.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), as amended by sections 3105(b) and 10311(b) of the Patient Protection and Affordable Care Act (Public Law 111-148), section 106(b) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111-309), section 306(b) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), and section 3007(b) of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96), is amended by striking “December 31, 2012” and inserting “June 30, 2013”.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended in the first sentence by striking “January 1, 2013” and inserting “January 1, 2014”.

(d) STUDIES OF AMBULANCE COSTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall conduct a study of each of the following:

(A) A study that analyzes data on existing cost reports for ambulance services furnished by hospitals and critical access hospitals, including variation by characteristics of such providers of services.

(B) A study of the feasibility of obtaining cost data on a periodic basis from all ambulance providers of services and suppliers for potential use in examining the appropriateness of the Medicare add-on payments for ground ambulance services furnished under the fee schedule under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) and in preparing for future reform of such payment system.

(2) COMPONENTS OF ONE OF THE STUDIES.—In conducting the study under paragraph (1)(B), the Secretary shall—

Consultation.

(A) consult with industry on the design of such cost collection efforts;

(B) explore use of cost surveys and cost reports to collect appropriate cost data and the periodicity of such cost data collection;

(C) examine the feasibility of development of a standard cost reporting tool for providers of services and suppliers of ground ambulance services; and

(D) examine the ability to furnish such cost data by various types of ambulance providers of services and suppliers, especially by rural and super-rural providers of services and suppliers.

(3) REPORTS.—

(A) EXISTING COST REPORTS.—Not later than October 1, 2013, the Secretary shall submit a report to Congress on the study conducted under paragraph (1)(A), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

Recommendations.

(B) OBTAINING COST DATA.—Not later than July 1, 2014, the Secretary shall submit a report to Congress on the study conducted under paragraph (1)(B), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

**SEC. 605. EXTENSION OF MEDICARE INPATIENT HOSPITAL PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.**

Section 1886(d)(12) of the Social Security Act (42 U.S.C. 1395ww(d)(12)) is amended—

- (1) in subparagraph (B), in the matter preceding clause (i), by striking “2013” and inserting “2014”;
- (2) in subparagraph (C)(i), by striking “and 2012” each place it appears and inserting “, 2012, and 2013”; and
- (3) in subparagraph (D), by striking “and 2012” and inserting “, 2012, and 2013”.

**SEC. 606. EXTENSION OF THE MEDICARE-DEPENDENT HOSPITAL (MDH) PROGRAM.**

(a) **EXTENSION OF PAYMENT METHODOLOGY.**—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

- (1) in clause (i), by striking “October 1, 2012” and inserting “October 1, 2013”; and
- (2) in clause (ii)(II), by striking “October 1, 2012” and inserting “October 1, 2013”.

(b) **CONFORMING AMENDMENTS.**—

(1) **EXTENSION OF TARGET AMOUNT.**—Section 1886(b)(3)(D) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(D)) is amended—

- (A) in the matter preceding clause (i), by striking “October 1, 2012” and inserting “October 1, 2013”; and
- (B) in clause (iv), by striking “through fiscal year 2012” and inserting “through fiscal year 2013”.

(2) **PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.**—Section 13501(e)(2) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 1395ww note) is amended by striking “through fiscal year 2012” and inserting “through fiscal year 2013”.

**SEC. 607. EXTENSION FOR SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.**

Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)) is amended by striking “2014” and inserting “2015”.

**SEC. 608. EXTENSION OF MEDICARE REASONABLE COST CONTRACTS.**

Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter preceding subclause (I), by striking “January 1, 2013” and inserting “January 1, 2014”.

**SEC. 609. PERFORMANCE IMPROVEMENT.**

(a) **EXTENSION OF FUNDING FOR CONTRACT WITH CONSENSUS-BASED ENTITY REGARDING PERFORMANCE MEASUREMENT.**—

(1) **IN GENERAL.**—Section 1890(d) of the Social Security Act (42 U.S.C. 1395aaa(d)) is amended by striking “fiscal years 2009 through 2012” and inserting “fiscal years 2009 through 2013”.

(2) **REVISION TO DUTIES.**—Section 1890(b) of the Social Security Act (42 U.S.C. 1395aaa(b)) is amended by striking paragraph (4).

(b) **PROVIDING DATA FOR PERFORMANCE IMPROVEMENT IN A TIMELY MANNER.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall

Strategy.

develop a strategy to provide data for performance improvement in a timely manner to applicable providers under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), including with respect to the provision of the following:

(A) Utilization data, including such data for items and services under parts A, B, and D of the Medicare program.

(B) Feedback on quality data submitted by the applicable provider under the Medicare program.

(2) CONSIDERATIONS.—In developing the strategy under paragraph (1), the Secretary shall consider—

(A) the type of applicable provider receiving the data;

(B) the frequency of providing the data so that it can be the most relevant in improving provider performance;

(C) risk adjustment methods;

(D) presentation of the data in a meaningful manner and easily understandable format;

(E) with respect to utilization data, the provision of data that the Secretary determines would be useful to improve the performance of the type of applicable provider involved; and

(F) administrative costs involved with providing data.

Deadline.  
Web posting.

(3) SUBMISSION AND AVAILABILITY OF INITIAL STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall—

(A) submit to the relevant committees of Congress the strategy described in paragraph (1); and

(B) post such strategy on the website of the Centers for Medicare & Medicaid Services.

(4) STRATEGY UPDATE.—

(A) FEEDBACK FROM STAKEHOLDERS.—The Secretary shall seek feedback from stakeholders on the initial strategy submitted under paragraph (3).

Deadline.  
Web posting.

(B) STRATEGY UPDATE.—The Secretary shall—

(i) update the strategy described in paragraph (1) based on the feedback submitted under subparagraph (A); and

(ii) not later than 18 months after the date of the enactment of this Act—

(I) submit such updated strategy to the relevant committees of Congress; and

(II) post such updated strategy on the website of the Centers for Medicare & Medicaid Services.

(5) GAO STUDY AND REPORT ON PRIVATE SECTOR INFORMATION SHARING ACTIVITIES.—

(A) STUDY.—The Comptroller General of the United States (in this paragraph referred to as the “Comptroller General”) shall conduct a study on information sharing activities. Such study shall include an analysis of—

(i) how private sector entities share timely data with hospitals, physicians, and other providers and what lessons can be learned from those activities;

(ii) how the Medicare program currently shares data with providers, including what data is provided and to which providers, and what divisions within the Centers for Medicare & Medicaid Services oversee those efforts;

(iii) what, if any, differences there are between the private sector and the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in terms of sharing data; and

(iv) what, if any, barriers there are for the Centers for Medicare & Medicaid Services to sharing timely data with applicable providers and recommendations to eliminate or reduce such barriers.

(B) REPORT.—Not later than 8 months after the date of the enactment of this Act, the Comptroller General shall submit to the relevant committees of Congress a report containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

(6) DEFINITIONS.—In this subsection:

(A) APPLICABLE PROVIDER.—The term “applicable provider” means the following:

(i) A critical access hospital (as defined in section 1861(mm)(1) of the Social Security Act (42 U.S.C. 1395xx(mm)(1))).

(ii) A hospital (as defined in section 1861(e) of such Act (42 U.S.C. 1395x(e))).

(iii) A physician (as defined in section 1861(r) of such Act (42 U.S.C. 1395x(r))).

(iv) Any other provider the Secretary determines should receive the information described in subsection (a).

(B) PERFORMANCE IMPROVEMENT.—The term “performance improvement” means improvements in quality, reducing per capita costs, and other criteria the Secretary determines appropriate.

#### **SEC. 610. EXTENSION OF FUNDING OUTREACH AND ASSISTANCE FOR LOW-INCOME PROGRAMS.**

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE PROGRAMS.—Subsection (a)(1)(B) of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b–3 note), as amended by section 3306 of the Patient Protection and Affordable Care Act Public Law 111–148), is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:  
“(iii) for fiscal year 2013, of \$7,500,000.”.

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—Subsection (b)(1)(B) of such section 119, as so amended, is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:  
“(iii) for fiscal year 2013, of \$7,500,000.”.

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—Subsection (c)(1)(B) of such section 119, as so amended, is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:  
“(iii) for fiscal year 2013, of \$5,000,000.”.

(d) ADDITIONAL FUNDING FOR CONTRACT WITH THE NATIONAL CENTER FOR BENEFITS AND OUTREACH ENROLLMENT.—Subsection (d)(2) of such section 119, as so amended, is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:  
“(iii) for fiscal year 2013, of \$5,000,000.”.

## Subtitle B—Other Health Extensions

### SEC. 621. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking “2012” and inserting “2013”.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—  
(1) in paragraph (2)—

(A) in subparagraph (Q), by striking “and” after the semicolon;

(B) in subparagraph (R), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(S) for the period that begins on January 1, 2013, and ends on September 30, 2013, the total allocation amount is \$485,000,000; and

“(T) for the period that begins on October 1, 2013, and ends on December 31, 2013, the total allocation amount is \$300,000,000.”; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking “or (R)” and inserting “(R), or (T)”.

Time periods.

### SEC. 622. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking “2012” and inserting “2013”.

### SEC. 623. EXTENSION OF MEDICAID AND CHIP EXPRESS LANE OPTION.

Section 1902(e)(13)(I) of the Social Security Act (42 U.S.C. 1396a(e)(13)(I)) is amended by striking “2013” and inserting “2014”.

### SEC. 624. EXTENSION OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501(c)(1)(A)(iii) of the Social Security Act (42 U.S.C. 701(c)(1)(A)(iii)) is amended by striking “2012” and inserting “2013”.

### SEC. 625. EXTENSION OF SPECIAL DIABETES PROGRAM FOR TYPE I DIABETES AND FOR INDIANS.

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)(C)) is amended by striking “2013” and inserting “2014”.

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)(C)) is amended by striking “2013” and inserting “2014”.

## Subtitle C—Other Health Provisions

### SEC. 631. IPPS DOCUMENTATION AND CODING ADJUSTMENT FOR IMPLEMENTATION OF MS-DRGS.

(a) RULE OF CONSTRUCTION AND CLARIFICATION.—

(1) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsection (b) shall be construed as changing the existing authority under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to make prospective documentation and coding adjustments to the standardized amounts under such section 1886(d) to correct for changes in the coding or classification of discharges that do not reflect real changes in case mix.

(2) CLARIFICATION.—Effective on the date of the enactment of this section, except as provided in section 7(b)(1)(B)(ii) of the TMA, Abstinence Education, and QI Programs Extension Act of 2007, as added by subsection (b)(2)(A)(ii)(IV) of this section, the Secretary of Health and Human Services shall not have authority to fully recoup past overpayments related to documentation and coding changes from fiscal years 2008 and 2009.

(b) ADJUSTMENT.—Section 7 of the TMA, Abstinence Education, and QI Programs Extension Act of 2007 (Public Law 110–90; 121 Stat. 986) is amended—

(1) in the heading, by striking “**LIMITATION**” and all that follows through “**ADJUSTMENT**” and inserting “**DOCUMENTATION AND CODING ADJUSTMENTS**”; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter before subparagraph (A)—

(I) by striking “or 2009” and inserting “, 2009, or 2010”; and

(II) by inserting “or otherwise applied for such year” after “applied under subsection (a)”; and

(ii) in subparagraph (B)—

(I) by inserting “(i)” after “(B)”;

(II) by striking “or decrease”;

(III) by striking the period at the end and inserting “; and”; and

(IV) by adding at the end the following:

“(ii) make an additional adjustment to the standardized amounts under such section 1886(d) based upon the Secretary’s estimates for discharges occurring only during fiscal years 2014, 2015, 2016, and 2017 to fully offset \$11,000,000,000 (which represents the amount of the increase in aggregate payments from fiscal years 2008 through 2013 for which an adjustment was not previously applied).”; and

(B) in paragraph (3)—

(i) in subparagraph (A), by inserting before the semicolon the following: “or affecting the Secretary’s authority under such paragraph to apply a prospective

adjustment to offset aggregate additional payments related to documentation and coding improvements made with respect to discharges during fiscal year 2010”; and

(ii) in subparagraph (B), by striking “and 2012” and inserting “2012, 2014, 2015, 2016, and 2017”.

**SEC. 632. REVISIONS TO THE MEDICARE ESRD BUNDLED PAYMENT SYSTEM TO REFLECT FINDINGS IN THE GAO REPORT.**

(a) **ADJUSTMENT TO ESRD BUNDLED PAYMENT RATE TO ACCOUNT FOR CHANGES IN THE UTILIZATION OF CERTAIN DRUGS AND BIOLOGICALS.**—Section 1881(b)(14) of the Social Security Act (42 U.S.C. 1395rr(b)(14)) is amended by adding at the end the following new subparagraph:

Reductions.

“(I) For services furnished on or after January 1, 2014, the Secretary shall, by comparing per patient utilization data from 2007 with such data from 2012, make reductions to the single payment that would otherwise apply under this paragraph for renal dialysis services to reflect the Secretary’s estimate of the change in the utilization of drugs and biologicals described in clauses (ii), (iii), and (iv) of subparagraph (B) (other than oral-only ESRD-related drugs, as such term is used in the final rule promulgated by the Secretary in the Federal Register on August 12, 2010 (75 Fed. Reg. 49030)). In making reductions under the preceding sentence, the Secretary shall take into account the most recently available data on average sales prices and changes in prices for drugs and biological reflected in the ESRD market basket percentage increase factor under subparagraph (F).”.

42 USC 1395rr  
note.

(b) **TWO-YEAR DELAY OF IMPLEMENTATION OF ORAL-ONLY ESRD-RELATED DRUGS IN THE ESRD PROSPECTIVE PAYMENT SYSTEM; MONITORING.**—

(1) **DELAY.**—The Secretary of Health and Human Services may not implement the policy under section 413.174(f)(6) of title 42, Code of Federal Regulations (relating to oral-only ESRD-related drugs in the ESRD prospective payment system), prior to January 1, 2016.

(2) **MONITORING.**—With respect to the implementation of oral-only ESRD-related drugs in the ESRD prospective payment system under subsection (b)(14) of section 1881 of the Social Security Act (42 U.S.C. 1395rr(b)(14)), the Secretary of Health and Human Services shall monitor the bone and mineral metabolism of individuals with end stage renal disease.

42 USC 1395rr  
note.

(c) **ANALYSIS OF CASE MIX PAYMENT ADJUSTMENTS.**—By not later than January 1, 2016, the Secretary of Health and Human Services shall—

(1) conduct an analysis of the case mix payment adjustments being used under section 1881(b)(14)(D)(i) of the Social Security Act (42 U.S.C. 1395rr(b)(14)(D)(i)); and

(2) make appropriate revisions to such case mix payment adjustments.

Analysis.

(d) **UPDATED GAO REPORT.**—Not later than December 31, 2015, the Comptroller General of the United States shall submit to Congress a report that updates the report submitted to Congress under section 10336 of the Patient Protection and Affordable Care Act (Public Law 111–148; 124 Stat. 974). The updated report shall include an analysis of how the Secretary of Health and Human Services has addressed points raised in the report submitted under



such section 10336 with respect to the Secretary's preparations to implement payment for oral-only ESRD-related drugs in the bundled prospective payment system under section 1881(b)(14) of the Social Security Act (42 U.S.C. 1395rr(b)(14)).

**SEC. 633. TREATMENT OF MULTIPLE SERVICE PAYMENT POLICIES FOR THERAPY SERVICES.**

(a) **SERVICES FURNISHED BY PHYSICIANS AND CERTAIN OTHER PROVIDERS.**—Section 1848(b)(7) of the Social Security Act (42 U.S.C. 1395w–4(b)(7)) is amended—

(1) by striking “2011,” and inserting “2011, and before April 1, 2013,”; and

(2) by adding at the end the following new sentence: “In the case of such services furnished on or after April 1, 2013, and for which payment is made under such fee schedules, instead of the 25 percent multiple procedure payment reduction specified in such final rule, the reduction percentage shall be 50 percent.”.

(b) **SERVICES FURNISHED BY OTHER PROVIDERS.**—Section 1834(k) of the Social Security Act (42 U.S.C. 1395m(k)) is amended by adding at the end the following new paragraph:

“(7) **ADJUSTMENT IN DISCOUNT FOR CERTAIN MULTIPLE THERAPY SERVICES.**—In the case of therapy services furnished on or after April 1, 2013, and for which payment is made under this subsection pursuant to the applicable fee schedule amount (as defined in paragraph (3)), instead of the 25 percent multiple procedure payment reduction specified in the final rule published by the Secretary in the Federal Register on November 29, 2010, the reduction percentage shall be 50 percent.”.

**SEC. 634. PAYMENT FOR CERTAIN RADIOLOGY SERVICES FURNISHED UNDER THE MEDICARE HOSPITAL OUTPATIENT DEPARTMENT PROSPECTIVE PAYMENT SYSTEM.**

Section 1833(t)(16) of the Social Security Act (42 U.S.C. 1395l(t)(16)) is amended by adding at the end the following new subparagraph:

“(D) **SPECIAL PAYMENT RULE.**—

“(i) **IN GENERAL.**—In the case of covered OPD services furnished on or after April 1, 2013, in a hospital described in clause (ii), if—

“(I) the payment rate that would otherwise apply under this subsection for stereotactic radiosurgery, complete course of treatment of cranial lesion(s) consisting of 1 session that is multi-source Cobalt 60 based (identified as of January 1, 2013, by HCPCS code 77371 (and any succeeding code) and reimbursed as of such date under APC 0127 (and any succeeding classification group)); exceeds

“(II) the payment rate that would otherwise apply under this subsection for linear accelerator based stereotactic radiosurgery, complete course of therapy in one session (identified as of January 1, 2013, by HCPCS code G0173 (and any succeeding code) and reimbursed as of such date under APC 0067 (and any succeeding classification group)),

the payment rate for the service described in subclause (I) shall be reduced to an amount equal to the payment rate for the service described in subclause (II).

“(ii) HOSPITAL DESCRIBED.—A hospital described in this clause is a hospital that is not—

“(I) located in a rural area (as defined in section 1886(d)(2)(D));

“(II) classified as a rural referral center under section 1886(d)(5)(C); or

“(III) a sole community hospital (as defined in section 1886(d)(5)(D)(iii)).

Time period.

“(iii) NOT BUDGET NEUTRAL.—In making any budget neutrality adjustments under this subsection for 2013 (with respect to covered OPD services furnished on or after April 1, 2013, and before January 1, 2014) or a subsequent year, the Secretary shall not take into account the reduced expenditures that result from the application of this subparagraph.”.

**SEC. 635. ADJUSTMENT OF EQUIPMENT UTILIZATION RATE FOR ADVANCED IMAGING SERVICES.**

Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(1) in subsection (b)(4)(C)—

(A) by striking “and subsequent years” and inserting “, 2012, and 2013”; and

(B) by adding at the end the following new sentence: “With respect to fee schedules established for 2014 and subsequent years, in such methodology, the Secretary shall use a 90 percent utilization rate.”; and

(2) in subsection (c)(2)(B)(v)(III), by striking “change in the utilization rate applicable to 2011, as described in” and inserting “changes in the utilization rate applicable to 2011 and 2014, as described in the first and second sentence, respectively, of”.

**SEC. 636. MEDICARE PAYMENT OF COMPETITIVE PRICES FOR DIABETIC SUPPLIES AND ELIMINATION OF OVERPAYMENT FOR DIABETIC SUPPLIES.**

(a) APPLICATION OF COMPETITIVE BIDDING PRICES FOR DIABETIC SUPPLIES.—Section 1834(a)(1) of the Social Security Act (42 U.S.C. 1395m(a)(1)) is amended—

(1) in subparagraph (F), in the matter preceding clause (i), by striking “subparagraph (G)” and inserting “subparagraphs (G) and (H)”; and

(2) by adding at the end the following new subparagraph:

“(H) DIABETIC SUPPLIES.—

“(i) IN GENERAL.—On or after the date described in clause (ii), the payment amount under this part for diabetic supplies, including testing strips, that are non-mail order items (as defined by the Secretary) shall be equal to the single payment amounts established under the national mail order competition for diabetic supplies under section 1847.

“(ii) DATE DESCRIBED.—The date described in this clause is the date of the implementation of the single payment amounts under the national mail order competition for diabetic supplies under section 1847.”.

(b) **OVERPAYMENT ELIMINATION FOR DIABETIC SUPPLIES.**—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

“(22) **SPECIAL PAYMENT RULE FOR DIABETIC SUPPLIES.**—Notwithstanding the preceding provisions of this subsection, for purposes of determining the payment amount under this subsection for diabetic supplies furnished on or after the first day of the calendar quarter during 2013 that is at least 30 days after the date of the enactment of this paragraph and before the date described in paragraph (1)(H)(ii), the Secretary shall recalculate and apply the covered item update under paragraph (14) as if subparagraph (J)(i) of such paragraph was amended by striking ‘but only if furnished through mail order’.”.

Time period.  
Applicability.

**SEC. 637. MEDICARE PAYMENT ADJUSTMENT FOR NON-EMERGENCY AMBULANCE TRANSPORTS FOR ESRD BENEFICIARIES.**

Section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) is amended by adding at the end the following new paragraph:

“(15) **PAYMENT ADJUSTMENT FOR NON-EMERGENCY AMBULANCE TRANSPORTS FOR ESRD BENEFICIARIES.**—The fee schedule amount otherwise applicable under the preceding provisions of this subsection shall be reduced by 10 percent for ambulance services furnished on or after October 1, 2013, consisting of non-emergency basic life support services involving transport of an individual with end-stage renal disease for renal dialysis services (as described in section 1881(b)(14)(B)) furnished other than on an emergency basis by a provider of services or a renal dialysis facility.”.

**SEC. 638. REMOVING OBSTACLES TO COLLECTION OF OVERPAYMENTS.**

(a) **IN GENERAL.**—The last sentence of subsections (b) and (c) of section 1870 of the Social Security Act (42 U.S.C. 1395gg) are each amended—

- (1) by striking “third year” and inserting “fifth year”; and
- (2) by striking “three-year” and inserting “five-year”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

42 USC 1395gg  
note.

**SEC. 639. MEDICARE ADVANTAGE CODING INTENSITY ADJUSTMENT.**

Section 1853(a)(1)(C)(ii)(III) of the Social Security Act (42 U.S.C. 1395w-23(a)(1)(C)(ii)(III)) is amended—

- (1) by striking “1.3 percentage points” and inserting “1.5 percentage points”; and
- (2) by striking “5.7 percent” and inserting “5.9 percent”.

**SEC. 640. ELIMINATION OF ALL FUNDING FOR THE MEDICARE IMPROVEMENT FUND.**

Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking subparagraphs (A), (B), and (C) and inserting the following new subparagraphs:

- “(A) fiscal year 2014, \$0; and
- “(B) fiscal year 2015, \$0.”.

**SEC. 641. REBASING OF STATE DSH ALLOTMENTS.**

Section 1923(f)(8) of the Social Security Act (42 U.S.C. 1396r-4(f)(8)) is amended to read as follows:

“(8) SPECIAL RULES FOR CALCULATING DSH ALLOTMENTS FOR CERTAIN FISCAL YEARS.—

“(A) FISCAL YEAR 2021.—Only with respect to fiscal year 2021, the DSH allotment for a State, in lieu of the amount determined under paragraph (3) for the State for that year, shall be equal to the DSH allotment for the State as reduced under paragraph (7) for fiscal year 2020, increased, subject to subparagraphs (B) and (C) of paragraph (3), and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for fiscal year 2020.

“(B) FISCAL YEAR 2022.—Only with respect to fiscal year 2022, the DSH allotment for a State, in lieu of the amount determined under paragraph (3) for the State for that year, shall be equal to the DSH allotment for the State for fiscal year 2021, as determined under subparagraph (A), increased, subject to subparagraphs (B) and (C) of paragraph (3), and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for fiscal year 2021.

“(C) SUBSEQUENT FISCAL YEARS.—The DSH allotment for a State for fiscal years after fiscal year 2022 shall be calculated under paragraph (3) without regard to this paragraph and paragraph (7).”.

#### SEC. 642. REPEAL OF CLASS PROGRAM.

42 USC  
300ll—300ll–9.

(a) REPEAL.—Title XXXII of the Public Health Service Act (42 U.S.C. 300ll et seq.; relating to the CLASS program) is repealed.

(b) CONFORMING CHANGES.—

42 USC 201 note,  
300ll notes.

(1) Title VIII of the Patient Protection and Affordable Care Act (Public Law 111–148; 124 Stat. 119, 846–847) is repealed.

(2) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking paragraphs (81) and (82);

(B) in paragraph (80), by inserting “and” at the end;

and

(C) by redesignating paragraph (83) as paragraph (81).

(3) Paragraphs (2) and (3) of section 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396p note) are amended to read as such paragraphs were in effect on the day before the date of the enactment of section 8002(d) of the Patient Protection and Affordable Care Act (Public Law 111–148). Of the funds appropriated by paragraph (3) of such section 6021(d), as amended by the Patient Protection and Affordable Care Act, the unobligated balance is rescinded.

Rescission.

#### SEC. 643. COMMISSION ON LONG-TERM CARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Long-Term Care (referred to in this section as the “Commission”).

(b) DUTIES.—

Plans.

(1) IN GENERAL.—The Commission shall develop a plan for the establishment, implementation, and financing of a comprehensive, coordinated, and high-quality system that ensures the availability of long-term services and supports for individuals in need of such services and supports, including elderly individuals, individuals with substantial cognitive or functional limitations, other individuals who require assistance to perform

activities of daily living, and individuals desiring to plan for future long-term care needs.

(2) EXISTING HEALTH CARE PROGRAMS.—For purposes of developing the plan described in paragraph (1), the Commission shall provide recommendations for—

Recommendations.

(A) addressing the interaction of a long-term services and support system with existing programs for long-term services and supports, including the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), and private long-term care insurance;

(B) improvements to such health care programs that are necessary for ensuring the availability of long-term services and supports; and

(C) issues related to workers who provide long-term services and supports, including—

(i) whether the number of such workers is adequate to provide long-term services and supports to individuals with long-term care needs;

(ii) workforce development necessary to deliver high-quality services to such individuals;

(iii) development of entities that have the capacity to serve as employers and fiscal agents for workers who provide long-term services and supports in the homes of such individuals; and

(iv) addressing gaps in Federal and State infrastructure that prevent delivery of high-quality long term services and supports to such individuals.

(3) ADDITIONAL CONSIDERATIONS.—For purposes of developing the plan described in paragraph (1), the Commission shall take into account projected demographic changes and trends in the population of the United States, as well as the potential for development of new technologies, delivery systems, or other mechanisms to improve the availability and quality of long-term services and supports.

(4) CONSULTATION.—For purposes of developing the plan described in paragraph (1), the Commission shall consult with the Medicare Payment Advisory Commission, the Medicaid and CHIP Payment and Access Commission, the National Council on Disability, and relevant consumer groups.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, to be appointed not later than 30 days after the date of enactment of this Act, as follows:

Deadline.  
Appointments.  
President.  
Congress.

(A) The President of the United States shall appoint 3 members.

(B) The majority leader of the Senate shall appoint 3 members.

(C) The minority leader of the Senate shall appoint 3 members.

(D) The Speaker of the House of Representatives shall appoint 3 members.

(E) The minority leader of the House of Representatives shall appoint 3 members.

(2) REPRESENTATION.—The membership of the Commission shall include individuals who—

(A) represent the interests of—

(i) consumers of long-term services and supports and related insurance products, as well as their representatives;

(ii) older adults;

(iii) individuals with cognitive or functional limitations;

(iv) family caregivers for individuals described in clause (i), (ii), or (iii);

(v) the health care workforce who directly provide long-term services and supports;

(vi) private long-term care insurance providers;

(vii) employers;

(viii) State insurance departments; and

(ix) State Medicaid agencies;

(B) have demonstrated experience in dealing with issues related to long-term services and supports, health care policy, and public and private insurance; and

(C) represent the health care interests and needs of a variety of geographic areas and demographic groups.

(3) CHAIRMAN AND VICE-CHAIRMAN.—The Commission shall elect a chairman and vice chairman from among its members.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(5) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e)(1).

(6) MEETINGS.—The Commission shall meet at the call of its chairman or a majority of its members.

(7) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

(A) IN GENERAL.—To enable the Commission to exercise its powers, functions, and duties, there are authorized to be disbursed by the Senate the actual and necessary expenses of the Commission approved by the chairman and vice chairman, subject to subparagraph (B) and the rules and regulations of the Senate.

(B) MEMBERS.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND ETHICAL STANDARDS.—

(1) STAFF.—The chairman and vice chairman of the Commission may jointly appoint and fix the compensation of staff as they deem necessary, within the guidelines for employees of the Senate and following all applicable rules and employment requirements of the Senate.

(2) ETHICAL STANDARDS.—Members of the Commission who serve in the House of Representatives shall be governed by the ethics rules and requirements of the House. Members of the Senate who serve on the Commission and staff of the Commission shall comply with the ethics rules of the Senate.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings

Compliance.

and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GENERAL ACCOUNTING OFFICE.—Upon the request of the Commission, the Comptroller General of the United States shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) COMMISSION CONSIDERATION.—

(1) APPROVAL OF REPORT AND LEGISLATIVE LANGUAGE.—

(A) IN GENERAL.—Not later than 6 months after appointment of the members of the Commission (as described in subsection (c)(1)), the Commission shall vote on a comprehensive and detailed report based on the long-term care plan described in subsection (b)(1) that contains any recommendations or proposals for legislative or administrative action as the Commission deems appropriate, including proposed legislative language to carry out the recommendations or proposals (referred to in this section as the “Commission bill”).

(B) APPROVAL BY MAJORITY OF MEMBERS.—The Commission bill shall require the approval of a majority of the members of the Commission.

(2) TRANSMISSION OF COMMISSION BILL.—

(A) IN GENERAL.—If the Commission bill is approved by the Commission pursuant to paragraph (1), then not later than 10 days after such approval, the Commission

Deadline.

shall submit the Commission bill to the President, the Vice President, the Speaker of the House of Representatives, and the majority and minority Leaders of each House on Congress.

(B) COMMISSION BILL TO BE MADE PUBLIC.—Upon the approval or disapproval of the Commission bill pursuant to paragraph (1), the Commission shall promptly make such proposal, and a record of the vote, available to the public.

(g) TERMINATION.—The Commission shall terminate 30 days after the vote described in subsection (f)(1).

(h) CONSIDERATION OF COMMISSION RECOMMENDATIONS.—If approved by the majority required by subsection (f)(1), the Commission bill that has been submitted pursuant to subsection (f)(2)(A) shall be introduced in the Senate (by request) on the next day on which the Senate is in session by the majority leader of the Senate or by a Member of the Senate designated by the majority leader of the Senate and shall be introduced in the House of Representatives (by request) on the next legislative day by the majority leader of the House or by a member of the House designated by the majority leader of the House.

**SEC. 644. CONSUMER OPERATED AND ORIENTED PLAN PROGRAM CONTINGENCY FUND.**

42 USC 18042  
note.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a fund to be used to provide assistance and oversight to qualified nonprofit health insurance issuers that have been awarded loans or grants under section 1322 of the Patient Protection and Affordable Care Act (42 U.S.C. 18042) prior to the date of enactment of this Act.

(b) TRANSFER AND RESCISSION.—

(1) TRANSFER.—From the unobligated balance of funds appropriated under section 1322(g) of the Patient Protection and Affordable Care Act (42 U.S.C. 18042(g)), 10 percent of such sums are hereby transferred to the fund established under subsection (a) to remain available until expended.

(2) RESCISSION.—Except as provided for in paragraph (1), amounts appropriated under section 1322(g) of the Patient Protection and Affordable Care Act (42 U.S.C. 18042(g)) that are unobligated as of the date of enactment of this Act are rescinded.

## TITLE VII—EXTENSION OF AGRICULTURAL PROGRAMS

7 USC 8701 note.  
Deadline.

**SEC. 701. 1-YEAR EXTENSION OF AGRICULTURAL PROGRAMS.**

(a) EXTENSION.—Except as otherwise provided in this section and amendments made by this section and notwithstanding any other provision of law, the authorities provided by each provision of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1651) and each amendment made by that Act (and for mandatory programs at such funding levels), as in effect on September 30, 2012, shall continue, and the Secretary of Agriculture shall carry out the authorities, until the later of—

(1) September 30, 2013; or



(2) the date specified in the provision of that Act or amendment made by that Act.

(b) COMMODITY PROGRAMS.—

(1) IN GENERAL.—The terms and conditions applicable to a covered commodity or loan commodity (as those terms are defined in section 1001 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8702)) or to peanuts, sugarcane, or sugar beets for the 2012 crop year pursuant to title I of that Act (7 U.S.C. 8702 et seq.) and each amendment made by that title shall be applicable to the 2013 crop year for that covered commodity, loan commodity, peanuts, sugarcane, or sugar beets.

(2) MILK.—

(A) IN GENERAL.—Notwithstanding subsection (a), the Secretary of Agriculture shall carry out the dairy product price support program under section 1501 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8771) through December 31, 2013.

(B) MILK INCOME LOSS CONTRACT PROGRAM.—Section 1506 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8773) is amended by striking “2012” each place it appears in subsections (c)(3), (d)(1), (d)(2), (e)(2)(A), (g), and (h)(1) and inserting “2013”.

7 USC 8773 note.

(3) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITIES.—The provisions of law specified in subsections (a) through (c) of section 1602 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8782) shall be suspended—

(A) for the 2013 crop or production year of a covered commodity (as that term is defined in section 1001 of that Act (7 U.S.C. 8702)), peanuts, sugarcane, and sugar, as appropriate; and

(B) in the case of milk, through December 31, 2013.

(c) CONSERVATION PROGRAMS.—

(1) CONSERVATION RESERVE.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended in the second sentence by striking “and 2012” and inserting “2012, and 2013”.

(2) VOLUNTARY PUBLIC ACCESS.—Section 1240R of the Food Security Act of 1985 (16 U.S.C. 3839bb-5) is amended by striking subsection (f) and inserting the following:

“(f) FUNDING.—

“(1) FISCAL YEARS 2009 THROUGH 2012.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to the maximum extent practicable, \$50,000,000 for the period of fiscal years 2009 through 2012.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2013.”.

(d) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

(1) EMPLOYMENT AND TRAINING PROGRAM.—Section 16(h)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) is amended by inserting “, except that for fiscal year 2013, the amount shall be \$79,000,000” before the period at the end.

(2) NUTRITION EDUCATION.—Section 28(d)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036a(d)(1)) is amended—

(A) in subparagraph (A), by striking “and” after the semicolon at the end; and

(B) by striking subparagraph (B) and inserting the following:

“(B) for fiscal year 2012, \$388,000,000;

“(C) for fiscal year 2013, \$285,000,000;

“(D) for fiscal year 2014, \$401,000,000;

“(E) for fiscal year 2015, \$407,000,000; and

“(F) for fiscal year 2016 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect any increases for the 12-month period ending the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.”.

(e) RESEARCH PROGRAMS.—

(1) ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.—Section 1672B(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b(f)) is amended—

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “MANDATORY FUNDING FOR FISCAL YEARS 2009 THROUGH 2012”;

(B) in the heading of paragraph (2), by striking “ADDITIONAL FUNDING” and inserting “DISCRETIONARY FUNDING FOR FISCAL YEARS 2009 THROUGH 2012”; and

(C) by adding at the end the following:

“(3) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 2013.”.

(2) SPECIALTY CROP RESEARCH INITIATIVE.—Section 412(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7632(h)) is amended—

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “MANDATORY FUNDING FOR FISCAL YEARS 2008 THROUGH 2012”;

(B) in the heading of paragraph (2), by inserting “FOR FISCAL YEARS 2008 THROUGH 2012” after “APPROPRIATIONS”;

(C) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(D) by inserting after paragraph (2) the following:

“(3) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$100,000,000 for fiscal year 2013.”.

(3) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—Section 7405(h) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f(h)) is amended—

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “MANDATORY FUNDING FOR FISCAL YEARS 2009 THROUGH 2012”;

(B) in the heading of paragraph (2), by inserting “FOR FISCAL YEARS 2008 THROUGH 2012” after “APPROPRIATIONS”; and

(C) by adding at the end the following:

“(3) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$30,000,000 for fiscal year 2013.”.

(f) ENERGY PROGRAMS.—

(1) BIOBASED MARKETS PROGRAM.—Section 9002(h) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C.

Appropriation  
authorization.

Appropriation  
authorization.

Appropriation  
authorization.

8102(h)) is amended in paragraph (2) by striking “2012” and inserting “2013”.

(2) BIOREFINERY ASSISTANCE.—Section 9003(h)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103(h)(2)) is amended by striking “2012” and inserting “2013”.

(3) REPOWERING ASSISTANCE.—Section 9004(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8104(d)(2)) is amended by striking “2012” and inserting “2013”.

(4) BIOENERGY PROGRAM FOR ADVANCED BIOFUELS.—Section 9005(g)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8105(g)(2)) is amended by striking “2012” and inserting “2013”.

(5) BIODIESEL FUEL EDUCATION PROGRAM.—Section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106) is amended by striking subsection (d) and inserting the following:

“(d) FUNDING.—

“(1) FISCAL YEARS 2009 THROUGH 2012.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$1,000,000 for each of fiscal years 2008 through 2012.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000 for fiscal year 2013.”.

(6) RURAL ENERGY FOR AMERICA PROGRAM.—Section 9007(g)(3) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107(g)(3)) is amended by striking “2012” and inserting “2013”.

(7) BIOMASS RESEARCH AND DEVELOPMENT.—Section 9008(h)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8108(h)(2)) is amended by striking “2012” and inserting “2013”.

(8) RURAL ENERGY SELF-SUFFICIENCY INITIATIVE.—Section 9009(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8109(d)) is amended by striking “2012” and inserting “2013”.

(9) FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.—Section 9010(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8110(b)) is amended in paragraphs (1)(A) and (2)(A) by striking “2012” each place it appears and inserting “2013”.

(10) BIOMASS CROP ASSISTANCE PROGRAM.—Section 9011(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8111(f)) is amended—

(A) by striking “(f) FUNDING.—Of the funds” and inserting “(f) FUNDING.—

“(1) FISCAL YEARS 2008 THROUGH 2012.—Of the funds”; and

(B) adding at the end the following:

“(2) FISCAL YEAR 2013.—

“(A) IN GENERAL.—There is authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2013.

“(B) MULTIYEAR CONTRACTS.—For each multiyear contract entered into by the Secretary during a fiscal year under this paragraph, the Secretary shall ensure that sufficient funds are obligated from the amounts appropriated

Appropriation  
authorization.

for that fiscal year to fully cover all payments required by the contract for all years of the contract.”.

(11) FOREST BIOMASS FOR ENERGY.—Section 9012(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8112(d)) is amended by striking “2012” and inserting “2013”.

(12) COMMUNITY WOOD ENERGY PROGRAM.—Section 9013(e) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8113(e)) is amended by striking “2012” and inserting “2013”.

(g) HORTICULTURE AND ORGANIC AGRICULTURE PROGRAMS.—

(1) FARMERS MARKET PROMOTION PROGRAM.—Section 6(e) of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005(e)) is amended—

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “FISCAL YEARS 2008 THROUGH 2012”;

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following:

“(2) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2013.”;

(D) in paragraph (3) (as so redesignated), by striking “paragraph (1)” and inserting “paragraph (1) or (2)”; and

(E) in paragraph (5) (as so redesignated), by striking “paragraph (2)” and inserting “paragraph (3)”.

(2) NATIONAL CLEAN PLANT NETWORK.—Section 10202(e) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 7761(e)) is amended—

(A) by striking “Of the funds” and inserting the following:

“(1) FISCAL YEARS 2009 THROUGH 2012.—Of the funds”; and

(B) by adding at the end the following:

“(2) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out the Program \$5,000,000 for fiscal year 2013.”.

(3) NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.—Section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523) is amended—

(A) in subsection (a), by striking “Of funds of the Commodity Credit Corporation, the Secretary of Agriculture (acting through the Agricultural Marketing Service) shall use \$22,000,000 for fiscal year 2008, to remain available until expended, to” and inserting “The Secretary of Agriculture (acting through the Agricultural Marketing Service) shall”; and

(B) by adding at the end the following:

“(d) FUNDING.—

“(1) MANDATORY FUNDING FOR FISCAL YEARS 2008 THROUGH 2012.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$22,000,000 for the period of fiscal years 2008 through 2012.

“(2) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$22,000,000 for fiscal year 2013, to remain available until expended.”.

(4) ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.—Section 7407(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5925c(d)) is amended—

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authorization.

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “MANDATORY FUNDING THROUGH FISCAL YEAR 2012”;

(B) in the heading of paragraph (2), by striking “ADDITIONAL FUNDING” and inserting “DISCRETIONARY FUNDING FOR FISCAL YEARS 2008 THROUGH 2012”; and

(C) by adding at the end the following:

“(3) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$5,000,000, to remain available until expended.”.

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authorization.

(h) OUTREACH AND TECHNICAL ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.—Section 2501(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(4)) is amended—

(1) in the heading of subparagraph (A), by striking “IN GENERAL” and inserting “FISCAL YEARS 2009 THROUGH 2012”;

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(3) by inserting after subparagraph (A) the following:

“(B) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2013.”;

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(4) in subparagraph (C) (as so redesignated), by striking “subparagraph (A)” and inserting “subparagraph (A) or (B)”;

(5) in subparagraph (D) (as so redesignated), by striking “subparagraph (A)” and inserting “subparagraph (A) or (B)”.

(i) EXCEPTIONS.—

(1) IN GENERAL.—Subsection (a) does not apply with respect to mandatory funding provided by programs authorized by provisions of law amended by subsections (d) through (h).

(2) CONSERVATION.—Subsection (a) does not apply with respect to the programs specified in paragraphs (3)(B), (4), (6), and (7) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)), relating to the conservation stewardship program, farmland protection program, environmental quality incentives program, and wildlife habitat incentives program, for which program authority was extended through fiscal year 2014 by section 716 of Public Law 112–55 (125 Stat. 582).

(3) TRADE.—Subsection (a) does not apply with respect to the following provisions of law:

(A) Section 3206 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 1726c) relating to the use of Commodity Credit Corporation funds to support local and regional food aid procurement projects.

(B) Section 3107(l)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1(l)(1)) relating to the use of Commodity Credit Corporation funds to carry out the McGovern-Dole International Food for Education and Child Nutrition Program.

(4) SURVEY OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.—Subsection (a) does not apply with respect to section 4307 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1893) relating to the use of Commodity Credit Corporation funds for a survey and report regarding foods purchased by school food authorities.

(5) **RURAL DEVELOPMENT.**—Subsection (a) does not apply with respect to the following provisions of law:

(A) Section 379E(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008s(d)(1)), relating to funding of the rural microentrepreneur assistance program.

(B) Section 6029 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1955) relating to funding of pending rural development loan and grant applications.

(C) Section 231(b)(7)(A) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1632a(b)(7)(A)), relating to funding of value-added agricultural market development program grants.

(D) Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) relating to the use of Commodity Credit Corporation funds for the National Sheep Industry Improvement Center.

(6) **MARKET LOSS ASSISTANCE FOR ASPARAGUS PRODUCERS.**—Subsection (a) does not apply with respect to section 10404(d) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2112).

(7) **SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**—Subsection (a) does not apply with respect to section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and title IX of the Trade Act of 1974 (19 U.S.C. 2497 et seq.) relating to the provision of supplemental agricultural disaster assistance.

(8) **PIGFORD CLAIMS.**—Subsection (a) does not apply with respect to section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209) relating to determination on the merits of Pigford claims.

(9) **HEARTLAND, HABITAT, HARVEST, AND HORTICULTURE ACT OF 2008.**—Subsection (a) does not apply with respect to title XV of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2246), and amendments made by that title, relating to the provision of supplemental agricultural disaster assistance under title IX of the Trade Act of 1974 (19 U.S.C. 2497 et seq.), certain revenue and tax provisions, and certain trade benefits and other matters.

(j) **EFFECTIVE DATE.**—Except as otherwise provided in this section, this section and the amendments made by this section take effect on the earlier of—

- (1) the date of the enactment of this Act; or
- (2) September 30, 2012.

#### **SEC. 702. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

(a) **IN GENERAL.**—Section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) is amended—

(1) in subsection (a)(5)—

(A) in the matter preceding clause (i), by striking the first “under”; and

(B) by redesignating clauses (i) through (iii) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately;

(2) in subsection (c)—

(A) in paragraph (1), by striking “use such sums as are necessary from the Trust Fund to”; and

(B) by adding at the end the following:

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$80,000,000 for each of fiscal years 2012 and 2013.”;

(3) in subsection (d)—

(A) in paragraph (2), by striking “use such sums as are necessary from the Trust Fund to”; and

(B) by adding at the end the following:

“(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$400,000,000 for each of fiscal years 2012 and 2013.”;

(4) in subsection (e)—

(A) in paragraph (1), by striking “use up to \$50,000,000 per year from the Trust Fund to”; and

(B) by adding at the end the following:

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$50,000,000 for each of fiscal years 2012 and 2013.”;

(5) in subsection (f)—

(A) in paragraph (2)(A), by striking “use such sums as are necessary from the Trust Fund to”; and

(B) by adding at the end the following:

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2012 and 2013.”; and

(6) in subsection (i), by inserting “or, in the case of subsections (c) through (f), September 30, 2013” after “2011.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2012. 7 USC 1531 note.

## TITLE VIII—MISCELLANEOUS PROVISIONS

### SEC. 801. STRATEGIC DELIVERY SYSTEMS.

(a) IN GENERAL.—Paragraph 3 of section 495(c) of title 10, United States Code,, as added by section 1035 of the National Defense Authorization Act for Fiscal Year 2013, is amended—

(1) by striking “that” before “the Russian Federation” and inserting “whether”; and

(2) by inserting “strategic” before “arms control obligations”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2013. 10 USC 495 note.

### SEC. 802. NO COST OF LIVING ADJUSTMENT IN PAY OF MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2013. 2 USC 31 note.

## TITLE IX—BUDGET PROVISIONS

### Subtitle A—Modifications of Sequestration

#### SEC. 901. TREATMENT OF SEQUESTER.

2 USC 901a. (a) ADJUSTMENT.—Section 251A(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (C), by striking “and” after the semicolon;

(2) in subparagraph (D), by striking the period and inserting “; and”; and

(3) by inserting at the end the following:

“(E) for fiscal year 2013, reducing the amount calculated under subparagraphs (A) through (D) by \$24,000,000,000.”.

(b) AFTER SESSION SEQUESTER.—Notwithstanding any other provision of law, the fiscal year 2013 spending reductions required by section 251(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be evaluated and implemented on March 27, 2013.

(c) POSTPONEMENT OF BUDGET CONTROL ACT SEQUESTER FOR FISCAL YEAR 2013.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (4), by striking “January 2, 2013” and inserting “March 1, 2013”; and

(2) in paragraph (7)(A), by striking “January 2, 2013” and inserting “March 1, 2013”.

(d) ADDITIONAL ADJUSTMENTS.—

2 USC 901. (1) SECTION 251.—Paragraphs (2) and (3) of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:

“(2) for fiscal year 2013—

“(A) for the security category, as defined in section 250(c)(4)(B), \$684,000,000,000 in budget authority; and

“(B) for the nonsecurity category, as defined in section 250(c)(4)(A), \$359,000,000,000 in budget authority;

“(3) for fiscal year 2014—

“(A) for the security category, \$552,000,000,000 in budget authority; and

“(B) for the nonsecurity category, \$506,000,000,000 in budget authority;”.

Effective date.  
President.  
Applicability.  
2 USC 901a note.

(e) 2013 SEQUESTER.—On March 1, 2013, the President shall order a sequestration for fiscal year 2013 pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by this section, pursuant to which, only for the purposes of the calculation in sections 251A(5)(A), 251A(6)(A), and 251A(7)(A), section 251(c)(2) shall be applied as if it read as follows:

“(2) For fiscal year 2013—

“(A) for the security category, \$544,000,000,000 in budget authority; and

“(B) for the nonsecurity category, \$499,000,000,000 in budget authority;”.



**SEC. 902. AMOUNTS IN APPLICABLE RETIREMENT PLANS MAY BE TRANSFERRED TO DESIGNATED ROTH ACCOUNTS WITHOUT DISTRIBUTION.**

(a) **IN GENERAL.**—Section 402A(c)(4) is amended by adding at the end the following:

“(E) **SPECIAL RULE FOR CERTAIN TRANSFERS.**—In the case of an applicable retirement plan which includes a qualified Roth contribution program—

“(i) the plan may allow an individual to elect to have the plan transfer any amount not otherwise distributable under the plan to a designated Roth account maintained for the benefit of the individual,

“(ii) such transfer shall be treated as a distribution to which this paragraph applies which was contributed in a qualified rollover contribution (within the meaning of section 408A(e)) to such account, and

“(iii) the plan shall not be treated as violating the provisions of section 401(k)(2)(B)(i), 403(b)(7)(A)(i), 403(b)(11), or 457(d)(1)(A), or of section 8433 of title 5, United States Code, solely by reason of such transfer.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to transfers after December 31, 2012, in taxable years ending after such date.

26 USC 402A.  
note.

## **Subtitle B—Budgetary Effects**

**SEC. 911. BUDGETARY EFFECTS.**

(a) **PAYGO SCORECARD.**—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) **SENATE PAYGO SCORECARD.**—The budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 201 of S. Con. Res. 21 (110th Congress).

Approved January 2, 2013.

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**LEGISLATIVE HISTORY—H.R. 8:**

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Aug. 1, considered and passed House.

Dec. 31, considered and passed Senate, amended.

Vol. 158 (2013): Jan. 1, House concurred in Senate amendments.



Public Law 112–241  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 1339]

To designate the City of Salem, Massachusetts, as the Birthplace of the National Guard of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

32 USC 101 note.

**SECTION 1. OFFICIAL DESIGNATION OF SALEM, MASSACHUSETTS, AS THE BIRTHPLACE OF THE NATIONAL GUARD OF THE UNITED STATES.**

(a) FINDINGS.—Congress makes the following findings:

(1) In 1629, Captain John Endicott organized the first militia in the Massachusetts Bay Colony in Salem.

(2) The colonists had adopted the English militia system, which required all males between the ages of 16 and 60 to possess arms and participate in the defense of the community.

(3) In 1636, the Massachusetts General Court ordered the organization of three militia regiments, designated as the North, South, and East regiments.

(4) These regiments drilled once a week and provided guard details each evening to sound the alarm in case of attack.

(5) The East Regiment, the predecessor of the 101st Engineer Battalion, assembled as a regiment for the first time in 1637 on the Salem Common, marking the beginning of the Massachusetts National Guard and the National Guard of the United States.

(6) Since 1785, Salem's own Second Corps of Cadets (101st and 102nd Field Artillery) has celebrated the anniversary of that first muster.

(7) As the policy contained in section 102 of title 32, United States Code, clearly expresses, the National Guard continues its historic mission of providing units for the first line defense of the United States and current missions throughout the world.

(8) The designation of the City of Salem, Massachusetts, as the Birthplace of the National Guard of the United States will contribute positively to tourism and economic development in the city, create jobs, and instill pride in both the local and State communities.

(b) DESIGNATION OF SALEM, MASSACHUSETTS, AS NATIONAL GUARD BIRTHPLACE.—In light of the findings made in subsection (a), the City of Salem, Massachusetts, is hereby designated as the Birthplace of the National Guard of the United States.

(c) RESPONSIBILITIES.—

(1) MILITARY CEREMONIAL SUPPORT.—The Chief of the National Guard Bureau, in conjunction with the Secretary of

the Army, the Secretary of the Air Force, the Council of Governors, and the Adjutant General of the State of Massachusetts, shall provide military ceremonial support at the dedication of any monument, plaque, or other form of official recognition placed in Salem, Massachusetts, celebrating the designation of Salem, Massachusetts, as the Birthplace of the National Guard of the United States.

(2) FUNDING SOURCE.—Federal funds may not be used to design, procure, prepare, install, or maintain any monument, plaque, or other form of official recognition placed in Salem, Massachusetts, celebrating the designation of Salem, Massachusetts, as the Birthplace of the National Guard of the United States, but the Adjutant General of the State of Massachusetts may accept and expend contributions of non-Federal funds for this purpose.

Approved January 10, 2013.

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LEGISLATIVE HISTORY—H.R. 1339:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Mar. 28, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 112–242  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 1845]

To provide a demonstration project providing Medicare coverage for in-home administration of intravenous immune globulin (IVIG) and to amend title XVIII of the Social Security Act with respect to the application of Medicare secondary payer rules for certain claims.

Medicare IVIG  
Access and  
Strengthening  
Medicare and  
Repaying  
Taxpayers  
Act of 2012.  
42 USC 1305  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Medicare IVIG Access and Strengthening Medicare and Repaying Taxpayers Act of 2012”.

**TITLE I—MEDICARE IVIG ACCESS**

42 USC 1395f  
note.

**SEC. 101. MEDICARE PATIENT IVIG ACCESS DEMONSTRATION PROJECT.**

(a) **ESTABLISHMENT.**—The Secretary shall establish and implement a demonstration project under part B of title XVIII of the Social Security Act to evaluate the benefits of providing payment for items and services needed for the in-home administration of intravenous immune globulin for the treatment of primary immune deficiency diseases.

(b) **DURATION AND SCOPE.**—

(1) **DURATION.**—Beginning not later than one year after the date of enactment of this Act, the Secretary shall conduct the demonstration project for a period of 3 years.

(2) **SCOPE.**—The Secretary shall enroll not more than 4,000 Medicare beneficiaries who have been diagnosed with primary immunodeficiency disease for participation in the demonstration project. A Medicare beneficiary may participate in the demonstration project on a voluntary basis and may terminate participation at any time.

(c) **COVERAGE.**—Except as otherwise provided in this section, items and services for which payment may be made under the demonstration program shall be treated and covered under part B of title XVIII of the Social Security Act in the same manner as similar items and services covered under such part.

(d) **PAYMENT.**—The Secretary shall establish a per visit payment amount for items and services needed for the in-home administration of intravenous immune globulin based on the national per visit low-utilization payment amount under the prospective payment system for home health services established under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

Effective date.  
Time period.

(e) **WAIVER AUTHORITY.**—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary to carry out the demonstration project.

(f) **STUDY AND REPORT TO CONGRESS.**—

(1) **INTERIM EVALUATION AND REPORT.**—Not later than three years after the date of enactment of this Act, the Secretary shall submit to Congress a report that contains an interim evaluation of the impact of the demonstration project on access for Medicare beneficiaries to items and services needed for the in-home administration of intravenous immune globin.

(2) **FINAL EVALUATION AND REPORT.**—Not later than one year after the date of completion of the demonstration project, the Secretary shall submit to Congress a report that contains the following:

(A) A final evaluation of the impact of the demonstration project on access for Medicare beneficiaries to items and services needed for the in-home administration of intravenous immune globin.

(B) An analysis of the appropriateness of implementing a new methodology for payment for intravenous immune globulins in all care settings under part B of title XVIII of the Social Security Act (42 U.S.C. 1395k et seq.).

(C) An update to the report entitled “Analysis of Supply, Distribution, Demand, and Access Issues Associated with Immune Globulin Intravenous (IGIV)”, issued in February 2007 by the Office of the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services.

(g) **FUNDING.**—There shall be made available to the Secretary to carry out the demonstration project not more than \$45,000,000 from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t).

(h) **DEFINITIONS.**—In this section:

(1) **DEMONSTRATION PROJECT.**—The term “demonstration project” means the demonstration project conducted under this section.

(2) **MEDICARE BENEFICIARY.**—The term “Medicare beneficiary” means an individual who is enrolled for benefits under part B of title XVIII of the Social Security Act.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

## **TITLE II—STRENGTHENING MEDICARE SECONDARY PAYER RULES**

### **SEC. 201. DETERMINATION OF REIMBURSEMENT AMOUNT THROUGH CMS WEBSITE TO IMPROVE PROGRAM EFFICIENCY.**

Section 1862(b)(2)(B) of the Social Security Act (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

“(vii) **USE OF WEBSITE TO DETERMINE FINAL CONDITIONAL REIMBURSEMENT AMOUNT.**—

“(I) **NOTICE TO SECRETARY OF EXPECTED DATE OF A SETTLEMENT, JUDGMENT, ETC.**—In the case of a payment made by the Secretary pursuant to clause (i) for items and services provided to

the claimant, the claimant or applicable plan (as defined in paragraph (8)(F)) may at any time beginning 120 days before the reasonably expected date of a settlement, judgment, award, or other payment, notify the Secretary that a payment is reasonably expected and the expected date of such payment.

“(II) SECRETARIAL PROVIDING ACCESS TO CLAIMS INFORMATION THROUGH A WEBSITE.—The Secretary shall maintain and make available to individuals to whom items and services are furnished under this title (and to authorized family or other representatives recognized under regulations and to an applicable plan which has obtained the consent of the individual) access to information on the claims for such items and services (including payment amounts for such claims), including those claims that relate to a potential settlement, judgment, award, or other payment. Such access shall be provided to an individual, representative, or plan through a website that requires a password to gain access to the information. The Secretary shall update the information on claims and payments on such website in as timely a manner as possible but not later than 15 days after the date that payment is made. Information related to claims and payments subject to the notice under subclause (I) shall be maintained and made available consistent with the following:

“(aa) The information shall be as complete as possible and shall include provider or supplier name, diagnosis codes (if any), dates of service, and conditional payment amounts.

“(bb) The information accurately identifies those claims and payments that are related to a potential settlement, judgment, award, or other payment to which the provisions of this subsection apply.

“(cc) The website provides a method for the receipt of secure electronic communications with the individual, representative, or plan involved.

“(dd) The website provides that information is transmitted from the website in a form that includes an official time and date that the information is transmitted.

“(ee) The website shall permit the individual, representative, or plan to download a statement of reimbursement amounts (in this clause referred to as a ‘statement of reimbursement amount’) on payments for claims under this title relating to a potential settlement, judgment, award, or other payment.

“(III) USE OF TIMELY WEB DOWNLOAD AS BASIS FOR FINAL CONDITIONAL AMOUNT.—If an individual

Deadline.

(or other claimant or applicable plan with the consent of the individual) obtains a statement of reimbursement amount from the website during the protected period as defined in subclause (V) and the related settlement, judgment, award or other payment is made during such period, then the last statement of reimbursement amount that is downloaded during such period and within 3 business days before the date of the settlement, judgment, award, or other payment shall constitute the final conditional amount subject to recovery under clause (ii) related to such settlement, judgment, award, or other payment.

“(IV) RESOLUTION OF DISCREPANCIES.—If the individual (or authorized representative) believes there is a discrepancy with the statement of reimbursement amount, the Secretary shall provide a timely process to resolve the discrepancy. Under such process the individual (or representative) must provide documentation explaining the discrepancy and a proposal to resolve such discrepancy. Within 11 business days after the date of receipt of such documentation, the Secretary shall determine whether there is a reasonable basis to include or remove claims on the statement of reimbursement. If the Secretary does not make such determination within the 11 business-day period, then the proposal to resolve the discrepancy shall be accepted. If the Secretary determines within such period that there is not a reasonable basis to include or remove claims on the statement of reimbursement, the proposal shall be rejected. If the Secretary determines within such period that there is a reasonable basis to conclude there is a discrepancy, the Secretary must respond in a timely manner by agreeing to the proposal to resolve the discrepancy or by providing documentation showing with good cause why the Secretary is not agreeing to such proposal and establishing an alternate discrepancy resolution. In no case shall the process under this subclause be treated as an appeals process or as establishing a right of appeal for a statement of reimbursement amount and there shall be no administrative or judicial review of the Secretary’s determinations under this subclause.

Proposal.

Time period.

“(V) PROTECTED PERIOD.—In subclause (III), the term ‘protected period’ means, with respect to a settlement, judgment, award or other payment relating to an injury or incident, the portion (if any) of the period beginning on the date of notice under subclause (I) with respect to such settlement, judgment, award, or other payment that is after the end of a Secretarial response period beginning on the date of such notice to the Secretary. Such Secretarial response period shall be a period of 65 days, except that such period may

Definition.

	be extended by the Secretary for a period of an additional 30 days if the Secretary determines that additional time is required to address claims for which payment has been made. Such Secretarial response period shall be extended and shall not include any days for any part of which the Secretary determines (in accordance with regulations) that there was a failure in the claims and payment posting system and the failure was justified due to exceptional circumstances (as defined in such regulations). Such regulations shall define exceptional circumstances in a manner so that not more than 1 percent of the repayment obligations under this subclause would qualify as exceptional circumstances.
Regulations. Deadline.	“(VI) EFFECTIVE DATE.—The Secretary shall promulgate final regulations to carry out this clause not later than 9 months after the date of the enactment of this clause.
Definition.	“(VII) WEBSITE INCLUDING SUCCESSOR TECHNOLOGY.—In this clause, the term ‘website’ includes any successor technology.
Regulations.	“(viii) RIGHT OF APPEAL FOR SECONDARY PAYER DETERMINATIONS RELATING TO LIABILITY INSURANCE (INCLUDING SELF-INSURANCE), NO FAULT INSURANCE, AND WORKERS’ COMPENSATION LAWS AND PLANS.—The Secretary shall promulgate regulations establishing a right of appeal and appeals process, with respect to any determination under this subsection for a payment made under this title for an item or service for which the Secretary is seeking to recover conditional payments from an applicable plan (as defined in paragraph (8)(F)) that is a primary plan under subsection (A)(ii), under which the applicable plan involved, or an attorney, agent, or third party administrator on behalf of such plan, may appeal such determination. The individual furnished such an item or service shall be notified of the plan’s intent to appeal such determination”.
Notification.	

#### SEC. 202. FISCAL EFFICIENCY AND REVENUE NEUTRALITY.

(a) IN GENERAL.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended—

(1) in paragraph (2)(B)(ii), by striking “A primary plan” and inserting “Subject to paragraph (9), a primary plan”; and

(2) by adding at the end the following new paragraph:

“(9) EXCEPTION.—

“(A) IN GENERAL.—Clause (ii) of paragraph (2)(B) and any reporting required by paragraph (8) shall not apply with respect to any settlement, judgment, award, or other payment by an applicable plan arising from liability insurance (including self-insurance) and from alleged physical trauma-based incidents (excluding alleged ingestion, implantation, or exposure cases) constituting a total payment obligation to a claimant of not more than the single threshold amount calculated by the Secretary under subparagraph (B) for the year involved.

“(B) ANNUAL COMPUTATION OF THRESHOLD.—



“(i) IN GENERAL.—Not later than November 15 before each year, the Secretary shall calculate and publish a single threshold amount for settlements, judgments, awards, or other payments for obligations arising from liability insurance (including self-insurance) and for alleged physical trauma-based incidents (excluding alleged ingestion, implantation, or exposure cases) subject to this section for that year. The annual single threshold amount for a year shall be set such that the estimated average amount to be credited to the Medicare trust funds of collections of conditional payments from such settlements, judgments, awards, or other payments arising from liability insurance (including self-insurance) and for such alleged incidents subject to this section shall equal the estimated cost of collection incurred by the United States (including payments made to contractors) for a conditional payment arising from liability insurance (including self-insurance) and for such alleged incidents subject to this section for the year. At the time of calculating, but before publishing, the single threshold amount for a year, the Secretary shall inform, and seek review of, the Comptroller General of the United States with regard to such amount.

Deadlines.  
Publication.

Review.

“(ii) PUBLICATION.—The Secretary shall include, as part of such publication for a year—

“(I) the estimated cost of collection incurred by the United States (including payments made to contractors) for a conditional payment arising from liability insurance (including self-insurance) and for such alleged incidents; and

“(II) a summary of the methodology and data used by the Secretary in computing such threshold amount and such cost of collection.

“(C) EXCLUSION OF ONGOING EXPENSES.—For purposes of this paragraph and with respect to a settlement, judgment, award, or other payment not otherwise addressed in clause (ii) of paragraph (2)(B) that includes ongoing responsibility for medical payments (excluding settlements, judgments, awards, or other payments made by a workers’ compensation law or plan or no fault insurance), the amount utilized for calculation of the threshold described in subparagraph (A) shall include only the cumulative value of the medical payments made under this title.

“(D) REPORT TO CONGRESS.—Not later than November 15 before each year, the Secretary shall submit to the Congress a report on the single threshold amount for settlements, judgments, awards, or other payments for conditional payment obligations arising from liability insurance (including self-insurance) and alleged incidents described in subparagraph (A) for that year and on the establishment and application of similar thresholds for such payments for conditional payment obligations arising from worker compensation cases and from no fault insurance cases subject to this section for the year. For each such report, the Secretary shall—

“(i) calculate the threshold amount by using the methodology applicable to certain liability claims described in subparagraph (B); and

“(ii) include a summary of the methodology and data used in calculating each threshold amount and the amount of estimated savings under this title achieved by the Secretary implementing each such threshold.”.

42 USC 1395y  
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to years beginning with 2014.

#### **SEC. 203. REPORTING REQUIREMENT.**

Section 1862(b)(8) of the Social Security Act (42 U.S.C. 1395y(b)(8)) is amended—

(1) in the first sentence of subparagraph (E)(i), by striking “shall be subject” and all that follows through the end of the sentence and inserting the following: “may be subject to a civil money penalty of up to \$1,000 for each day of noncompliance with respect to each claimant.”; and

(2) by adding at the end the following new subparagraph:

“(I) **REGULATIONS.**—Not later than 60 days after the date of the enactment of this subparagraph, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for the specification of practices for which sanctions will and will not be imposed under subparagraph (E), including not imposing sanctions for good faith efforts to identify a beneficiary pursuant to this paragraph under an applicable entity responsible for reporting information. After considering the proposals so submitted, the Secretary, in consultation with the Attorney General, shall publish in the Federal Register, including a 60-day period for comment, proposed specified practices for which such sanctions will and will not be imposed. After considering any public comments received during such period, the Secretary shall issue final rules specifying such practices.”.

Deadline.  
Notice.  
Federal Register,  
publications.  
Time period.

#### **SEC. 204. USE OF SOCIAL SECURITY NUMBERS AND OTHER IDENTIFYING INFORMATION IN REPORTING.**

Section 1862(b)(8)(B) of the Social Security Act (42 U.S.C. 1395y(b)(8)(B)) is amended by adding at the end (after and below clause (ii)) the following:

“Not later than 18 months after the date of enactment of this sentence, the Secretary shall modify the reporting requirements under this paragraph so that an applicable plan in complying with such requirements is permitted but not required to access or report to the Secretary beneficiary social security account numbers or health identification claim numbers, except that the deadline for such modification shall be extended by one or more periods (specified by the Secretary) of up to 1 year each if the Secretary notifies the committees of jurisdiction of the House of Representatives and of the Senate that the prior deadline for such modification, without such extension, threatens patient privacy or the integrity of the secondary payer program under this subsection. Any such deadline extension notice shall include information on the progress being

Deadline.  
Time period.  
Notification.

made in implementing such modification and the anticipated implementation date for such modification.”.

**SEC. 205. STATUTE OF LIMITATIONS.**

(a) **IN GENERAL.**—Section 1862(b)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(2)(B)(iii)) is amended by adding at the end the following new sentence: “An action may not be brought by the United States under this clause with respect to payment owed unless the complaint is filed not later than 3 years after the date of the receipt of notice of a settlement, judgment, award, or other payment made pursuant to paragraph (8) relating to such payment owed.”.

Deadline.  
Notification.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to actions brought and penalties sought on or after 6 months after the date of the enactment of this Act.

Applicability.  
42 USC 1395y  
note.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 1845:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 19, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 112–243  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 2338]

To designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the “Harry T. and Harriette Moore Post Office”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. HARRY T. AND HARRIETTE MOORE POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, shall be known and designated as the “Harry T. and Harriette Moore Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Harry T. and Harriette Moore Post Office”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 2338:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Nov. 28, considered and passed House.

Dec. 27, considered and passed Senate.



Public Law 112–244  
112th Congress

An Act

To authorize the Secretary of the Interior to allow the storage and conveyance of nonproject water at the Norman project in Oklahoma, and for other purposes.

Jan. 10, 2013  
[H.R. 3263]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Lake Thunderbird Efficient Use Act of 2012”.

Lake  
Thunderbird  
Efficient Use Act  
of 2012.

**SEC. 2. NORMAN PROJECT, OKLAHOMA.**

Public Law 86–529 (74 Stat. 225) is amended by adding at the end the following:

**“SEC. 10. LAKE THUNDERBIRD.**

“(a) IN GENERAL.—If the Secretary of the Interior determines that there is enough excess capacity in the reservoir on the Little River known as ‘Lake Thunderbird’ that nonproject water can be stored in Lake Thunderbird, the Secretary of the Interior may, in accordance with the reclamation laws, amend an existing contract, or enter into 1 or more new contracts, with the Central Oklahoma Master Conservancy District for the storage and conveyance of nonproject water in Norman project facilities to augment municipal and industrial supplies for the cities served by the Central Oklahoma Master Conservancy District.

“(b) COSTS.—If any additional infrastructure is needed to enable the storage and conveyance of non-project water in Norman project facilities under subsection (a) or any other provision of this Act, the costs of constructing, operating, and maintaining the infrastructure shall be the responsibility of the non-Federal entity contracting with the Secretary of the Interior for storage and conveyance rights.”.

**SEC. 3. EFFECT.**

Nothing in this Act or an amendment made by this Act authorizes any expansion of the storage capacity of Lake Thunderbird.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 3263 (S. 802):**

HOUSE REPORTS: No. 112–442 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–117 (Comm. on Energy and Natural Resources) accompanying S. 802.

CONGRESSIONAL RECORD, Vol. 158 (2012):

June 5, considered and passed House.

Dec. 30, considered and passed Senate.



Public Law 112–245  
112th Congress

An Act

To establish Pinnacles National Park in the State of California as a unit of the National Park System, and for other purposes.

Jan. 10, 2013  
[H.R. 3641]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Pinnacles National Park Act”.

Pinnacles  
National Park  
Act.  
16 USC 410ooo  
note.

**SEC. 2. FINDINGS.**

16 USC 410ooo.

The Congress makes the following findings:

(1) Pinnacles National Monument was established by Presidential Proclamation 796 on January 16, 1908, for the purposes of protecting its rock formations, and expanded by Presidential Proclamation 1660 of May 7, 1923; Presidential Proclamation 1704 of July 2, 1924; Presidential Proclamation 1948 of April 13, 1931; Presidential Proclamation 2050 of July 11, 1933; Presidential Proclamation 2528 of December 5, 1941; Public Law 94–567; and Presidential Proclamation 7266 of January 11, 2000.

(2) While the extraordinary geology of Pinnacles National Monument has attracted and enthralled visitors for well over a century, the expanded Monument now serves a critical role in protecting other important natural and cultural resources and ecological processes. This expanded role merits recognition through legislation.

(3) Pinnacles National Monument provides the best remaining refuge for floral and fauna species representative of the central California coast and Pacific coast range, including 32 species holding special Federal or State status, not only because of its multiple ecological niches but also because of its long-term protected status with 14,500 acres of Congressionally designated wilderness.

(4) Pinnacles National Monument encompasses a unique blend of California heritage from prehistoric and historic Native Americans to the arrival of the Spanish, followed by 18th and 19th century settlers, including miners, cowboys, vaqueros, ranchers, farmers, and homesteaders.

(5) Pinnacles National Monument is the only National Park System site within the ancestral home range of the California Condor. The reintroduction of the condor to its traditional range in California is important to the survival of the species, and as a result, the scientific community with centers at the Los Angeles Zoo and San Diego Zoo in California and Buenos Aires Zoo in Argentina looks to Pinnacles National Monument as

a leader in California Condor recovery, and as an international partner for condor recovery in South America.

(6) The preservation, enhancement, economic and tourism potential and management of the central California coast and Pacific coast range’s important natural and cultural resources requires cooperation and partnerships among local property owners, Federal, State, and local government entities and the private sector.

16 USC  
410ooo–1.

### **SEC. 3. ESTABLISHMENT OF PINNACLES NATIONAL PARK.**

(a) **ESTABLISHMENT AND PURPOSE.**—There is hereby established Pinnacles National Park in the State of California for the purposes of—

(1) preserving and interpreting for the benefit of future generations the chaparral, grasslands, blue oak woodlands, and majestic valley oak savanna ecosystems of the area, the area’s geomorphology, riparian watersheds, unique flora and fauna, and the ancestral and cultural history of native Americans, settlers and explorers; and

(2) interpreting the recovery program for the California Condor and the international significance of the program.

(b) **BOUNDARIES.**—The boundaries of Pinnacles National Park are as generally depicted on the map entitled “Proposed: Pinnacles National Park Designation Change”, numbered 114/111,724, and dated December 2011. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) **ABOLISHMENT OF CURRENT PINNACLES NATIONAL MONUMENT.**—

(1) **IN GENERAL.**—In light of the establishment of Pinnacles National Park, Pinnacles National Monument is hereby abolished and the lands and interests therein are incorporated within and made part of Pinnacles National Park. Any funds available for purposes of the monument shall be available for purposes of the park.

16 USC 1132  
note.

(2) **REFERENCES.**—Any references in law (other than in this Act), regulation, document, record, map or other paper of the United States to Pinnacles National Monument shall be considered a reference to Pinnacles National Park.

(d) **ADMINISTRATION.**—The Secretary of the Interior shall administer Pinnacles National Park in accordance with this Act and laws generally applicable to units of the National Park System, including the National Park Service Organic Act (16 U.S.C. 1, 2–4).

### **SEC. 4. REDESIGNATION OF PINNACLES WILDERNESS AS HAIN WILDERNESS.**

Subsection (i) of the first section of Public Law 94–567 (90 Stat. 2693; 16 U.S.C. 1132 note) is amended by striking “Pinnacles Wilderness” and inserting “Hain Wilderness”. Any reference in a law, map, regulation, document, paper, or other record of the United



States to the Pinnacles Wilderness shall be deemed to be a reference to the Hain Wilderness.

Approved January 10, 2013.

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LEGISLATIVE HISTORY—H.R. 3641:

HOUSE REPORTS: No. 112–626 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 31, considered and passed House.

Dec. 30, considered and passed Senate.



Public Law 112–246  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 3869]

To designate the facility of the United States Postal Service located at 600 East Capitol Avenue in Little Rock, Arkansas, as the “Sidney ‘Sid’ Sanders McMath Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SIDNEY “SID” SANDERS MCMATH POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 600 East Capitol Avenue in Little Rock, Arkansas, shall be known and designated as the “Sidney ‘Sid’ Sanders McMath Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Sidney ‘Sid’ Sanders McMath Post Office Building”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 3869:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 19, 20, considered and passed House.

Dec. 27, considered and passed Senate.



Public Law 112–247  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 8771 Auburn Folsom Road in Roseville, California, as the “Lance Corporal Victor A. Dew Post Office”.

Jan. 10, 2013  
[H.R. 3892]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LANCE CORPORAL VICTOR A. DEW POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 8771 Auburn Folsom Road in Roseville, California, shall be known and designated as the “Lance Corporal Victor A. Dew Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lance Corporal Victor A. Dew Post Office”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 3892:**

CONGRESSIONAL RECORD, Vol. 158 (2012):  
Nov. 28, considered and passed House.  
Dec. 27, considered and passed Senate.



Public Law 112–248  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 4053]

To intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Improper  
Payments  
Elimination  
and Recovery  
Improvement  
Act of 2012.  
31 USC 3321  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Improper Payments Elimination and Recovery Improvement Act of 2012”.

**SEC. 2. DEFINITIONS.**

In this Act—

(1) the term “agency” means an executive agency as that term is defined under section 102 of title 31, United States Code;

(2) the term “improper payment” has the meaning given that term in section 2(g) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note), as redesignated by section 3(a)(1) of this Act; and

(3) the term “State” means each State of the United States, the District of Columbia, each territory or possession of the United States, and each federally recognized Indian tribe.

**SEC. 3. IMPROVING THE DETERMINATION OF IMPROPER PAYMENTS BY FEDERAL AGENCIES.**

(a) IN GENERAL.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended—

(1) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively;

(2) by inserting after subsection (a) the following:

“(b) IMPROVING THE DETERMINATION OF IMPROPER PAYMENTS.—

“(1) IN GENERAL.—The Director of the Office of Management and Budget shall on an annual basis—

“(A) identify a list of high-priority Federal programs for greater levels of oversight and review—

“(i) in which the highest dollar value or highest rate of improper payments occur; or

“(ii) for which there is a higher risk of improper payments; and

“(B) in coordination with the agency responsible for administering the high-priority program, establish annual targets and semi-annual or quarterly actions for reducing improper payments associated with each high-priority program.

“(2) REPORT ON HIGH-PRIORITY IMPROPER PAYMENTS.—

Deadline.

“(A) IN GENERAL.—Subject to Federal privacy policies and to the extent permitted by law, each agency with a program identified under paragraph (1)(A) on an annual basis shall submit to the Inspector General of that agency, and make available to the public (including availability through the Internet), a report on that program.

Public  
information.  
Web posting.

“(B) CONTENTS.—Each report under this paragraph—

“(i) shall describe—

“(I) any action the agency—

“(aa) has taken or plans to take to recover improper payments; and

“(bb) intends to take to prevent future improper payments; and

“(ii) shall not include any referrals the agency made or anticipates making to the Department of Justice, or any information provided in connection with such referrals.

“(C) PUBLIC AVAILABILITY ON CENTRAL WEBSITE.—The Office of Management and Budget shall make each report submitted under this paragraph available on a central website.

“(D) AVAILABILITY OF INFORMATION TO INSPECTOR GENERAL.—Subparagraph (B)(ii) shall not prohibit any referral or information being made available to an Inspector General as otherwise provided by law.

“(E) ASSESSMENT AND RECOMMENDATIONS.—The Inspector General of each agency that submits a report under this paragraph shall, for each program of the agency that is identified under paragraph (1)(A)—

“(i) review—

“(I) the assessment of the level of risk associated with the program, and the quality of the improper payment estimates and methodology of the agency relating to the program; and

“(II) the oversight or financial controls to identify and prevent improper payments under the program; and

“(ii) submit to Congress recommendations, which may be included in another report submitted by the Inspector General to Congress, for modifying any plans of the agency relating to the program, including improvements for improper payments determination and estimation methodology.”;

(3) in subsection (d) (as redesignated by paragraph (1) of this subsection), by striking “subsection (b)” each place that term appears and inserting “subsection (c)”;

(4) in subsection (e) (as redesignated by paragraph (1) of this subsection), by striking “subsection (b)” and inserting “subsection (c)”;

(5) in subsection (g)(3) (as redesignated by paragraph (1) of this subsection), by inserting “or a Federal employee” after “non-Federal person or entity”.

(b) IMPROVED ESTIMATES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall provide guidance to agencies for improving the estimates of improper payments under the

Deadline.  
Guidance.

Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

(2) GUIDANCE.—Guidance under this subsection shall—

(A) strengthen the estimation process of agencies by setting standards for agencies to follow in determining the underlying validity of sampled payments to ensure amounts being billed, paid, or obligated for payment are proper;

(B) instruct agencies to give the persons or entities performing improper payments estimates access to all necessary payment data, including access to relevant documentation;

(C) explicitly bar agencies from relying on self-reporting by the recipients of agency payments as the sole source basis for improper payments estimates;

(D) require agencies to include all identified improper payments in the reported estimate, regardless of whether the improper payment in question has been or is being recovered;

(E) include payments to employees, including salary, locality pay, travel pay, purchase card use, and other employee payments, as subject to risk assessment and, where appropriate, improper payment estimation; and

(F) require agencies to tailor their corrective actions for the high-priority programs identified under section 2(b)(1)(A) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) to better reflect the unique processes, procedures, and risks involved in each specific program.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The Improper Payments Elimination and Recovery Act of 2010 (Public Law 111-204; 31 U.S.C. 3321 note) is amended—

(1) in section 2(h)(1), by striking “section 2(f)” and all that follows and inserting “section 2(g) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).”; and

(2) in section 3(a)—

(A) in paragraph (1), by striking “section 2(f)” and all that follows and inserting “section 2(g) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).”; and

(B) in paragraph (3)—

(i) by striking “section 2(b)” each place it appears and inserting “section 2(c)”; and

(ii) by striking “section 2(c)” each place it appears and inserting “section 2(d)”.

#### SEC. 4. IMPROPER PAYMENTS INFORMATION.

Section 2(a)(3)(A)(ii) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking “with respect to fiscal years following September 30th of a fiscal year beginning before fiscal year 2013 as determined by the Office of Management and Budget” and inserting “with respect to fiscal year 2014 and each fiscal year thereafter”.

#### SEC. 5. DO NOT PAY INITIATIVE.

(a) PREPAYMENT AND PREAWARD PROCEDURES.—

(1) IN GENERAL.—Each agency shall review prepayment and preaward procedures and ensure that a thorough review

Review.

of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds.

(2) DATABASES.—At a minimum and before issuing any payment and award, each agency shall review as appropriate the following databases to verify eligibility of the payment and award:

(A) The Death Master File of the Social Security Administration.

(B) The General Services Administration's Excluded Parties List System.

(C) The Debt Check Database of the Department of the Treasury.

(D) The Credit Alert System or Credit Alert Interactive Voice Response System of the Department of Housing and Urban Development.

(E) The List of Excluded Individuals/Entities of the Office of Inspector General of the Department of Health and Human Services.

(b) DO NOT PAY INITIATIVE.—

(1) ESTABLISHMENT.—There is established the Do Not Pay Initiative which shall include—

(A) use of the databases described under subsection (a)(2); and

(B) use of other databases designated by the Director of the Office of Management and Budget in consultation with agencies and in accordance with paragraph (2).

(2) OTHER DATABASES.—In making designations of other databases under paragraph (1)(B), the Director of the Office of Management and Budget shall—

(A) consider any database that substantially assists in preventing improper payments; and

(B) provide public notice and an opportunity for comment before designating a database under paragraph (1)(B).

Public  
information.

(3) ACCESS AND REVIEW BY AGENCIES.—For purposes of identifying and preventing improper payments, each agency shall have access to, and use of, the Do Not Pay Initiative to verify payment or award eligibility in accordance with subsection (a) when the Director of the Office of Management and Budget determines the Do Not Pay Initiative is appropriately established for the agency.

(4) PAYMENT OTHERWISE REQUIRED.—When using the Do Not Pay Initiative, an agency shall recognize that there may be circumstances under which the law requires a payment or award to be made to a recipient, regardless of whether that recipient is identified as potentially ineligible under the Do Not Pay Initiative.

(5) ANNUAL REPORT.—The Director of the Office of Management and Budget shall submit to Congress an annual report, which may be included as part of another report submitted to Congress by the Director, regarding the operation of the Do Not Pay Initiative, which shall—

(A) include an evaluation of whether the Do Not Pay Initiative has reduced improper payments or improper awards; and

Evaluation.

(B) provide the frequency of corrections or identification of incorrect information.

- Deadline. (c) DATABASE INTEGRATION PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall provide to the Congress a plan for—
- (1) inclusion of other databases on the Do Not Pay Initiative;
  - (2) to the extent permitted by law, agency access to the Do Not Pay Initiative; and
  - (3) the data use agreements described under subsection (e)(2)(D).
- Deadlines. (d) INITIAL WORKING SYSTEM.—
- (1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall establish a working system for prepayment and preaward review that includes the Do Not Pay Initiative as described under this section.
  - (2) WORKING SYSTEM.—The working system established under paragraph (1)—
    - (A) may be located within an appropriate agency;
    - (B) shall include not less than 3 agencies as users of the system; and
    - (C) shall include investigation activities for fraud and systemic improper payments detection through analytic technologies and other techniques, which may include commercial database use or access.
- Review. (3) APPLICATION TO ALL AGENCIES.—Not later than June 1, 2013, each agency shall review all payments and awards for all programs of that agency through the system established under this subsection.
- (e) FACILITATING DATA ACCESS BY FEDERAL AGENCIES AND OFFICES OF INSPECTORS GENERAL FOR PURPOSES OF PROGRAM INTEGRITY.—
- (1) DEFINITION.—In this subsection, the term “Inspector General” means any Inspector General described in subparagraph (A), (B), or (I) of section 11(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) and any successor Inspector General.
  - (2) COMPUTER MATCHING BY FEDERAL AGENCIES FOR PURPOSES OF INVESTIGATION AND PREVENTION OF IMPROPER PAYMENTS AND FRAUD.—
    - (A) IN GENERAL.—Except as provided in this paragraph, in accordance with section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974), each Inspector General and the head of each agency may enter into computer matching agreements with other inspectors general and agency heads that allow ongoing data matching (which shall include automated data matching) in order to assist in the detection and prevention of improper payments.
- Deadline. (B) REVIEW.—Not later than 60 days after a proposal for an agreement under subparagraph (A) has been presented to a Data Integrity Board established under section 552a(u) of title 5, United States Code, for consideration, the Data Integrity Board shall respond to the proposal.
- (C) TERMINATION DATE.—An agreement under subparagraph (A)—



(i) shall have a termination date of less than 3 years; and

(ii) during the 3-month period ending on the date on which the agreement is scheduled to terminate, may be renewed by the agencies entering the agreement for not more than 3 years. Time period.

(D) MULTIPLE AGENCIES.—For purposes of this paragraph, section 552a(o)(1) of title 5, United States Code, shall be applied by substituting “between the source agency and the recipient agency or non-Federal agency or an agreement governing multiple agencies” for “between the source agency and the recipient agency or non-Federal agency” in the matter preceding subparagraph (A). Applicability.

(E) COST-BENEFIT ANALYSIS.—A justification under section 552a(o)(1)(B) of title 5, United States Code, relating to an agreement under subparagraph (A) is not required to contain a specific estimate of any savings under the computer matching agreement.

(3) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Not later than 6 months after the date of enactment of this Act, and in consultation with the Council of the Inspectors General on Integrity and Efficiency, the Secretary of Health and Human Services, the Commissioner of Social Security, and the head of any other relevant agency, the Director of the Office of Management and Budget shall— Deadline.

(A) issue guidance for agencies regarding implementing this subsection, which shall include standards for—

(i) reimbursement of costs, when necessary, between agencies;

(ii) retention and timely destruction of records in accordance with section 552a(o)(1)(F) of title 5, United States Code; and

(iii) prohibiting duplication and redisclosure of records in accordance with section 552a(o)(1)(H) of title 5, United States Code;

(B) review the procedures of the Data Integrity Boards established under section 552a(u) of title 5, United States Code, and develop new guidance for the Data Integrity Boards to— Review.

(i) improve the effectiveness and responsiveness of the Data Integrity Boards;

(ii) ensure privacy protections in accordance with section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974); and

(iii) establish standard matching agreements for use when appropriate; and

(C) establish and clarify rules regarding what constitutes making an agreement entered under paragraph (2)(A) available upon request to the public for purposes of section 552a(o)(2)(A)(ii) of title 5, United States Code, which shall include requiring publication of the agreement on a public website. Regulations.  
Public information.  
Web posting.

(4) CORRECTIONS.—The Director of the Office of Management and Budget shall establish procedures providing for the correction of data in order to ensure— Procedures.

(A) compliance with section 552a(p) of title 5, United States Code; and

(B) that corrections are made in any Do Not Pay Initiative database and in any relevant source databases designated by the Director of the Office of Management and Budget under subsection (b)(1).

(5) COMPLIANCE.—The head of each agency, in consultation with the Inspector General of the agency, shall ensure that any information provided to an individual or entity under this subsection is provided in accordance with protocols established under this subsection.

(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect the rights of an individual under section 552a(p) of title 5, United States Code.

Deadline.  
Recommendations.

(f) DEVELOPMENT AND ACCESS TO A DATABASE OF INCARCERATED INDIVIDUALS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to Congress recommendations for increasing the use of, access to, and the technical feasibility of using data on the Federal, State, and local conviction and incarceration status of individuals for purposes of identifying and preventing improper payments by Federal agencies and programs and fraud.

(g) PLAN TO CURB FEDERAL IMPROPER PAYMENTS TO DECEASED INDIVIDUALS BY IMPROVING THE QUALITY AND USE BY FEDERAL AGENCIES OF THE SOCIAL SECURITY ADMINISTRATION DEATH MASTER FILE.—

(1) ESTABLISHMENT.—In conjunction with the Commissioner of Social Security and in consultation with relevant stakeholders that have an interest in or responsibility for providing the data, and the States, the Director of the Office of Management and Budget shall establish a plan for improving the quality, accuracy, and timeliness of death data maintained by the Social Security Administration, including death information reported to the Commissioner under section 205(r) of the Social Security Act (42 U.S.C. 405(r)).

(2) ADDITIONAL ACTIONS UNDER PLAN.—The plan established under this subsection shall include recommended actions by agencies to—

(A) increase the quality and frequency of access to the Death Master File and other death data;

(B) achieve a goal of at least daily access as appropriate;

(C) provide for all States and other data providers to use improved and electronic means for providing data;

(D) identify improved methods by agencies for determining ineligible payments due to the death of a recipient through proactive verification means; and

(E) address improper payments made by agencies to deceased individuals as part of Federal retirement programs.

(3) REPORT.—Not later than 120 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report to Congress on the plan established under this subsection, including recommended legislation.

#### SEC. 6. IMPROVING RECOVERY OF IMPROPER PAYMENTS.

(a) DEFINITION.—In this section, the term “recovery audit” means a recovery audit described under section 2(h) of the Improper

Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3301 note).

(b) REVIEW.—The Director of the Office of Management and Budget shall determine—

(1) current and historical rates and amounts of recovery of improper payments (or, in cases in which improper payments are identified solely on the basis of a sample, recovery rates and amounts estimated on the basis of the applicable sample), including a list of agency recovery audit contract programs and specific information of amounts and payments recovered by recovery audit contractors; and

(2) targets for recovering improper payments, including specific information on amounts and payments recovered by recovery audit contractors.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 4053 (S. 1409):**

HOUSE REPORTS: No. 112–698 (Comm. on Oversight and Government Reform).

SENATE REPORTS: No. 112–181 (Comm. on Homeland Security and Governmental Affairs) accompanying S. 1409.

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 13, considered and passed House.

Dec. 20, considered and passed Senate.



Public Law 112–249  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 4057]

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to develop a comprehensive policy to improve outreach and transparency to veterans and members of the Armed Forces through the provision of information on institutions of higher learning, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMPREHENSIVE POLICY ON PROVIDING EDUCATION INFORMATION TO VETERANS.**

(a) COMPREHENSIVE POLICY REQUIRED.—

(1) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by adding at the end the following new section:

38 USC 3698.

**“§ 3698. Comprehensive policy on providing education information to veterans**

“(a) COMPREHENSIVE POLICY REQUIRED.—The Secretary shall develop a comprehensive policy to improve outreach and transparency to veterans and members of the Armed Forces through the provision of information on institutions of higher learning.

“(b) SCOPE.—In developing the policy required by subsection (a), the Secretary shall include each of the following elements:

“(1) Effective and efficient methods to inform individuals of the educational and vocational counseling provided under section 3697A of this title.

“(2) A centralized mechanism for tracking and publishing feedback from students and State approving agencies regarding the quality of instruction, recruiting practices, and post-graduation employment placement of institutions of higher learning that—

“(A) allows institutions of higher learning to verify feedback and address issues regarding feedback before the feedback is published;

“(B) protects the privacy of students, including by not publishing the names of students; and

“(C) publishes only feedback that conforms with criteria for relevancy that the Secretary shall determine.

“(3) The merit of and the manner in which a State approving agency shares with an accrediting agency or association recognized by the Secretary of Education under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b) information regarding the State approving agency’s evaluation of an institution of higher learning.

“(4) Description of the information provided to individuals participating in the Transition Assistance Program under section 1144 of title 10 relating to institutions of higher learning.

“(5) Effective and efficient methods to provide veterans and members of the Armed Forces with information regarding postsecondary education and training opportunities available to the veteran or member.

“(c) POSTSECONDARY EDUCATION INFORMATION.—(1) The Secretary shall ensure that the information provided pursuant to subsection (b)(5) includes—

“(A) an explanation of the different types of accreditation available to educational institutions and programs of education;

“(B) a description of Federal student aid programs; and

“(C) for each institution of higher learning, for the most recent academic year for which information is available—

“(i) whether the institution is public, private nonprofit, or proprietary for-profit;

“(ii) the name of the national or regional accrediting agency that accredits the institution, including the contact information used by the agency to receive complaints from students;

“(iii) information on the State approving agency, including the contact information used by the agency to receive complaints from students;

“(iv) whether the institution participates in any programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.);

“(v) the tuition and fees;

“(vi) the median amount of debt from Federal student loans under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) held by individuals upon completion of programs of education at the institution of higher learning (as determined from information collected by the Secretary of Education);

“(vii) the cohort default rate, as defined in section 435(m) of the Higher Education Act of 1965 (20 U.S.C. 1085(m)), of the institution;

“(viii) the total enrollment, graduation rate, and retention rate, as determined from information collected by the Integrated Postsecondary Education Data System of the Secretary of Education;

“(ix) whether the institution provides students with technical support, academic support, and other support services, including career counseling and job placement; and

“(x) the information regarding the institution’s policies related to transfer of credit from other institutions, as required under section 485(h)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(h)(1)) and provided to the Secretary of Education under section 132(i)(1)(V)(iv) of such Act (20 U.S.C. 1015a(i)(1)(V)(iv)).

“(2) To the extent practicable, the Secretary shall provide the information described in paragraph (1) by including hyperlinks on the Internet website of the Department to other Internet websites that contain such information, including the Internet

Web posting.

website of the Department of Education, in a form that is comprehensive and easily understood by veterans, members of the Armed Forces, and other individuals.

“(3)(A) If the Secretary of Veterans Affairs requires, for purposes of providing information pursuant to subsection (b)(5), information that has been reported, or information that is similar to information that has been reported, by an institution of higher learning to the Secretary of Education, the Secretary of Defense, the Secretary of Labor, or the heads of other Federal agencies under a provision of law other than under this section, the Secretary of Veterans Affairs shall obtain the information the Secretary of Veterans Affairs requires from the Secretary or head with the information rather than the institution of higher learning.

“(B) If the Secretary of Veterans Affairs requires, for purposes of providing information pursuant to subsection (b)(5), information from an institution of higher learning that has not been reported to another Federal agency, the Secretary shall, to the degree practicable, obtain such information through the Secretary of Education.

“(d) CONSISTENCY WITH EXISTING EDUCATION POLICY.—In carrying out this section, the Secretary shall ensure that—

“(1) the comprehensive policy is consistent with any requirements and initiatives resulting from Executive Order No. 13607; and

“(2) the efforts of the Secretary to implement the comprehensive policy do not duplicate the efforts being taken by any Federal agencies.

“(e) COMMUNICATION WITH INSTITUTIONS OF HIGHER LEARNING.—To the extent practicable, if the Secretary considers it necessary to communicate with an institution of higher learning to carry out the comprehensive policy required by subsection (a), the Secretary shall carry out such communication through the use of a communication system of the Department of Education.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘institution of higher learning’ has the meaning given that term in section 3452(f) of this title.

“(2) The term ‘postsecondary education and training opportunities’ means any postsecondary program of education, including apprenticeships and on-job training, for which the Secretary of Veterans Affairs provides assistance to a veteran or member of the Armed Forces.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3697A the following new item:

38 USC prec.  
3670.

“3698. Comprehensive policy on providing education information to veterans.”.

38 USC 3698  
note.

(b) SURVEY.—In developing the policy required by section 3698(a) of title 38, United States Code, as added by subsection (a), the Secretary of Veterans Affairs shall conduct a market survey to determine the availability of the following:

(1) A commercially available off-the-shelf online tool that allows a veteran or member of the Armed Forces to assess whether the veteran or member is academically ready to engage in postsecondary education and training opportunities and whether the veteran or member would need any remedial preparation before beginning such opportunities.

(2) A commercially available off-the-shelf online tool that provides a veteran or member of the Armed Forces with a

list of providers of postsecondary education and training opportunities based on criteria selected by the veteran or member.

(c) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the appropriate committees of Congress a report that includes—

(1) a description of the policy developed by the Secretary under section 3698(a) of title 38, United States Code, as added by subsection (a);

(2) a plan of the Secretary to implement such policy; and

(3) the results of the survey conducted under subsection (b), including whether the Secretary plans to implement the tools described in such subsection.

Plan.

(d) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means—

(A) the Committee on Veterans’ Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate; and

(B) the Committee on Veterans’ Affairs and the Committee on Education and the Workforce of the House of Representatives.

(2) **COMMERCIALLY AVAILABLE OFF-THE-SHELF.**—The term “commercially available off-the-shelf” has the meaning given that term in section 104 of title 41, United States Code.

(3) **POSTSECONDARY EDUCATION AND TRAINING OPPORTUNITIES.**—The term “postsecondary education and training opportunities” means any postsecondary program of education, including apprenticeships and on-job training, for which the Secretary of Veterans Affairs provides assistance to a veteran or member of the Armed Forces.

## **SEC. 2. PROHIBITION ON CERTAIN USES OF INDUCEMENTS BY EDUCATIONAL INSTITUTIONS.**

Section 3696 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) The Secretary shall not approve under this chapter any course offered by an educational institution if the educational institution provides any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance.

“(2) To the degree practicable, the Secretary shall carry out paragraph (1) in a manner that is consistent with the Secretary of Education’s enforcement of section 487(a)(20) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(20)).”.

## **SEC. 3. DEDICATED POINTS OF CONTACT FOR SCHOOL CERTIFYING OFFICIALS.**

Section 3684 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(d) Not later than 90 days after the date of the enactment of this subsection, the Secretary shall ensure that the Department provides personnel of educational institutions who are charged with submitting reports or certifications to the Secretary under this section with assistance in preparing and submitting such reports or certifications.”.

Deadline.

**SEC. 4. LIMITATION ON AWARDS AND BONUSES TO EMPLOYEES OF  
DEPARTMENT OF VETERANS AFFAIRS.**

For fiscal year 2013, the Secretary of Veterans Affairs may not pay more than \$395,000,000 in awards or bonuses under chapter 45 or 53 of title 5, United States Code, or any other awards or bonuses authorized under such title.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 4057:**

HOUSE REPORTS: No. 112–646 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 11, considered and passed House.

Dec. 19, considered and passed Senate, amended.

Dec. 30, House concurred in Senate amendment.





Public Law 112–250  
112th Congress

An Act

To authorize the Secretary of Agriculture to accept the quitclaim, disclaimer, and relinquishment of a railroad right of way within and adjacent to Pike National Forest in El Paso County, Colorado, originally granted to the Mt. Manitou Park and Incline Railway Company pursuant to the Act of March 3, 1875.

Jan. 10, 2013  
[H.R. 4073]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ACCEPTANCE OF RELINQUISHMENT OF RAILROAD RIGHT OF WAY BY MANITOU AND PIKES PEAK RAILWAY COMPANY, COLORADO, OVER NATIONAL FOREST SYSTEM LAND.**

(a) **AUTHORITY TO ACCEPT.**—Notwithstanding the Act of March 8, 1922 (43 U.S.C. 912), the Secretary of Agriculture may accept the quitclaim, disclaimer, and relinquishment by the Manitou and Pikes Peak Railway Company, successor in interest to the Mt. Manitou Park and Incline Railway Company, of a right of way, more fully described in subsection (b), within and adjacent to Pike National Forest that was originally granted by the Secretary to the Mt. Manitou Park and Incline Railway Company pursuant to the authority provided by the Act of March 3, 1875 (Chapter 152; 18 Stat. 482) for the construction of a railroad and station in El Paso County, Colorado.

(b) **RIGHT OF WAY DESCRIBED.**—The railroad right of way referred to in subsection (a) is located in the S½ of section 6, Township 14 South, Range 67 West, and N½SE ¼ of section 1, Township 14 South, Range 68 West, Sixth Principal Meridian, Colorado, and is depicted in a tracing filed in the United States Land Office at Pueblo, Colorado, file 019416, on December 24, 1914.

(c) **LIMITED APPLICABILITY.**—Nothing in this section shall be construed to affect the right, title, and interest of the Manitou

126 STAT. 2404

PUBLIC LAW 112–250—JAN. 10, 2013

and Pikes Peak Railway Company in land held in fee title by  
the Manitou and Pikes Peak Railway Company.

Approved January 10, 2013.

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LEGISLATIVE HISTORY—H.R. 4073:

HOUSE REPORTS: No. 112–599 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 31, Aug. 1, considered and passed House.

Dec. 30, considered and passed Senate.



Public Law 112–251  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 19 East Merced Street in Fowler, California, as the “Cecil E. Bolt Post Office”.

Jan. 10, 2013  
[H.R. 4389]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CECIL E. BOLT POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 19 East Merced Street in Fowler, California, shall be known and designated as the “Cecil E. Bolt Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Cecil E. Bolt Post Office”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 4389:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 19, 20, considered and passed House.

Dec. 27, considered and passed Senate.



Public Law 112–252  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 5859]

To repeal an obsolete provision in title 49, United States Code, requiring motor vehicle insurance cost reporting.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

49 USC 32302  
note.

**SECTION 1. REPEAL.**

Subsection (c) of section 32302 of title 49, United States Code, is repealed, and any regulations promulgated under such subsection shall have no force or effect.

**SEC. 2. DETERMINATION REGARDING PROVISION OF DAMAGE SUSCEPTIBILITY INFORMATION TO CONSUMERS.**

Study.  
Reports.

(a) IN GENERAL.—Section 32302(b) of title 49, United States Code, is amended by adding at the end the following: “The Secretary, after providing an opportunity for public comment, shall study and report to Congress the most useful data, format, and method for providing simple and understandable damage susceptibility information to consumers.”.

49 USC 32302  
note.

(b) DEADLINE.—The Secretary of Transportation shall carry out the last sentence of section 32302(b) of title 49, United States Code, as added by subsection (a), not later than the date that is 2 years after the date of the enactment of this Act.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 5859:**

HOUSE REPORTS: No. 112–591 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 158 (2012):

July 23, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 112–253  
112th Congress

An Act

To authorize the Attorney General to award grants for States to implement DNA arrestee collection processes.

Jan. 10, 2013

[H.R. 6014]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Katie Sepich Enhanced DNA Collection Act of 2012”.

Katie Sepich  
Enhanced DNA  
Collection Act of  
2012.  
42 USC 13701  
note.

**SEC. 2. DEFINITIONS.**

42 USC 14137.

For purposes of this Act:

(1) **DNA ARRESTEE COLLECTION PROCESS.**—The term “DNA arrestee collection process” means, with respect to a State, a process under which the State provides for the collection, for purposes of inclusion in the index described in section 210304(a) of the DNA Identification Act of 1994 (42 U.S.C. 14132(a)) (in this Act referred to as the “National DNA Index System”), of DNA profiles or DNA data from the following individuals who are at least 18 years of age:

(A) Individuals who are arrested for or charged with a criminal offense under State law that consists of a homicide.

(B) Individuals who are arrested for or charged with a criminal offense under State law that has an element involving a sexual act or sexual contact with another and that is punishable by imprisonment for more than 1 year.

(C) Individuals who are arrested for or charged with a criminal offense under State law that has an element of kidnaping or abduction and that is punishable by imprisonment for more than 1 year.

(D) Individuals who are arrested for or charged with a criminal offense under State law that consists of burglary punishable by imprisonment for more than 1 year.

(E) Individuals who are arrested for or charged with a criminal offense under State law that consists of aggravated assault punishable by imprisonment for more than 1 year.

(2) **STATE.**—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

42 USC 14137a. **SEC. 3. GRANTS TO STATES TO IMPLEMENT DNA ARRESTEE COLLECTION PROCESSES.**

(a) **IN GENERAL.**—The Attorney General shall, subject to amounts made available pursuant to section 5, carry out a grant program for the purpose of assisting States with the costs associated with the implementation of DNA arrestee collection processes.

(b) **APPLICATIONS.**—

(1) **IN GENERAL.**—To be eligible to receive a grant under this section, in addition to any other requirements specified by the Attorney General, a State shall submit to the Attorney General an application that demonstrates that it has statutory authorization for the implementation of a DNA arrestee collection process.

(2) **NON-SUPPLANTING FUNDS.**—An application submitted under paragraph (1) by a State shall include assurances that the amounts received under the grant under this section shall be used to supplement, not supplant, State funds that would otherwise be available for the purpose described in subsection (a).

(3) **OTHER REQUIREMENTS.**—The Attorney General shall require a State seeking a grant under this section to document how such State will use the grant to meet expenses associated with a State's implementation or planned implementation of a DNA arrestee collection process.

(c) **GRANT ALLOCATION.**—

(1) **IN GENERAL.**—The amount available to a State under this section shall be based on the projected costs that will be incurred by the State to implement a DNA arrestee collection process. Subject to paragraph (2), the Attorney General shall retain discretion to determine the amount of each such grant awarded to an eligible State.

(2) **MAXIMUM GRANT ALLOCATION.**—In the case of a State seeking a grant under this section with respect to the implementation of a DNA arrestee collection process, such State shall be eligible for a grant under this section that is equal to no more than 100 percent of the first year costs to the State of implementing such process.

Procedures. (d) **GRANT CONDITIONS.**—As a condition of receiving a grant under this section, a State shall have a procedure in place to—

Notification. (1) provide written notification of expungement provisions and instructions for requesting expungement to all persons who submit a DNA profile or DNA data for inclusion in the index;

Criteria. (2) provide the eligibility criteria for expungement and Web posting. instructions for requesting expungement on an appropriate public Web site; and

Determination. (3) make a determination on all expungement requests Deadline. not later than 90 days after receipt and provide a written Notification. response of the determination to the requesting party.

42 USC 14137b. **SEC. 4. EXPUNGEMENT OF PROFILES.**

Applicability. The expungement requirements under section 210304(d) of the DNA Identification Act of 1994 (42 U.S.C. 14132(d)) shall apply to any DNA profile or DNA data collected pursuant to this Act for purposes of inclusion in the National DNA Index System.

**SEC. 5. OFFSET OF FUNDS APPROPRIATED.**

42 USC 14137c.

Any funds appropriated to carry out this Act, not to exceed \$10,000,000 for each of fiscal years 2013 through 2015, shall be derived from amounts appropriated pursuant to subsection (j) of section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) in each such fiscal year for grants under such section.

**SEC. 6. CONFORMING AMENDMENT TO THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.**

Section 2(a) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(a)) is amended by adding at the end the following new paragraph:

“(6) To implement a DNA arrestee collection process consistent with the Katie Sepich Enhanced DNA Collection Act of 2012.”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 6014:****CONGRESSIONAL RECORD**, Vol. 158 (2012):

Dec. 18, considered and passed House.

Dec. 28, considered and passed Senate.



Public Law 112–254  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 6260]

To designate the facility of the United States Postal Service located at 211 Hope Street in Mountain View, California, as the “Lieutenant Kenneth M. Ballard Memorial Post Office”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LIEUTENANT KENNETH M. BALLARD MEMORIAL POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 211 Hope Street in Mountain View, California, shall be known and designated as the “Lieutenant Kenneth M. Ballard Memorial Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lieutenant Kenneth M. Ballard Memorial Post Office”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 6260:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 19, 20, considered and passed House.

Dec. 27, considered and passed Senate.





Public Law 112–255  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 6239 Savannah Highway in Ravenel, South Carolina, as the “Representative Curtis B. Inabinett, Sr. Post Office”.

Jan. 10, 2013  
[H.R. 6379]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPRESENTATIVE CURTIS B. INABINETT, SR. POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 6239 Savannah Highway in Ravenel, South Carolina, shall be known and designated as the “Representative Curtis B. Inabinett, Sr. Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Representative Curtis B. Inabinett, Sr. Post Office”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 6379:**

CONGRESSIONAL RECORD, Vol. 158 (2012):  
Dec. 19, 20, considered and passed House.  
Dec. 27, considered and passed Senate.



Public Law 112–256  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 6587]

To designate the facility of the United States Postal Service located at 225 Simi Village Drive in Simi Valley, California, as the “Postal Inspector Terry Asbury Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. POSTAL INSPECTOR TERRY ASBURY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 225 Simi Village Drive in Simi Valley, California, shall be known and designated as the “Postal Inspector Terry Asbury Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Postal Inspector Terry Asbury Post Office Building”.

Approved January 10, 2013.

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LEGISLATIVE HISTORY—H.R. 6587:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 19, 20, considered and passed House.

Dec. 27, considered and passed Senate.



Public Law 112–257  
112th Congress

An Act

To amend title 18, United States Code, to eliminate certain limitations on the length of Secret Service Protection for former Presidents and for the children of former Presidents.

Jan. 10, 2013  
[H.R. 6620]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Former Presidents Protection Act of 2012”.

Former  
Presidents  
Protection Act of  
2012.  
18 USC 1 note.

**SEC. 2. ELIMINATING CERTAIN LIMITATIONS ON THE LENGTH OF  
SECRET SERVICE PROTECTION FOR FORMER PRESIDENTS  
AND FOR THE CHILDREN OF FORMER PRESIDENTS.**

(a) FORMER PRESIDENTS.—Section 3056(a)(3) of title 18, United States Code, is amended by striking “unless the former President did not” and all that follows through “warrant such protection”.

(b) CHILDREN OF FORMER PRESIDENTS.—Section 3056(a)(4) of title 18, United States Code, is amended by striking “for a period” and all that follows through “comes first”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 6620:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 5, considered and passed House.

Dec. 28, considered and passed Senate.



Public Law 112–258  
112th Congress

An Act

Jan. 10, 2013  
[H.R. 6671]

Video Privacy  
Protection Act  
Amendments Act  
of 2012.  
18 USC 1 note.

To amend section 2710 of title 18, United States Code, to clarify that a video tape service provider may obtain a consumer's informed, written consent on an ongoing basis and that consent may be obtained through the Internet.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Video Privacy Protection Act Amendments Act of 2012”.

**SEC. 2. VIDEO PRIVACY PROTECTION ACT AMENDMENT.**

Section 2710(b)(2) of title 18, United States Code, is amended by striking subparagraph (B) and inserting the following:

“(B) to any person with the informed, written consent (including through an electronic means using the Internet) of the consumer that—

“(i) is in a form distinct and separate from any form setting forth other legal or financial obligations of the consumer;

“(ii) at the election of the consumer—

“(I) is given at the time the disclosure is sought;

or

“(II) is given in advance for a set period of time, not to exceed 2 years or until consent is withdrawn by the consumer, whichever is sooner; and

“(iii) the video tape service provider has provided an opportunity, in a clear and conspicuous manner, for the consumer to withdraw on a case-by-case basis or to withdraw from ongoing disclosures, at the consumer's election;”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—H.R. 6671:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 18, considered and passed House.

Dec. 20, considered and passed Senate.



Public Law 112–259  
112th Congress

An Act

To designate Mt. Andrea Lawrence.

Jan. 10, 2013

[S. 925]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Mt. Andrea Lawrence Designation Act of 2011”.

Mt. Andrea  
Lawrence  
Designation Act  
of 2011.

**SEC. 2. FINDINGS.**

Congress finds that Andrea Mead Lawrence—

(1) was born in Rutland County, Vermont, on April 19, 1932, where she developed a life-long love of winter sports and appreciation for the environment;

(2) competed in the 1948 Winter Olympics in St. Moritz, Switzerland, and the 1956 Winter Olympics in Cortina d’Ampezzo, Italy, and was the torch lighter at the 1960 Winter Olympics in Squaw Valley, California;

(3) won 2 Gold Medals in the Olympic special and giant slalom races at the 1952 Winter Olympics in Oslo, Norway, and remains the only United States double-gold medalist in alpine skiing;

(4) was inducted into the U.S. National Ski Hall of Fame in 1958 at the age of 25;

(5) moved in 1968 to Mammoth Lakes in the spectacularly beautiful Eastern Sierra of California, a place that she fought to protect for the rest of her life;

(6) founded the Friends of Mammoth to maintain the beauty and serenity of Mammoth Lakes and the Eastern Sierra;

(7) served for 16 years on the Mono County Board of Supervisors, where she worked tirelessly to protect and restore Mono Lake, Bodie State Historic Park, and other important natural and cultural landscapes of the Eastern Sierra;

(8) worked, as a member of the Great Basin Air Pollution Control District, to reduce air pollution that had been caused by the dewatering of Owens Lake;

(9) founded the Andrea Lawrence Institute for Mountains and Rivers in 2003 to work for environmental protection and economic vitality in the region she loved so much;

(10) testified in 2008 before the Mono County Board of Supervisors in favor of the Eastern Sierra and Northern San Gabriel Wild Heritage Act, a bill that was enacted the day before she died;

(11) passed away on March 31, 2009, at 76 years of age, leaving 5 children, Cortlandt, Matthew, Deirdre, Leslie, and Quentin, and 4 grandchildren; and

(12) leaves a rich legacy that will continue to benefit present and future generations.

**SEC. 3. DESIGNATION OF MT. ANDREA LAWRENCE.**

(a) **IN GENERAL.**—Peak 12,240 (which is located 0.6 miles northeast of Donahue Peak on the northern border of the Ansel Adams Wilderness and Yosemite National Park (UTM coordinates Zone 11, 304428 E, 4183631 N)) shall be known and designated as “Mt. Andrea Lawrence”.

(b) **REFERENCES.**—Any reference in a law, map, regulation, document, record, or other paper of the United States to the peak described in subsection (a) shall be considered to be a reference to “Mt. Andrea Lawrence”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—S. 925 (H.R. 1818):**

**HOUSE REPORTS:** No. 112–505 (Comm. on Natural Resources) accompanying H.R. 1818.

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Oct. 18, considered and passed Senate.

Vol. 158 (2012): Dec. 19, 20, considered and passed House.



Public Law 112–260  
112th Congress

An Act

To amend title 38, United States Code, to ensure that deceased veterans with no known next of kin can receive a dignified burial, and for other purposes.

Jan. 10, 2013  
[S. 3202]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Dignified Burial and Other Veterans’ Benefits Improvement Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Dignified Burial  
and Other  
Veterans’  
Benefits  
Improvement Act  
of 2012.  
38 USC 101 note.

- Sec. 1. Short title; table of contents.  
Sec. 2. Scoring of budgetary effects.

**TITLE I—CEMETERY MATTERS**

- Sec. 101. Furnishing caskets and urns for deceased veterans with no known next of kin.  
Sec. 102. Veterans freedom of conscience protection.  
Sec. 103. Improved communication between Department of Veterans Affairs and medical examiners and funeral directors.  
Sec. 104. Identification and burial of unclaimed or abandoned human remains.  
Sec. 105. Exclusion of persons convicted of committing certain sex offenses from interment or memorialization in national cemeteries, Arlington National Cemetery, and certain State veterans’ cemeteries and from receiving certain funeral honors.  
Sec. 106. Restoration, operation, and maintenance of Clark Veterans Cemetery by American Battle Monuments Commission.  
Sec. 107. Report on compliance of Department of Veterans Affairs with industry standards for caskets and urns.

**TITLE II—HEALTH CARE**

- Sec. 201. Establishment of open burn pit registry.  
Sec. 202. Transportation of beneficiaries to and from facilities of Department of Veterans Affairs.  
Sec. 203. Extension of reduced pension for certain veterans covered by medicaid plans for services furnished by nursing facilities.  
Sec. 204. Extension of report requirement for Special Committee on Post-Traumatic-Stress Disorder.

**TITLE III—OTHER MATTERS**

- Sec. 301. Off-base transition training for veterans and their spouses.  
Sec. 302. Requirement that judges on United States Court of Appeals for Veterans Claims reside within 50 miles of District of Columbia.  
Sec. 303. Designation of Trinka Davis Veterans Village.  
Sec. 304. Designation of William “Bill” Kling Department of Veterans Affairs Outpatient Clinic.  
Sec. 305. Designation of Mann-Grandstaff Department of Veterans Affairs Medical Center.  
Sec. 306. Designation of David F. Winder Department of Veterans Affairs Community Based Outpatient Clinic.

**SEC. 2. SCORING OF BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**TITLE I—CEMETERY MATTERS****SEC. 101. FURNISHING CASKETS AND URNS FOR DECEASED VETERANS WITH NO KNOWN NEXT OF KIN.**

(a) **IN GENERAL.**—Section 2306 of title 38, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following new subsection (f):

“(f) The Secretary may furnish a casket or urn, of such quality as the Secretary considers appropriate for a dignified burial, for burial in a national cemetery of a deceased veteran in any case in which the Secretary—

“(1) is unable to identify the veteran’s next of kin, if any; and

“(2) determines that sufficient resources for the furnishing of a casket or urn for the burial of the veteran in a national cemetery are not otherwise available.”; and

(3) in subsection (h), as redesignated by paragraph (1), by adding at the end the following new paragraph:

“(4) A casket or urn may not be furnished under subsection (f) for burial of a person described in section 2411(b) of this title.”.

(b) **EFFECTIVE DATE.**—Subsections (f) and (h)(4) of section 2306 of title 38, United States Code, as added by subsection (a), shall take effect on the date that is one year after the date of the enactment of this Act and shall apply with respect to deaths occurring on or after the date that is one year after the date of the enactment of this Act.

Applicability.  
38 USC 2306  
note.

**SEC. 102. VETERANS FREEDOM OF CONSCIENCE PROTECTION.**

(a) **IN GENERAL.**—Section 2404 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(h)(1) With respect to the interment or funeral, memorial service, or ceremony of a deceased veteran at a national cemetery, the Secretary shall ensure that—

“(A) the expressed wishes of the next of kin or other agent of the deceased veteran are respected and given appropriate deference when evaluating whether the proposed interment or funeral, memorial service, or ceremony affects the safety and security of the national cemetery and visitors to the cemetery;

“(B) to the extent possible, all appropriate public areas of the cemetery, including committal shelters, chapels, and benches, may be used by the family of the deceased veteran for contemplation, prayer, mourning, or reflection; and



“(C) during such interment or funeral, memorial service, or ceremony, the family of the deceased veteran may display any religious or other symbols chosen by the family.

“(2) Subject to regulations prescribed by the Secretary under paragraph (4), including such regulations ensuring the security of a national cemetery, the Secretary shall, to the maximum extent practicable, provide to any military or volunteer veterans honor guard, including such guards belonging to a veterans service organization or other nongovernmental group that provides services to veterans, access to public areas of a national cemetery if such access is requested by the next of kin or other agent of a deceased veteran whose interment or funeral, memorial service, or ceremony is being held in such cemetery.

“(3) With respect to the interment or funeral, memorial service, or ceremony of a deceased veteran at a national cemetery, the Secretary shall notify the next of kin or other agent of the deceased veteran of funeral honors available to the deceased veteran, including such honors provided by any military or volunteer veterans honor guard described in paragraph (2).

Notification.

“(4) The Secretary shall prescribe regulations to carry out this subsection.”

Regulations.

(b) INTERIM IMPLEMENTATION.—The Secretary may carry out paragraphs (1) through (3) of section 2404(h) of such title, as added by subsection (a), before the Secretary prescribes regulations pursuant to paragraph (4) of such section, as so added.

38 USC 2404 note.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the implementation of section 2404(h) of such title, as added by subsection (a). Such report shall include a certification of whether the Secretary is in compliance with all of the provisions of such section.

Certification.

**SEC. 103. IMPROVED COMMUNICATION BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND MEDICAL EXAMINERS AND FUNERAL DIRECTORS.**

(a) IN GENERAL.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 2414. Communication between Department of Veterans Affairs and medical examiners and funeral directors**

38 USC 2414.

“(a) REQUIRED INFORMATION.—With respect to each deceased veteran described in subsection (b) who is transported to a national cemetery for burial, the Secretary shall ensure that the local medical examiner, funeral director, county service group, or other entity responsible for the body of the deceased veteran before such transportation submits to the Secretary the following information:

“(1) Whether the deceased veteran was cremated.

“(2) The steps taken to ensure that the deceased veteran has no next of kin.

“(b) DECEASED VETERAN DESCRIBED.—A deceased veteran described in this subsection is a deceased veteran—

“(1) with respect to whom the Secretary determines that there is no next of kin or other person claiming the body of the deceased veteran; and

“(2) who does not have sufficient resources for the furnishing of a casket or urn for the burial of the deceased veteran in a national cemetery, as determined by the Secretary.”.

38 USC prec.  
2400.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2413 the following new item:

“2414. Communication between Department of Veterans Affairs and medical examiners and funeral directors.”.

Applicability.  
38 USC 2414  
note.

(c) EFFECTIVE DATE.—Section 2414 of title 38, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply with respect to deaths occurring on or after the date that is 180 days after the date of the enactment of this Act.

38 USC 2402  
note.

**SEC. 104. IDENTIFICATION AND BURIAL OF UNCLAIMED OR ABANDONED HUMAN REMAINS.**

(a) IDENTIFICATION OF UNCLAIMED OR ABANDONED HUMAN REMAINS.—The Secretary of Veterans Affairs shall cooperate with veterans service organizations to assist entities in possession of unclaimed or abandoned human remains in determining if any such remains are the remains of veterans or other individuals eligible for burial in a national cemetery under the jurisdiction of the Secretary.

(b) BURIAL OF UNCLAIMED OR ABANDONED HUMAN REMAINS.—

(1) FUNERAL EXPENSES.—Section 2302(a)(2) of title 38, United States Code, is amended by striking “who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State), and”.

(2) TRANSPORTATION COSTS.—Section 2308 of such title is amended—

(A) by striking “Where a veteran” and all that follows through “compensation, the” and inserting “(a) IN GENERAL.—The”;

(B) in subsection (a), as designated by subparagraph (A), by inserting “described in subsection (b)” after “of the deceased veteran”; and

(C) by adding at the end the following new subsection:

“(b) DECEASED VETERAN DESCRIBED.—A deceased veteran described in this subsection is any of the following veterans:

“(1) A veteran who dies as the result of a service-connected disability.

“(2) A veteran who dies while in receipt of disability compensation (or who but for the receipt of retirement pay or pension under this title, would have been entitled to compensation).

“(3) A veteran whom the Secretary determines is eligible for funeral expenses under section 2302 of this title by virtue of the Secretary determining that the veteran has no next of kin or other person claiming the body of such veteran pursuant to subsection (a)(2)(A) of such section.”.

Applicability.  
38 USC 2302  
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is one year after the date of the enactment of this Act and shall apply with respect to burials and funerals occurring on or after the date that is one year after the date of the enactment of this Act.

**SEC. 105. EXCLUSION OF PERSONS CONVICTED OF COMMITTING CERTAIN SEX OFFENSES FROM INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES, ARLINGTON NATIONAL CEMETERY, AND CERTAIN STATE VETERANS' CEMETERIES AND FROM RECEIVING CERTAIN FUNERAL HONORS.**

(a) **PROHIBITION AGAINST.**—Section 2411(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(4) A person—

“(A) who has been convicted of a Federal or State crime causing the person to be a tier III sex offender for purposes of the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.);

“(B) who, for such crime, is sentenced to a minimum of life imprisonment; and

“(C) whose conviction is final (other than a person whose sentence was commuted by the President or Governor of a State, as the case may be).”

(b) **CONFORMING AMENDMENTS.**—Section 2411(a)(2) of such title is amended—

(1) by striking “or (b)(2)” each place it appears and inserting “, (b)(2), or (b)(4)”; and

(2) by striking “capital” each place it appears.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to interments and memorializations that occur on or after the date of the enactment of this Act.

Applicability.  
38 USC 2411  
note.

**SEC. 106. RESTORATION, OPERATION, AND MAINTENANCE OF CLARK VETERANS CEMETERY BY AMERICAN BATTLE MONUMENTS COMMISSION.**

Philippines.

(a) **IN GENERAL.**—After an agreement is made between the Government of the Republic of the Philippines and the United States Government, Clark Veterans Cemetery in the Republic of the Philippines shall be treated, for purposes of section 2104 of title 36, United States Code, as a cemetery for which it was decided under such section that the cemetery will become a permanent cemetery and the American Battle Monuments Commission shall restore, operate, and maintain Clark Veterans Cemetery (to the degree the Commission considers appropriate) under such section in cooperation with the Government of the Republic of the Philippines.

Contracts.  
36 USC 2104  
note.

(b) **LIMITATION ON FUTURE BURIALS.**—Burials at the cemetery described in subsection (a) after the date of the agreement described in such subsection shall be limited to eligible veterans, as determined by the Commission, whose burial does not incur any cost to the Commission.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Commission—

(1) \$5,000,000 for site preparation, design, planning, construction, and associated administrative costs for the restoration of the cemetery described in subsection (a); and

(2) amounts necessary to operate and maintain the cemetery described in subsection (a).

**SEC. 107. REPORT ON COMPLIANCE OF DEPARTMENT OF VETERANS AFFAIRS WITH INDUSTRY STANDARDS FOR CASKETS AND URNS.**

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the compliance of the Department of Veterans Affairs with industry standards for caskets and urns.

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) A description of industry standards for caskets and urns.

(2) An assessment of compliance with such standards at national cemeteries administered by the Department with respect to caskets and urns used for the interment of those eligible for burial at such cemeteries.

## **TITLE II—HEALTH CARE**

38 USC 527 note. **SEC. 201. ESTABLISHMENT OF OPEN BURN PIT REGISTRY.**

(a) **ESTABLISHMENT OF REGISTRY.**—

Deadline.

(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall—

(A) establish and maintain an open burn pit registry for eligible individuals who may have been exposed to toxic airborne chemicals and fumes caused by open burn pits;

(B) include any information in such registry that the Secretary of Veterans Affairs determines necessary to ascertain and monitor the health effects of the exposure of members of the Armed Forces to toxic airborne chemicals and fumes caused by open burn pits;

(C) develop a public information campaign to inform eligible individuals about the open burn pit registry, including how to register and the benefits of registering; and

Notification.

(D) periodically notify eligible individuals of significant developments in the study and treatment of conditions associated with exposure to toxic airborne chemicals and fumes caused by open burn pits.

(2) **COORDINATION.**—The Secretary of Veterans Affairs shall coordinate with the Secretary of Defense in carrying out paragraph (1).

(b) **REPORT TO CONGRESS.**—

Contracts.

(1) **REPORTS BY INDEPENDENT SCIENTIFIC ORGANIZATION.**—The Secretary of Veterans Affairs shall enter into an agreement with an independent scientific organization to prepare reports as follows:

(A) Not later than two years after the date on which the registry under subsection (a) is established, an initial report containing the following:

Assessment.

(i) An assessment of the effectiveness of actions taken by the Secretaries to collect and maintain information on the health effects of exposure to toxic

airborne chemicals and fumes caused by open burn pits.

(ii) Recommendations to improve the collection and maintenance of such information.

Recommendations.

(iii) Using established and previously published epidemiological studies, recommendations regarding the most effective and prudent means of addressing the medical needs of eligible individuals with respect to conditions that are likely to result from exposure to open burn pits.

(B) Not later than five years after completing the initial report described in subparagraph (A), a follow-up report containing the following:

(i) An update to the initial report described in subparagraph (A).

(ii) An assessment of whether and to what degree the content of the registry established under subsection (a) is current and scientifically up-to-date.

Assessment.

(2) SUBMITTAL TO CONGRESS.—

(A) INITIAL REPORT.—Not later than two years after the date on which the registry under subsection (a) is established, the Secretary of Veterans Affairs shall submit to Congress the initial report prepared under paragraph (1)(A).

(B) FOLLOW-UP REPORT.—Not later than five years after submitting the report under subparagraph (A), the Secretary of Veterans Affairs shall submit to Congress the follow-up report prepared under paragraph (1)(B).

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE INDIVIDUAL.—The term “eligible individual” means any individual who, on or after September 11, 2001—

(A) was deployed in support of a contingency operation while serving in the Armed Forces; and

(B) during such deployment, was based or stationed at a location where an open burn pit was used.

(2) OPEN BURN PIT.—The term “open burn pit” means an area of land located in Afghanistan or Iraq that—

(A) is designated by the Secretary of Defense to be used for disposing solid waste by burning in the outdoor air; and

(B) does not contain a commercially manufactured incinerator or other equipment specifically designed and manufactured for the burning of solid waste.

## SEC. 202. TRANSPORTATION OF BENEFICIARIES TO AND FROM FACILITIES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by inserting after section 111 the following new section:

### “§ 111A. Transportation of individuals to and from Department facilities

38 USC 111A.

“(a) TRANSPORTATION BY SECRETARY.—(1) The Secretary may transport any person to or from a Department facility or other place in connection with vocational rehabilitation, counseling required by the Secretary pursuant to chapter 34 or 35 of this title, or for the purpose of examination, treatment, or care.

Expiration date. “(2) The authority granted by paragraph (1) shall expire on the date that is one year after the date of the enactment of this section.”.

(b) CONFORMING AMENDMENT.—Subsection (h) of section 111 of such title is—

38 USC 111, 111A. (1) transferred to section 111A of such title, as added by subsection (a);

(2) redesignated as subsection (b);

(3) inserted after subsection (a) of such section; and

38 USC 111A. (4) amended by inserting “TRANSPORTATION BY THIRD-PARTIES.—” before “The Secretary”.

38 USC 101 prec. (c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by inserting after the item relating to section 111 the following new item:

“111A. Transportation of individuals to and from Department facilities.”.

**SEC. 203. EXTENSION OF REDUCED PENSION FOR CERTAIN VETERANS COVERED BY MEDICAID PLANS FOR SERVICES FURNISHED BY NURSING FACILITIES.**

Section 5503(d)(7) of title 38, United States Code, is amended by striking “September 30, 2016” and inserting “November 30, 2016”.

**SEC. 204. EXTENSION OF REPORT REQUIREMENT FOR SPECIAL COMMITTEE ON POST-TRAUMATIC-STRESS DISORDER.**

Section 110(e)(2) of the Veterans’ Health Care Act of 1984 (Public Law 98–528; 38 U.S.C. 1712A note) is amended by striking “through 2012” and inserting “through 2016”.

## TITLE III—OTHER MATTERS

10 USC 1144 note.

**SEC. 301. OFF-BASE TRANSITION TRAINING FOR VETERANS AND THEIR SPOUSES.**

Time period.  
Effective date.

(a) PROVISION OF OFF-BASE TRANSITION TRAINING.—During the two-year period beginning on the date of the enactment of this Act, the Secretary of Labor shall provide the Transition Assistance Program under section 1144 of title 10, United States Code, to eligible individuals at locations other than military installations to assess the feasibility and advisability of providing such program to eligible individuals at locations other than military installations.

(b) ELIGIBLE INDIVIDUALS.—For purposes of this section, an eligible individual is a veteran or the spouse of a veteran.

(c) LOCATIONS.—

(1) NUMBER OF STATES.—The Secretary shall carry out the training under subsection (a) in not less than three and not more than five States selected by the Secretary for purposes of this section.

(2) SELECTION OF STATES WITH HIGH UNEMPLOYMENT.—Of the States selected by the Secretary under paragraph (1), at least two shall be States with high rates of unemployment among veterans.

(3) NUMBER OF LOCATIONS IN EACH STATE.—The Secretary shall provide training under subsection (a) to eligible individuals at a sufficient number of locations within each State selected under this subsection to meet the needs of eligible individuals in such State.

(4) **SELECTION OF LOCATIONS.**—The Secretary shall select locations for the provision of training under subsection (a) to facilitate access by participants and may not select any location on a military installation other than a National Guard or reserve facility that is not located on an active duty military installation.

(d) **INCLUSION OF INFORMATION ABOUT VETERANS BENEFITS.**—The Secretary shall ensure that the training provided under subsection (a) generally follows the content of the Transition Assistance Program under section 1144 of title 10, United States Code.

(e) **ANNUAL REPORT.**—Not later than March 1 of any year during which the Secretary provides training under subsection (a), the Secretary shall submit to Congress a report on the provision of such training.

(f) **COMPTROLLER GENERAL REPORT.**—Not later than 180 days after the termination of the one-year period described in subsection (a), the Comptroller General of the United States shall submit to Congress a report on the training provided under such subsection. The report shall include the evaluation of the Comptroller General regarding the feasibility and advisability of carrying out off-base transition training at locations nationwide.

**SEC. 302. REQUIREMENT THAT JUDGES ON UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS RESIDE WITHIN 50 MILES OF DISTRICT OF COLUMBIA.**

(a) **RESIDENCY REQUIREMENT.**—

(1) **IN GENERAL.**—Section 7255 is amended to read as follows:

**“§ 7255. Offices, duty stations, and residences**

38 USC 7255.

“(a) **PRINCIPAL OFFICE.**—The principal office of the Court of Appeals for Veterans Claims shall be in the Washington, D.C., metropolitan area, but the Court may sit at any place within the United States.

“(b) **OFFICIAL DUTY STATIONS.**—(1) Except as provided in paragraph (2), the official duty station of each judge while in active service shall be the principal office of the Court of Appeals for Veterans Claims.

“(2) The place where a recall-eligible retired judge maintains the actual abode in which such judge customarily lives shall be considered the recall-eligible retired judge’s official duty station.

“(c) **RESIDENCES.**—(1) Except as provided in paragraph (2), after appointment and while in active service, each judge of the Court of Appeals for Veterans Claims shall reside within 50 miles of the Washington, D.C., metropolitan area.

“(2) Paragraph (1) shall not apply to recall-eligible retired judges of the Court of Appeals for Veterans Claims.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 72 is amended by striking the item relating to section 7255 and inserting the following new item:

38 USC 7251  
prec.

“7255. Offices, duty stations, and residences.”.

(b) **REMOVAL.**—Section 7253(f)(1) is amended by striking “or engaging in the practice of law” and inserting “engaging in the practice of law, or violating section 7255(c) of this title”.

(c) **EFFECTIVE DATE.**—

38 USC 7255  
note.

(1) IN GENERAL.—Subsection (c) of section 7255, as added by subsection (a), and the amendment made by subsection (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

38 USC 7253  
note.

(2) APPLICABILITY.—The amendment made by subsection (b) shall apply with respect to judges confirmed on or after January 1, 2012.

Georgia.

**SEC. 303. DESIGNATION OF TRINKA DAVIS VETERANS VILLAGE.**

(a) DESIGNATION.—The facility of the Department of Veterans Affairs located at 180 Martin Drive in Carrollton, Georgia, shall after the date of the enactment of this Act be known and designated as the “Trinka Davis Veterans Village”.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Trinka Davis Veterans Village”.

Florida.

**SEC. 304. DESIGNATION OF WILLIAM “BILL” KLING DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.**

(a) DESIGNATION.—The facility of the Department of Veterans Affairs located at 9800 West Commercial Boulevard in Sunrise, Florida, shall after the date of the enactment of this Act be known and designated as the “William ‘Bill’ Kling Department of Veterans Affairs Outpatient Clinic”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “William ‘Bill’ Kling Department of Veterans Affairs Outpatient Clinic”.

Washington.

**SEC. 305. DESIGNATION OF MANN-GRANDSTAFF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.**

(a) DESIGNATION.—The Department of Veterans Affairs medical center in Spokane, Washington, shall after the date of the enactment of this Act be known and designated as the “Mann-Grandstaff Department of Veterans Affairs Medical Center”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Department of Veterans Affairs medical center referred to in subsection (a) shall be deemed to be a reference to the “Mann-Grandstaff Department of Veterans Affairs Medical Center”.

Ohio.

**SEC. 306. DESIGNATION OF DAVID F. WINDER DEPARTMENT OF VETERANS AFFAIRS COMMUNITY BASED OUTPATIENT CLINIC.**

(a) DESIGNATION.—The Department of Veterans Affairs community based outpatient clinic located in Mansfield, Ohio, shall after the date of the enactment of this Act be known and designated as the “David F. Winder Department of Veterans Affairs Community Based Outpatient Clinic”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Department of Veterans Affairs community based outpatient clinic referred to in subsection (a) shall be deemed to be a reference to the



“David F. Winder Department of Veterans Affairs Community  
Based Outpatient Clinic”.

Approved January 10, 2013.

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LEGISLATIVE HISTORY—S. 3202:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 19, considered and passed Senate.

Dec. 30, considered and passed House.



Public Law 112–261  
112th Congress

An Act

Jan. 10, 2013

[S. 3666]

To amend the Animal Welfare Act to modify the definition of “exhibitor”.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. ANIMAL WELFARE.**

Section 2(h) of the Animal Welfare Act (7 U.S.C. 2132(h)) is amended by adding “an owner of a common, domesticated household pet who derives less than a substantial portion of income from a nonprimary source (as determined by the Secretary) for exhibiting an animal that exclusively resides at the residence of the pet owner,” after “stores,”.

Approved January 10, 2013.

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**LEGISLATIVE HISTORY—S. 3666:**

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 6, considered and passed Senate.

Dec. 31, considered and passed House.



Public Law 112–262  
112th Congress

Joint Resolution

Providing for the appointment of Barbara Barrett as a citizen regent of the Board  
of Regents of the Smithsonian Institution.

Jan. 10, 2013  
[S.J. Res. 49]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Alan Spoon of Massachusetts on May 5, 2012, is filled by the appointment of Barbara Barrett of Arizona. The appointment is for a term of 6 years, beginning on the later of May 5, 2012, or the date of the enactment of this joint resolution.

Approved January 10, 2013.

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LEGISLATIVE HISTORY—S.J. Res. 49:

CONGRESSIONAL RECORD, Vol. 158 (2012):

Aug. 1, considered and passed Senate.

Dec. 20, considered and passed House.



Public Law 112–263  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 443]

To provide for the conveyance of certain property from the United States to the Maniilaq Association located in Kotzebue, Alaska.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONVEYANCE OF PROPERTY.**

Deadline.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, but not later than 180 days after such date, the Secretary of Health and Human Services (in this Act referred to as the “Secretary”) shall convey to the Maniilaq Association located in Kotzebue, Alaska, all right, title, and interest of the United States in and to the property described in section 2 for use in connection with health and social services programs. The Secretary’s conveyance of title by warranty deed under this section shall, on its effective date, supersede and render of no future effect on any Quitclaim Deed to the properties described in section 2 executed by the Secretary and the Maniilaq Association.

(b) CONDITIONS.—The conveyance required by this section shall be made by warranty deed without consideration and without imposing any obligation, term, or condition on the Maniilaq Association, or reversionary interest of the United States, other than that required by this Act or section 512(c)(2)(B) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aaa–11(c)(2)(B)).

**SEC. 2. PROPERTY DESCRIBED.**

The property, including all land and appurtenances, to be conveyed pursuant to section 1 is as follows:

(1) KOTZEBUE HOSPITAL AND LAND.—Re-Plat of Friends Mission Reserve, Subdivision No. 2, U.S. Survey 2082, Lot 1, Block 12, Kotzebue, Alaska, containing 8.10 acres recorded in the Kotzebue Recording District, Kotzebue, Alaska, on August 18, 2009.

(2) KOTZEBUE QUARTERS AKA KIC SITE.—Re-plat of Friends Mission Reserve, U.S. Survey 2082, Lot 1A, Block 13, Kotzebue, Alaska, containing 5.229 acres recorded in the Kotzebue Recording District, Kotzebue, Alaska, on December 23, 1991.

(3) KOTZEBUE QUARTERS AKA NANA SITE.—Lot 1B, Block 26, Tract A, Townsite of Kotzebue, U.S. Survey No. 2863 A, Kotzebue, Alaska, containing 1.29 acres recorded in the Kotzebue Recording District, Kotzebue, Alaska, on December 23, 1991.

**SEC. 3. ENVIRONMENTAL LIABILITY.**

(a) **IN GENERAL.**—Notwithstanding any other provision of Federal law, the Maniilaq Association shall not be liable for any soil, surface water, groundwater, or other contamination resulting from the disposal, release, or presence of any environmental contamination, including any oil or petroleum products, or any hazardous substances, hazardous materials, hazardous waste, pollutants, toxic substances, solid waste, or any other environmental contamination or hazard as defined in any Federal or State of Alaska law, on any property described in section 2 on or before the date on which all of the properties described in section 2 were conveyed by quit-claim deed.

(b) **EASEMENT.**—The Secretary shall be accorded any easement or access to the property conveyed as may be reasonably necessary to satisfy any retained obligations and liability of the Secretary.

(c) **NOTICE OF HAZARDOUS SUBSTANCE ACTIVITY AND WARRANTY.**—The Secretary shall comply with section 120(h)(3)(A) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)(A)).

Compliance.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—H.R. 443:**

HOUSE REPORTS: No. 112–318, Pt. 1 (Comm. on Natural Resources).

SENATE REPORTS: No. 112–250 (Comm. on Indian Affairs).

**CONGRESSIONAL RECORD:**

Vol. 157 (2011): Dec. 14, 15, considered and passed House.

Vol. 158 (2012): Dec. 20, considered and passed Senate, amended.

Vol. 158 (2013): Jan. 1, House concurred in Senate amendment.



Public Law 112–264  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 1464]

North Korean  
Child Welfare  
Act of 2012.  
22 USC 7801  
note.

To express the sense of Congress regarding North Korean children and children of one North Korean parent and to require the Department of State regularly to brief appropriate congressional committees on efforts to advocate for and develop a strategy to provide assistance in the best interest of these children.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “North Korean Child Welfare Act of 2012”.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) hundreds of thousands of North Korean children suffer from malnutrition in North Korea, and North Korean children or children of one North Korean parent who are living outside of North Korea may face statelessness in neighboring countries; and

(2) the Secretary of State should advocate for the best interests of these children, including, when possible, facilitating immediate protection for those living outside North Korea through family reunification or, if appropriate and eligible in individual cases, domestic or international adoption.

22 USC 7834  
note.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(2) **HAGUE COUNTRY.**—The term “Hague country” means a country where the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, done at The Hague May 29, 1993, has entered into force and is fully implemented.

(3) **NON-HAGUE COUNTRY.**—The term “non-Hague country” means a country where the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, done at The Hague May 29, 1993, has not entered into force.

22 USC 7834.  
Designation.

**SEC. 4. BRIEFINGS ON THE WELFARE OF NORTH KOREAN CHILDREN.**

(a) **IN GENERAL.**—The Secretary of State shall designate a representative to regularly brief the appropriate congressional committees in an unclassified setting on United States Government efforts to advocate for the best interests of North Korean children

and children of one North Korean parent, including efforts to address, when appropriate, the adoption of such children living outside North Korea without parental care.

(b) CONTENTS.—The Secretary's designee shall be prepared to address in each briefing the following topics:

(1) The analysis of the Department of State of the challenges facing North Korean children residing outside North Korea and challenges facing children of one North Korean parent in other countries who are fleeing persecution or are living as de jure or de facto stateless persons.

(2) Department of State efforts to advocate for the best interest of North Korean children residing outside North Korea or children of one North Korean parent living in other countries who are fleeing persecution or are living as de jure or de facto stateless persons, including, when possible, efforts to address the immediate care and family reunification of these children, and, in individual cases where appropriate, the adoption of eligible North Korean children living outside North Korea and children of one North Korean parent living outside North Korea.

(3) Department of State efforts to develop a comprehensive strategy to address challenges that United States citizens would encounter in attempting to adopt, via intercountry adoption, North Korean-origin children residing in other countries or children of one North Korean parent residing outside North Korea who are fleeing persecution or are living as de jure or de facto stateless persons, including efforts to overcome the complexities involved in determining jurisdiction for best interest determinations and adoption processing, if appropriate, of those who habitually reside in a Hague country or a non-Hague country.

(4) Department of State diplomatic efforts to encourage countries in which North Korean children or children of one North Korean parent are fleeing persecution or reside as de jure or de facto stateless persons to resolve issues of statelessness of North Koreans residing in that country.

(5) Department of State efforts to work with the Government of the Republic of Korea to establish pilot programs that identify, provide for the immediate care of, and assist in the family reunification of North Korean children and children of one North Korean parent living within South Korea

and other countries who are fleeing persecution or are living as de jure or de facto stateless persons.

Approved January 14, 2013.

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LEGISLATIVE HISTORY—H.R. 1464:

CONGRESSIONAL RECORD:

Vol. 158 (2012): Sept. 11, considered and passed House.

Dec. 28, considered and passed Senate, amended.

Vol. 158 (2013): Jan. 1, House concurred in Senate amendments.





Public Law 112–265  
112th Congress

An Act

To amend title 28, United States Code, to clarify the statutory authority for the longstanding practice of the Department of Justice of providing investigatory assistance on request of State and local authorities with respect to certain serious violent crimes, and for other purposes.

Jan. 14, 2013  
[H.R. 2076]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Investigative Assistance for Violent Crimes Act of 2012”.

Investigative  
Assistance for  
Violent Crimes  
Act of 2012.  
6 USC 101 note.

**SEC. 2. INVESTIGATION OF CERTAIN VIOLENT ACTS, SHOOTINGS, AND MASS KILLINGS.**

(a) ATTORNEY GENERAL.—Title 28, United States Code, is amended—

(1) in section 530C(b)(1)(L)(i), by striking “\$2,000,000” and inserting “\$3,000,000”; and

(2) in section 530C(b)(1), by adding at the end the following—

“(M)(i) At the request of an appropriate law enforcement official of a State or political subdivision, the Attorney General may assist in the investigation of violent acts and shootings occurring in a place of public use and in the investigation of mass killings and attempted mass killings. Any assistance provided under this subparagraph shall be presumed to be within the scope of Federal office or employment.

“(i) For purposes of this subparagraph—

“(I) the term ‘mass killings’ means 3 or more killings in a single incident; and

“(II) the term ‘place of public use’ has the meaning given that term under section 2332f(e)(6) of title 18, United States Code.”.

Definitions.

(b) SECRETARY OF HOMELAND SECURITY.—Section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended by adding at the end the following:

“(d) INVESTIGATION OF CERTAIN VIOLENT ACTS, SHOOTINGS, AND MASS KILLINGS.—

“(1) IN GENERAL.—At the request of an appropriate law enforcement official of a State or political subdivision, the Secretary, through deployment of the Secret Service or United States Immigration and Customs Enforcement, may assist in the investigation of violent acts and shootings occurring in a place of public use, and in the investigation of mass killings

and attempted mass killings. Any assistance provided by the Secretary under this subsection shall be presumed to be within the scope of Federal office or employment.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘mass killings’ means 3 or more killings in a single incident; and

“(B) the term ‘place of public use’ has the meaning given that term under section 2332f(e)(6) of title 18, United States Code.”.

Approved January 14, 2013.

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LEGISLATIVE HISTORY—H.R. 2076 (S. 1793):

HOUSE REPORTS: No. 112–186 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Sept. 12, considered and passed House.

Vol. 158 (2012): Dec. 17, considered and passed Senate, amended.

Vol. 158 (2013): Jan. 1, House concurred in Senate amendment.



Public Law 112–266  
112th Congress

An Act

To prevent the introduction into commerce of unsafe drywall, to ensure the manufacturer of drywall is readily identifiable, to ensure that problematic drywall removed from homes is not reused, and for other purposes.

Jan. 14, 2013  
[H.R. 4212]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Drywall Safety Act of 2012”.

Drywall Safety  
Act of 2012.  
15 USC 2051  
note.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the Secretary of Commerce should insist that the Government of the People’s Republic of China, which has ownership interests in the companies that manufactured and exported problematic drywall to the United States, facilitate a meeting between the companies and representatives of the United States Government on remedying homeowners that have problematic drywall in their homes; and

(2) the Secretary of Commerce should insist that the Government of the People’s Republic of China direct the companies that manufactured and exported problematic drywall to submit to jurisdiction in United States Federal Courts and comply with any decisions issued by the Courts for homeowners with problematic drywall.

**SEC. 3. DRYWALL LABELING REQUIREMENT.**

(a) **LABELING REQUIREMENT.**—Beginning 180 days after the date of the enactment of this Act, the gypsum board labeling provisions of standard ASTM C1264–11 of ASTM International, as in effect on the day before the date of the enactment of this Act, shall be treated as a rule promulgated by the Consumer Product Safety Commission under section 14(c) of the Consumer Product Safety Act (15 U.S.C. 2063(c)).

Effective date.  
15 USC 2056c  
note.

(b) **REVISION OF STANDARD.**—If the gypsum board labeling provisions of the standard referred to in subsection (a) are revised on or after the date of the enactment of this Act, ASTM International shall notify the Commission of such revision no later than 60 days after final approval of the revision by ASTM International. The revised provisions shall be treated as a rule promulgated by the Commission under section 14(c) of such Act (15 U.S.C. 2063(c)), in lieu of the prior version, effective 180 days after the Commission is notified of the revision (or such later date as the Commission considers appropriate), unless within 90 days after receiving that notice the Commission determines that the revised

Notification.  
Deadlines.

Effective date.  
Determination.

provisions do not adequately identify gypsum board by manufacturer and month and year of manufacture, in which case the Commission shall continue to enforce the prior version.

15 USC 2056c.

**SEC. 4. SULFUR CONTENT IN DRYWALL STANDARD.**

Deadline.

(a) **RULE ON SULFUR CONTENT IN DRYWALL REQUIRED.**—Except as provided in subsection (c), not later than 2 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall promulgate a final rule pertaining to drywall manufactured or imported for use in the United States that limits sulfur content to a level not associated with elevated rates of corrosion in the home.

(b) **RULE MAKING; CONSUMER PRODUCT SAFETY STANDARD.**—A rule under subsection (a)—

(1) shall be promulgated in accordance with section 553 of title 5, United States Code; and

(2) shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

(c) **EXCEPTION.**—

Determination.

(1) **VOLUNTARY STANDARD.**—Subsection (a) shall not apply if the Commission determines that—

(A) a voluntary standard pertaining to drywall manufactured or imported for use in the United States limits sulfur content to a level not associated with elevated rates of corrosion in the home;

(B) such voluntary standard is or will be in effect not later than two years after the date of enactment of this Act; and

(C) such voluntary standard is developed by Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products of ASTM International.

(2) **FEDERAL REGISTER.**—Any determination made under paragraph (1) shall be published in the Federal Register.

Effective date.

(d) **TREATMENT OF VOLUNTARY STANDARD FOR PURPOSES OF ENFORCEMENT.**—If the Commission determines that a voluntary standard meets the conditions in subsection (c)(1), the sulfur content limit in such voluntary standard shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) beginning on the date that is the later of—

(1) 180 days after publication of the Commission's determination under subsection (c); or

(2) the effective date contained in the voluntary standard.

Notification.  
Deadlines.

(e) **REVISION OF VOLUNTARY STANDARD.**—If the sulfur content limit of a voluntary standard that met the conditions of subsection (c)(1) is subsequently revised, the organization responsible for the standard shall notify the Commission no later than 60 days after final approval of the revision. The sulfur content limit of the revised voluntary standard shall become enforceable as a Commission rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), in lieu of the prior version, effective 180 days after the Commission is notified of the revision (or such later date as the Commission considers appropriate), unless within 90 days after receiving that notice the Commission determines that the sulfur content limit of the revised voluntary standard does

Effective date.  
Determination.

not meet the requirements of subsection (c)(1)(A), in which case the Commission shall continue to enforce the prior version.

(f) **FUTURE RULEMAKING.**—The Commission, at any time subsequent to publication of the consumer product safety rule required by subsection (a) or a determination under subsection (c), may initiate a rulemaking in accordance with section 553 of title 5, United States Code, to modify the sulfur content limit or to include any provision relating only to the composition or characteristics of drywall that the Commission determines is reasonably necessary to protect public health or safety. Any rule promulgated under this subsection shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

**SEC. 5. REVISION OF REMEDIATION GUIDANCE FOR DRYWALL DISPOSAL REQUIRED.**

15 USC 2056c  
note.

Not later than 120 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall revise its guidance entitled “Remediation Guidance for Homes with Corrosion from Problem Drywall” to specify that problematic drywall removed from homes pursuant to the guidance should not be reused or used as a component in production of new drywall.

Deadline.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—H.R. 4212:**

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Sept. 19, considered and passed House.  
Dec. 21, considered and passed Senate, amended.  
Dec. 30, House considered concurring in Senate amendment.  
Vol. 158 (2013): Jan. 1, House concurred in Senate amendment.



Public Law 112–267  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 4365]

To amend title 5, United States Code, to make clear that accounts in the Thrift Savings Fund are subject to certain Federal tax levies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENTS.**

Section 8437(e)(3) of title 5, United States Code, is amended in the first sentence—

(1) by striking “659” and inserting “659,”; and

(2) by striking the period at the end and inserting the following: “, and shall be subject to a Federal tax levy under section 6331 of the Internal Revenue Code of 1986.”.

5 USC 8437 note.

**SEC. 2. DISPOSITION OF AMOUNTS.**

Any potential revenue gain attributable to the enactment of this Act, as determined by the Director of the Congressional Budget Office—

(1) shall be deposited in the general fund of the Treasury of the United States; and

(2) shall be used solely for purposes of deficit reduction.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—H.R. 4365:**

HOUSE REPORTS: No. 112–630 (Comm. on Oversight and Government Reform).

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): July 31, Aug. 1, considered and passed House.

Vol. 158 (2013): Jan. 1, considered and passed Senate.



Public Law 112–268  
112th Congress

An Act

To authorize the issuance of right-of-way permits for natural gas pipelines in  
Glacier National Park, and for other purposes.

Jan. 14, 2013  
[H.R. 4606]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. PERMITS FOR EXISTING NATURAL GAS PIPELINES.**

16 USC 161 note.

(a) **IN GENERAL.**—The Secretary of the Interior may issue right-of-way permits for each natural gas pipeline (including all appurtenances used in the operation of the natural gas pipeline) that, as of March 1, 2012, is located within the boundary of Glacier National Park.

(b) **TERMS AND CONDITIONS.**—A permit issued under subsection (a) shall be—

(1) issued as a right-of-way renewal, consistent with laws (including regulations) generally applicable to utility rights-of-way within units of the National Park System;

(2) for a width of not more than 25 feet on either side of the centerline of the natural gas pipeline; and

(3) subject to any terms and conditions that the Secretary of the Interior determines to be necessary.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—H.R. 4606:**

HOUSE REPORTS: No. 112–627 (Comm. on Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Dec. 17, considered and passed House.

Vol. 158 (2013): Jan. 2, considered and passed Senate.



Public Law 112–269  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 6029]

To amend title 18, United States Code, to provide for increased penalties for foreign and economic espionage, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Foreign and  
Economic  
Espionage  
Penalty  
Enhancement  
Act of 2012.  
18 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Foreign and Economic Espionage Penalty Enhancement Act of 2012”.

**SEC. 2. PROTECTING U.S. BUSINESSES FROM FOREIGN ESPIONAGE.**

(a) **FOR OFFENSES COMMITTED BY INDIVIDUALS.**—Section 1831(a) of title 18, United States Code, is amended, in the matter after paragraph (5), by striking “not more than \$500,000” and inserting “not more than \$5,000,000”.

(b) **FOR OFFENSES COMMITTED BY ORGANIZATIONS.**—Section 1831(b) of such title is amended by striking “not more than \$10,000,000” and inserting “not more than the greater of \$10,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided”.

28 USC 994 note.

**SEC. 3. REVIEW BY THE UNITED STATES SENTENCING COMMISSION.**

(a) **IN GENERAL.**—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of offenses relating to the transmission or attempted transmission of a stolen trade secret outside of the United States or economic espionage, in order to reflect the intent of Congress that penalties for such offenses under the Federal sentencing guidelines and policy statements appropriately, reflect the seriousness of these offenses, account for the potential and actual harm caused by these offenses, and provide adequate deterrence against such offenses.

(b) **REQUIREMENTS.**—In carrying out this section, the United States Sentencing Commission shall—

(1) consider the extent to which the Federal sentencing guidelines and policy statements appropriately account for the simple misappropriation of a trade secret, including the sufficiency of the existing enhancement for these offenses to address the seriousness of this conduct;



(2) consider whether additional enhancements in the Federal sentencing guidelines and policy statements are appropriate to account for—

(A) the transmission or attempted transmission of a stolen trade secret outside of the United States; and

(B) the transmission or attempted transmission of a stolen trade secret outside of the United States that is committed or attempted to be committed for the benefit of a foreign government, foreign instrumentality, or foreign agent;

(3) ensure the Federal sentencing guidelines and policy statements reflect the seriousness of these offenses and the need to deter such conduct;

(4) ensure reasonable consistency with other relevant directives, Federal sentencing guidelines and policy statements, and related Federal statutes;

(5) make any necessary conforming changes to the Federal sentencing guidelines and policy statements; and

(6) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) CONSULTATION.—In carrying out the review required under this section, the Commission shall consult with individuals or groups representing law enforcement, owners of trade secrets, victims of economic espionage offenses, the United States Department of Justice, the United States Department of Homeland Security, the United States Department of State and the Office of the United States Trade Representative.

(d) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Commission shall complete its consideration and review under this section.

Deadline.

Approved January 14, 2013.

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LEGISLATIVE HISTORY—H.R. 6029:

HOUSE REPORTS: No. 112–610 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 158 (2012): July 31, Aug. 1, considered and passed House.

Dec. 19, considered and passed Senate, amended.

Dec. 30, House considered concurring in Senate amendment.

Vol. 158 (2013): Jan. 1, House concurred in Senate amendment.



Public Law 112–270  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 6060]

To amend Public Law 106–392 to maintain annual base funding for the Upper Colorado and San Juan fish recovery programs through fiscal year 2019.

Endangered Fish  
Recovery  
Programs  
Extension Act  
of 2012.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Endangered Fish Recovery Programs Extension Act of 2012”.

**SEC. 2. EXTENSIONS OF AUTHORITY UNDER PUBLIC LAW 106–392; REPORT.**

114 Stat. 1604.

Section 3(d)(2) of Public Law 106–392 is amended—

(1) by striking “2011” each place it appears and inserting “2019”;

(2) by striking “2008” and inserting “2018”; and

(3) by inserting before “Nothing in this Act” the following: “Such report shall also describe the Recovery Implementation Programs actions and accomplishments to date, the status of the endangered species of fish and projected dates for downlisting and delisting under the Endangered Species Act of 1973, and the utilization of power revenues for annual base funding.”.

**SEC. 3. INDIRECT COST RECOVERY RATE FOR RECOVERY PROGRAMS.**

114 Stat. 1603.

Section 3 of Public Law 106–392 is amended by adding at the end the following new subsection:

“(i) **LIMITATION ON INDIRECT COST RECOVERY RATE.**—The indirect cost recovery rate for any transfer of funds to the U.S. Fish and Wildlife Service from another Federal agency for the purpose of funding any activity associated with the Upper Colorado River Endangered Fish Recovery Program or the San Juan River Basin Recovery Implementation Program shall not exceed three percent of the funds transferred. In the case of a transfer of funds for the purpose of funding activities under both programs, the limitation shall be applied to the funding amount for each program and may not be allocated unequally to either program, even if the average aggregate indirect cost recovery rate would not exceed three percent.”.

**SEC. 4. LIMITATION ON TRAVEL FOR ADVOCACY PURPOSES.**

At the end of Public Law 106–392, add the following new section:

**“SEC. 5. LIMITATION ON TRAVEL FOR ADVOCACY PURPOSES.**

“No Federal funds may be used to cover any expenses incurred by an employee or detailee of the Department of the Interior to travel to any location (other than the field office to which that individual is otherwise assigned) to advocate, lobby, or attend meetings that advocate or lobby for the Recovery Implementation Programs.”.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—H.R. 6060:**

HOUSE REPORTS: No. 112–672 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Sept. 19, considered and passed House.

Dec. 31, considered and passed Senate.



Public Law 112–271  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 6328]

To amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to transfer unclaimed clothing recovered at airport security checkpoints to local veterans organizations and other local charitable organizations, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Clothe a  
Homeless  
Hero Act.  
49 USC 40101  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Clothe a Homeless Hero Act”.

**SEC. 2. DISPOSITION OF UNCLAIMED CLOTHING RECOVERED AT AIRPORT SECURITY CHECKPOINTS.**

(a) IN GENERAL.—Section 44945 of title 49, United States Code, is amended—

(1) in the section heading, by inserting “**and clothing**” after “**money**”;

(2) by inserting before the text the following: “(a) DISPOSITION OF UNCLAIMED MONEY.—”; and

(3) by adding at the end the following:

“(b) DISPOSITION OF UNCLAIMED CLOTHING.—

“(1) IN GENERAL.—In disposing of unclaimed clothing recovered at any airport security checkpoint, the Assistant Secretary shall make every reasonable effort, in consultation with the Secretary of Veterans Affairs, to transfer the clothing to the local airport authority or other local authorities for donation to charity, including local veterans organizations or other local charitable organizations for distribution to homeless or needy veterans and veteran families.

“(2) AGREEMENTS.—In implementing paragraph (1), the Assistant Secretary may enter into agreements with airport authorities.

“(3) OTHER CHARITABLE ARRANGEMENTS.—Nothing in this subsection shall prevent an airport or the Transportation Security Administration from donating unclaimed clothing to a charitable organization of their choosing.

“(4) LIMITATION.—Nothing in this subsection shall create a cost to the Government.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 449 of such title is amended by striking the item relating to such section and inserting the following: 49 USC prec. 44901.

“44945. Disposition of unclaimed money and clothing.”.

Approved January 14, 2013.

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LEGISLATIVE HISTORY—H.R. 6328:

CONGRESSIONAL RECORD:

Vol. 158 (2012): Nov. 27, considered and passed House.  
Dec. 11, considered and passed Senate, amended.  
Dec. 30, House considered concurring in Senate amendment.  
Vol. 158 (2013): Jan. 1, House concurred in Senate amendment.



Public Law 112–272  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 6364]

World War I  
Centennial  
Commission Act.  
36 USC prec. 101  
note.

To establish a commission to ensure a suitable observance of the centennial of World War I, to provide for the designation of memorials to the service of members of the United States Armed Forces in World War I, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “World War I Centennial Commission Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Establishment of World War I Centennial Commission.
- Sec. 5. Duties of Centennial Commission.
- Sec. 6. Powers of Centennial Commission.
- Sec. 7. Centennial Commission personnel matters.
- Sec. 8. Termination of Centennial Commission.
- Sec. 9. Prohibition on obligation of Federal funds.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) From 2014 through 2018, the United States and nations around the world will mark the centennial of World War I, including the entry of the United States into the war in April 1917.

(2) America’s support of Great Britain, France, Belgium, and its other allies in World War I marked the first time in United States history that American soldiers went abroad in defense of liberty against foreign aggression, and it marked the true beginning of the “American century”.

(3) Although World War I was at the time called “the war to end all wars”, in fact the United States would commit its troops to the defense of foreign lands 3 more times in the 20th century.

(4) More than 4,000,000 men and women from the United States served in uniform during World War I, among them 2 future presidents, Harry S. Truman and Dwight D. Eisenhower. Two million individuals from the United States served overseas during World War I, including 200,000 naval personnel who served on the seas. The United States suffered 375,000 casualties during World War I, including 116,516 deaths.

(5) The events of 1914 through 1918 shaped the world, the United States, and the lives of millions of people.

(6) The centennial of World War I offers an opportunity for people in the United States to learn about and commemorate the sacrifices of their predecessors.

(7) Commemorative programs, activities, and sites allow people in the United States to learn about the history of World War I, the United States involvement in that war, and the war's effects on the remainder of the 20th century, and to commemorate and honor the participation of the United States and its citizens in the war effort.

### SEC. 3. DEFINITIONS.

In this Act—

(1) **AMERICA'S NATIONAL WORLD WAR I MUSEUM.**—The term “America's National World War I Museum” means the Liberty Memorial Museum in Kansas City, Missouri, as recognized by Congress in section 1031(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2045).

(2) **CENTENNIAL COMMISSION.**—The term “Centennial Commission” means the World War I Centennial Commission established by section 4(a).

(3) **VETERANS SERVICE ORGANIZATION.**—The term “veterans service organization” means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

### SEC. 4. ESTABLISHMENT OF WORLD WAR I CENTENNIAL COMMISSION.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the “World War I Centennial Commission”.

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Centennial Commission shall be composed of 12 members as follows: Appointments.

(A) Two members who shall be appointed by the Speaker of the House of Representatives.

(B) One member who shall be appointed by the minority leader of the House of Representatives.

(C) Two members who shall be appointed by the majority leader of the Senate.

(D) One member who shall be appointed by the minority leader of the Senate.

(E) Three members who shall be appointed by the President from among persons who are broadly representative of the people of the United States (including members of the Armed Forces, veterans, and representatives of veterans service organizations). President.

(F) One member who shall be appointed by the executive director of the Veterans of Foreign Wars of the United States.

(G) One member who shall be appointed by the executive director of the American Legion.

(H) One member who shall be appointed by the president of the Liberty Memorial Association.

(2) **TIME FOR APPOINTMENT.**—The members of the Centennial Commission shall be appointed not later than 60 days after the date of the enactment of this Act.

(3) **PERIOD OF APPOINTMENT.**—Each member shall be appointed for the life of the Centennial Commission.

(4) VACANCIES.—A vacancy in the Centennial Commission shall be filled in the manner in which the original appointment was made.

(c) MEETINGS.—

(1) INITIAL MEETING.—

Deadlines.

(A) IN GENERAL.—Not later than 30 days after the date on which all members of the Centennial Commission have been appointed, the Centennial Commission shall hold its first meeting.

(B) LOCATION.—The location for the meeting held under subparagraph (A) shall be the America's National World War I Museum.

(2) SUBSEQUENT MEETINGS.—

(A) IN GENERAL.—The Centennial Commission shall meet at the call of the Chair.

(B) FREQUENCY.—The Chair shall call a meeting of the members of the Centennial Commission not less frequently than once each year.

(C) LOCATION.—Not less frequently than once each year, the Centennial Commission shall meet at the America's National World War I Museum.

(3) QUORUM.—Seven members of the Centennial Commission shall constitute a quorum, but a lesser number may hold hearings.

(d) CHAIR AND VICE CHAIR.—The Centennial Commission shall select a Chair and Vice Chair from among its members.

**SEC. 5. DUTIES OF CENTENNIAL COMMISSION.**

(a) IN GENERAL.—The duties of the Centennial Commission are as follows:

(1) To plan, develop, and execute programs, projects, and activities to commemorate the centennial of World War I.

(2) To encourage private organizations and State and local governments to organize and participate in activities commemorating the centennial of World War I.

(3) To facilitate and coordinate activities throughout the United States relating to the centennial of World War I.

(4) To serve as a clearinghouse for the collection and dissemination of information about events and plans for the centennial of World War I.

(5) To develop recommendations for Congress and the President for commemorating the centennial of World War I.

(b) REPORTS.—

(1) PERIODIC REPORT.—Not later than the last day of the 6-month period beginning on the date of the enactment of this Act, and not later than the last day of each 3-month period thereafter, the Centennial Commission shall submit to Congress and the President a report on the activities and plans of the Centennial Commission.

(2) RECOMMENDATIONS.—Not later than 2 years after the date of the enactment of this Act, the Centennial Commission shall submit to Congress and the President a report containing specific recommendations for commemorating the centennial of World War I and coordinating related activities.

**SEC. 6. POWERS OF CENTENNIAL COMMISSION.**

(a) HEARINGS.—The Centennial Commission may hold such hearings, sit and act at such times and places, take such testimony,



and receive such evidence as the Centennial Commission considers appropriate to carry out its duties under this Act.

(b) **POWERS OF MEMBER AND AGENTS.**—If authorized by the Centennial Commission, any member or agent of the Centennial Commission may take any action which the Centennial Commission is authorized to take under this Act.

(c) **INFORMATION FROM FEDERAL AGENCIES.**—The Centennial Commission shall secure directly from any Federal department or agency such information as the Centennial Commission considers necessary to carry out the provisions of this Act. Upon the request of the Chair of the Centennial Commission, the head of such department or agency shall furnish such information to the Centennial Commission.

(d) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Centennial Commission, the Administrator of the General Services Administration shall provide to the Centennial Commission, on a reimbursable basis, the administrative support services necessary for the Centennial Commission to carry out its responsibilities under this Act.

(e) **CONTRACT AUTHORITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Centennial Commission is authorized—

(A) to procure supplies, services, and property; and

(B) to make or enter into contracts, leases, or other legal agreements.

(2) **LIMITATION.**—The Centennial Commission may not enter into any contract, lease, or other legal agreement that extends beyond the date of the termination of the Centennial Commission under section 8(a).

(f) **POSTAL SERVICES.**—The Centennial Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) **GIFTS, BEQUESTS, AND DEVISES.**—The Centennial Commission shall accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of covering the costs incurred by the Centennial Commission to carry out its duties under this Act.

#### **SEC. 7. CENTENNIAL COMMISSION PERSONNEL MATTERS.**

(a) **COMPENSATION OF MEMBERS.**—Members of the Centennial Commission shall serve without compensation for such service.

(b) **TRAVEL EXPENSES.**—Each member of the Centennial Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with the applicable provisions of title 5, United States Code.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chair of the Centennial Commission shall, in consultation with the members of the Centennial Commission, appoint an executive director and such other additional personnel as may be necessary to enable the Centennial Commission to perform its duties.

(2) **COMPENSATION.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Chair of the Centennial Commission may fix the compensation of the executive director and any other personnel appointed under paragraph (1).

Missouri.  
Liberty Memorial  
Association.

(B) **LIMITATION.**—The Chair of the Centennial Commission may not fix the compensation of the executive director or other personnel appointed under paragraph (1) at a rate that exceeds the rate of payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(C) **WORK LOCATION.**—If the city government for Kansas City, Missouri, and the Liberty Memorial Association make space available in the building in which the America's National World War I Museum is located, the executive director of the Centennial Commission and other personnel appointed under paragraph (1) shall work in such building to the extent practical.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon request of the Centennial Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any employee of that department or agency to the Centennial Commission to assist it in carrying out its duties under this Act.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chair of the Centennial Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) **SOURCE OF FUNDS.**—Gifts, bequests, and devises of services or property, both real and personal, received by the Centennial Commission under section 6(g) shall be the only source of funds to cover the costs incurred by the Centennial Commission under this section.

#### **SEC. 8. TERMINATION OF CENTENNIAL COMMISSION.**

(a) **IN GENERAL.**—The Centennial Commission shall terminate on the earlier of—

(1) the date that is 30 days after the date the completion of the activities under this Act honoring the centennial observation of World War I; or

(2) July 28, 2019.

(b) **APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Centennial Commission under this Act.

(2) **EXCEPTION.**—Section 14(a)(2) of such Act shall not apply to the Centennial Commission.

**SEC. 9. PROHIBITION ON OBLIGATION OF FEDERAL FUNDS.**

No Federal funds may be obligated to carry out this Act.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—H.R. 6364:**

HOUSE REPORTS: No. 112–701, Pt. 1 (Comm. on Natural Resources).  
CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 12, considered and passed House.  
Dec. 21, considered and passed Senate, amended.  
Dec. 31, House concurred in Senate amendment.



Public Law 112–273  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 6586]

Space  
Exploration  
Sustainability  
Act.  
51 USC 10101  
note.

To extend the application of certain space launch liability provisions through 2014.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Space Exploration Sustainability Act”.

**SEC. 2. ASSURANCE OF CORE CAPABILITIES.**

Section 203 of the National Aeronautics and Space Administration Authorization Act of 2010 (42 U.S.C. 18313) is amended by adding at the end the following:

“(c) SENSE OF CONGRESS REGARDING HUMAN SPACE FLIGHT CAPABILITY ASSURANCE.—It is the sense of Congress that the Administrator shall proceed with the utilization of the ISS, technology development, and follow-on transportation systems (including the Space Launch System, multi-purpose crew vehicle, and commercial crew and cargo transportation capabilities) under titles III and IV of this Act in a manner that ensures—

“(1) that these capabilities remain inherently complementary and interrelated;

“(2) a balance of the development, sustainment, and use of each of these capabilities, which are of critical importance to the viability and sustainability of the U.S. space program; and

“(3) that resources required to support the timely and sustainable development of these capabilities authorized in either title III or title IV of this Act are not derived from a reduction in resources for the capabilities authorized in the other title.

“(d) LIMITATION.—Nothing in subsection (c) shall apply to or affect any capability authorized by any other title of this Act”.

**SEC. 3. EXTENSION OF CERTAIN SPACE LAUNCH LIABILITY PROVISIONS.**

Section 50915(f) of title 51, United States Code, is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

**SEC. 4. EXEMPTION FROM INKSNA.**

Section 7(1)(B) of the Iran, North Korea, and Syria Non-proliferation Act (50 U.S.C. 1701 note) is amended—

(1) by striking “, or for the purchase of goods or services relating to human space flight, that are”; and

(2) by striking “prior to July 1, 2016” and inserting “prior to December 31, 2020”.

Approved January 14, 2013.

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LEGISLATIVE HISTORY—H.R. 6586:

CONGRESSIONAL RECORD:

Vol. 158 (2012): Nov. 13, considered and passed House.

Dec. 31, considered and passed Senate, amended.

Vol. 158 (2013): Jan. 2, House concurred in Senate amendment.



Public Law 112–274  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 6621]

To correct and improve certain provisions of the Leahy-Smith America Invents Act and title 35, United States Code.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Patents.

**SECTION 1. TECHNICAL CORRECTIONS.**

Applicability.  
35 USC 298 note.

(a) **ADVICE OF COUNSEL.**—Notwithstanding section 35 of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), section 298 of title 35, United States Code, shall apply to any civil action commenced on or after the date of the enactment of this Act.

(b) **TRANSITIONAL PROGRAM FOR COVERED BUSINESS METHOD PATENTS.**—Section 18 of the Leahy-Smith America Invents Act (35 U.S.C. 321 note) is amended—

(1) in subsection (a)(1)(C)(i), by striking “of such title” the second place it appears; and

(2) in subsection (d)(2), by striking “subsection” and inserting “section”.

(c) **JOINDER OF PARTIES.**—Section 299(a) of title 35, United States Code, is amended in the matter preceding paragraph (1) by striking “or counterclaim defendants only if” and inserting “only if”.

(d) **DEAD ZONES.**—

35 USC 311 note.

(1) **INTER PARTES REVIEW.**—Section 311(c) of title 35, United States Code, shall not apply to a petition to institute an inter partes review of a patent that is not a patent described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

(2) **REISSUE.**—Section 311(c)(1) of title 35, United States Code, is amended by striking “or issuance of a reissue of a patent”.

(e) **CORRECT INVENTOR.**—

(1) **IN GENERAL.**—Section 135(e) of title 35, United States Code, as amended by section 3(i) of the Leahy-Smith America Invents Act, is amended by striking “correct inventors” and inserting “correct inventor”.

35 USC 135 note.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall be effective as if included in the amendment made by section 3(i) of the Leahy-Smith America Invents Act.

(f) **INVENTOR’S OATH OR DECLARATION.**—Section 115 of title 35, United States Code, as amended by section 4 of the Leahy-Smith America Invents Act, is amended—

(1) by striking subsection (f) and inserting the following:

“(f) **TIME FOR FILING.**—The applicant for patent shall provide each required oath or declaration under subsection (a), substitute

statement under subsection (d), or recorded assignment meeting the requirements of subsection (e) no later than the date on which the issue fee for the patent is paid.”; and

(2) in subsection (g)(1), by striking “who claims” and inserting “that claims”.

(g) TRAVEL EXPENSES AND PAYMENT OF ADMINISTRATIVE JUDGES.—Notwithstanding section 35 of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), the amendments made by section 21 of the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 335) shall be effective as of September 16, 2011.

35 USC 2 note.  
Effective date.

(h) PATENT TERM ADJUSTMENTS.—Section 154(b) of title 35, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)(i)(II), by striking “on which an international application fulfilled the requirements of section 371 of this title” and inserting “of commencement of the national stage under section 371 in an international application”; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking “the application in the United States” and inserting “the application under section 111(a) in the United States or, in the case of an international application, the date of commencement of the national stage under section 371 in the international application”;

(2) in paragraph (3)(B)(i), by striking “with the written notice of allowance of the application under section 151” and inserting “no later than the date of issuance of the patent”; and

(3) in paragraph (4)(A)—

(A) by striking “a determination made by the Director under paragraph (3) shall have remedy” and inserting “the Director’s decision on the applicant’s request for reconsideration under paragraph (3)(B)(ii) shall have exclusive remedy”; and

(B) by striking “the grant of the patent” and inserting “the date of the Director’s decision on the applicant’s request for reconsideration”.

(i) IMPROPER APPLICANT.—Section 373 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 37 of such title, are repealed.

Repeal.

(j) FINANCIAL MANAGEMENT CLARIFICATIONS.—Section 42(c)(3) of title 35, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking “sections 41, 42, and 376,” and inserting “this title,”; and

(B) by striking “a share of the administrative costs of the Office relating to patents” and inserting “a proportionate share of the administrative costs of the Office”; and

(2) in subparagraph (B), by striking “a share of the administrative costs of the Office relating to trademarks” and inserting “a proportionate share of the administrative costs of the Office”.

(k) DERIVATION PROCEEDINGS.—

(1) IN GENERAL.—Section 135(a) of title 35, United States Code, as amended by section 3(i) of the Leahy-Smith America Invents Act, is amended to read as follows:

“(a) INSTITUTION OF PROCEEDING.—

Petition.

“(1) IN GENERAL.—An applicant for patent may file a petition with respect to an invention to institute a derivation proceeding in the Office. The petition shall set forth with particularity the basis for finding that an individual named in an earlier application as the inventor or a joint inventor derived such invention from an individual named in the petitioner’s application as the inventor or a joint inventor and, without authorization, the earlier application claiming such invention was filed. Whenever the Director determines that a petition filed under this subsection demonstrates that the standards for instituting a derivation proceeding are met, the Director may institute a derivation proceeding.

“(2) TIME FOR FILING.—A petition under this section with respect to an invention that is the same or substantially the same invention as a claim contained in a patent issued on an earlier application, or contained in an earlier application when published or deemed published under section 122(b), may not be filed unless such petition is filed during the 1-year period following the date on which the patent containing such claim was granted or the earlier application containing such claim was published, whichever is earlier.

“(3) EARLIER APPLICATION.—For purposes of this section, an application shall not be deemed to be an earlier application with respect to an invention, relative to another application, unless a claim to the invention was or could have been made in such application having an effective filing date that is earlier than the effective filing date of any claim to the invention that was or could have been made in such other application.

“(4) NO APPEAL.—A determination by the Director whether to institute a derivation proceeding under paragraph (1) shall be final and not appealable.”.

35 USC 135 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the amendment made by section 3(i) of the Leahy-Smith America Invents Act.

Applicability.  
35 USC 135 note.

(3) REVIEW OF INTERFERENCE DECISIONS.—The provisions of sections 6 and 141 of title 35, United States Code, and section 1295(a)(4)(A) of title 28, United States Code, as in effect on September 15, 2012, shall apply to interference proceedings that are declared after September 15, 2012, under section 135 of title 35, United States Code, as in effect before the effective date under section 3(n) of the Leahy-Smith America Invents Act. The Patent Trial and Appeal Board may be deemed to be the Board of Patent Appeals and Interferences for purposes of such interference proceedings.

(1) PATENT AND TRADEMARK PUBLIC ADVISORY COMMITTEES.—

(1) IN GENERAL.—Section 5(a) of title 35, United States Code, is amended—

(A) in paragraph (1), by striking “Members of” and all that follows through “such appointments.” and inserting the following: “In each year, 3 members shall be appointed to each Advisory Committee for 3-year terms that shall begin on December 1 of that year. Any vacancy on an Advisory Committee shall be filled within 90 days after it occurs. A new member who is appointed to fill a vacancy shall be appointed to serve for the remainder of the predecessor’s term.”;

Appointment.  
Time period.  
Effective date.  
Deadline.



(B) by striking paragraph (2) and inserting the following:

“(2) CHAIR.—The Secretary of Commerce, in consultation with the Director, shall designate a Chair and Vice Chair of each Advisory Committee from among the members appointed under paragraph (1). If the Chair resigns before the completion of his or her term, or is otherwise unable to exercise the functions of the Chair, the Vice Chair shall exercise the functions of the Chair.”; and

Designation.

(C) by striking paragraph (3).

(2) TRANSITION.—

(A) IN GENERAL.—The Secretary of Commerce shall, in the Secretary’s discretion, determine the time and manner in which the amendments made by paragraph (1) shall take effect, except that, in each year following the year in which this Act is enacted, 3 members shall be appointed to each Advisory Committee (to which such amendments apply) for 3-year terms that begin on December 1 of that year, in accordance with section 5(a) of title 35, United States Code, as amended by paragraph (1) of this subsection.

35 USC 5 note.  
Determination.  
Appointment.  
Time period.  
Effective date.

(B) DEEMED TERMINATION OF TERMS.—In order to implement the amendments made by paragraph (1), the Secretary of Commerce may determine that the term of an existing member of an Advisory Committee under section 5 of title 35, United States Code, shall be deemed to terminate on December 1 of a year beginning after the date of the enactment of this Act, regardless of whether December 1 is before or after the date on which such member’s term would terminate if this Act had not been enacted.

(m) CLERICAL AMENDMENT.—Section 123(a) of title 35, United States Code, is amended in the matter preceding paragraph (1) by inserting “of this title” after “For purposes”.

(n) EFFECTIVE DATE.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act, and shall apply to proceedings commenced on or after such date of enactment.

Applicability.  
35 USC 5 note.

Approved January 14, 2013.

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LEGISLATIVE HISTORY—H.R. 6621:

CONGRESSIONAL RECORD:

Vol. 158 (2012): Dec. 18, considered and passed House.  
Dec. 28, considered and passed Senate, amended.  
Dec. 30, House considered concurring in Senate amendment.  
Vol. 158 (2013): Jan. 1, House concurred in Senate amendment.



Public Law 112–275  
112th Congress

An Act

Jan. 14, 2013  
[H.R. 6655]

To establish a commission to develop a national strategy and recommendations for reducing fatalities resulting from child abuse and neglect.

Protect our Kids  
Act of 2012.  
42 USC 1305  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMMISSION.**

This Act may be cited as the “Protect our Kids Act of 2012”.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) deaths from child abuse and neglect are preventable;  
(2) deaths from child abuse and neglect are significantly underreported and there is no national standard for reporting such deaths;

(3) according to the Child Maltreatment Report of 2011, in fiscal year 2011, 1,545 children in the United States are reported to have died from child abuse and neglect, and many experts believe that the actual number may be significantly more;

(4) over 42 percent of the number of children in the United States who die from abuse are under the age of 1, and almost 82 percent are under the age of 4;

(5) of the children who died in fiscal year 2011, 70 percent suffered neglect either exclusively or in combination with another maltreatment type and 48 percent suffered physical abuse either exclusively or in combination;

(6) increased understanding of deaths from child abuse and neglect can lead to improvement in agency systems and practices to protect children and prevent child abuse and neglect; and

(7) Congress in recent years has taken a number of steps to reduce child fatalities from abuse and neglect, such as—

(A) providing States with flexibility through the Child and Family Services Improvement and Innovation Act of 2011 to operate child welfare demonstration projects to test services focused on preventing abuse and neglect and ensuring that children remain safely in their own homes;

(B) providing funding through the Child and Family Services Improvement Act of 2006 for services and activities to enhance the safety of children who are at risk of being placed in foster care as a result of a parent’s substance abuse;

(C) providing funding through the Fostering Connections to Success and Increasing Adoptions Act of 2008

for grants to facilitate activities such as family group decisionmaking meetings and residential family treatment programs to support parents in caring for their children; and

(D) requiring States through the Child and Family Services Improvement and Innovation Act of 2011 to describe how they will improve the quality of data collected on fatalities from child abuse and neglect.

### SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the Commission to Eliminate Child Abuse and Neglect Fatalities (in this Act referred to as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—

(A) MEMBERS.—The Commission shall be composed of 12 members, of whom—

- (i) 6 shall be appointed by the President; Appointments. President.
- (ii) 2 shall be appointed by the Speaker of the House of Representatives;
- (iii) 1 shall be appointed by the minority leader of the House of Representatives;
- (iv) 2 shall be appointed by the majority leader of the Senate; and
- (v) 1 shall be appointed by the minority leader of the Senate.

(B) QUALIFICATIONS.—Each member appointed under subparagraph (A) shall have experience in one or more of the following areas:

- (i) child welfare administration;
- (ii) child welfare research;
- (iii) child development;
- (iv) legislation, including legislation involving child welfare matters;
- (v) trauma and crisis intervention;
- (vi) pediatrics;
- (vii) psychology and mental health;
- (viii) emergency medicine;
- (ix) forensic pathology or medical investigation of injury and fatality;
- (x) social work with field experience;
- (xi) academia at an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), with a focus on one or more of the other areas listed under this subparagraph;
- (xii) law enforcement, with experience handling child abuse and neglect matters;
- (xiii) civil law, with experience handling child abuse and neglect matters;
- (xiv) criminal law, with experience handling child abuse and neglect matters;
- (xv) substance abuse treatment;
- (xvi) education at an elementary school or secondary school, as those terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801);

- (xvii) epidemiology; and  
 (xviii) computer science or software engineering with a background in interoperability standards.
- President.  
 Congress. (C) DIVERSITY OF QUALIFICATIONS.—In making appointments to the Commission under subparagraph (A), the President and the congressional leaders shall make every effort to select individuals whose qualifications are not already represented by other members of the Commission.
- Deadline. (2) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.
- (c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.
- Deadline. (d) INITIAL MEETING.—Not later than 60 days after the date on which a majority of the members of the Commission have been appointed, the Commission shall hold its first meeting.
- (e) MEETINGS.—The Commission shall meet at the call of the Chairperson.
- (f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.
- President. (g) CHAIRPERSON.—The President shall select a Chairperson for the Commission from among its members.

#### SEC. 4. DUTIES OF THE COMMISSION.

##### (a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study on the use of child protective services and child welfare services funded under title IV and subtitle A of title XX of the Social Security Act to reduce fatalities from child abuse and neglect.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include—

(A) the effectiveness of the services described in paragraph (1) and best practices in preventing child and youth fatalities that are intentionally caused or that occur due to negligence, neglect, or a failure to exercise proper care;

(B) the effectiveness of Federal, State, and local policies and systems within such services aimed at collecting accurate, uniform data on child fatalities in a coordinated fashion, including the identification of the most and least effective policies and systems in practice;

(C) the current (as of the date of the study) barriers to preventing fatalities from child abuse and neglect, and how to improve efficiency to improve child welfare outcomes;

(D) trends in demographic and other risk factors that are predictive of or correlated with child maltreatment, such as age of the child, child behavior, family structure, parental stress, and poverty;

(E) methods of prioritizing child abuse and neglect prevention within such services for families with the highest need; and

(F) methods of improving data collection and utilization, such as increasing interoperability among State and local and other data systems.

(3) MATERIALS STUDIED.—The Commission shall review— Review.

(A) all current (as of the date of the study) research and documentation, including the National Survey of Child and Adolescent Well-Being and research and recommendations from the Government Accountability Office, to identify lessons, solutions, and needed improvements related to reducing fatalities from child abuse and neglect; and

(B) recommendations from the Advisory Board on Child Abuse and Neglect.

(b) COORDINATION.—The Commission shall provide opportunities for graduate and doctoral students to coordinate research with the Commission.

(c) RECOMMENDATIONS.—The Commission shall—

(1) develop recommendations to reduce fatalities from child abuse and neglect for Federal, State, and local agencies, and private sector and nonprofit organizations, including recommendations to implement a comprehensive national strategy for such purpose; and

(2) develop guidelines for the type of information that should be tracked to improve interventions to prevent fatalities from child abuse and neglect. Guidelines.

(d) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date on which a majority of the members of the Commission have been appointed, the Commission shall submit a report to the President and Congress, which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) EXTENSION.—The President may extend the date on which the report described in paragraph (1) shall be submitted by an additional 1 year.

(3) ONLINE ACCESS.—The Commission shall make the report under paragraph (1) available on the publicly available Internet Web site of the Department of Health and Human Services. Public information.  
Web posting.

## SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(2) LOCATION.—The location of hearings under paragraph (1) shall include—

(A) areas with high fatality rates from child abuse and neglect; and

(B) areas that have shown a decrease in fatalities from child abuse and neglect.

(3) SUBJECT.—The Commission shall hold hearings under paragraph (1)—

(A) to examine the Federal, State, and local policies and available resources that affect fatalities from child abuse and neglect; and

(B) to explore the matters studied under section 4(a)(2).

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

#### **SEC. 6. COMMISSION PERSONNEL MATTERS.**

(a) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(b) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—At the discretion of the relevant agency, any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

#### **SEC. 7. TERMINATION OF THE COMMISSION.**

The Commission shall terminate on the earlier of—

(1) the 30th day after the date on which the Commission submits its report under section 4(d); or

(2) the date that is 3 years after the initial meeting under section 3(d).

#### **SEC. 8. FEDERAL AGENCY RESPONSE.**

Not later than 6 months after the submission of the report required under section 4(d), any Federal agency that is affected

by a recommendation described in the report shall submit to Congress a report containing the response of the Federal agency to the recommendation and the plans of the Federal agency to address the recommendation.

**SEC. 9. ADJUSTMENT TO THE TANF CONTINGENCY FUND FOR STATE WELFARE PROGRAMS.**

(a) **IN GENERAL.**—Section 403(b)(2) of the Social Security Act (42 U.S.C. 603(b)(2)) is amended by striking “for fiscal years 2011 and 2012” and all that follows through the end of the paragraph and inserting “for fiscal years 2013 and 2014 such sums as are necessary for payment to the Fund in a total amount not to exceed \$612,000,000 for each fiscal year, of which \$2,000,000 shall be reserved for carrying out the activities of the commission established by the Protect our Kids Act of 2012 to reduce fatalities resulting from child abuse and neglect.”

(b) **PREVENTION OF DUPLICATE APPROPRIATIONS FOR FISCAL YEAR 2013.**—Expenditures made pursuant to section 148 of the Continuing Appropriations Resolution, 2013, for fiscal year 2013, shall be charged to the applicable appropriation provided by the amendments made by this section for such fiscal year.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—H.R. 6655:**

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Dec. 19, considered and passed House.  
Vol. 158 (2013): Jan. 2, considered and passed Senate.



Public Law 112–276  
112th Congress

An Act

Jan. 14, 2013  
[S. 3331]

To provide for universal intercountry adoption accreditation standards, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Intercountry  
Adoption  
Universal  
Accreditation Act  
of 2012.  
42 USC 14901  
note.  
42 USC 14925.  
Applicability.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Intercountry Adoption Universal Accreditation Act of 2012”.

**SEC. 2. UNIVERSAL ACCREDITATION REQUIREMENTS.**

(a) IN GENERAL.—The provisions of title II and section 404 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.), and related implementing regulations, shall apply to any person offering or providing adoption services in connection with a child described in section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(F)), to the same extent as they apply to the offering or provision of adoption services in connection with a Convention adoption. The Secretary of State, the Secretary of Homeland Security, the Attorney General (with respect to section 404(b) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14944)), and the accrediting entities shall have the duties, responsibilities, and authorities under title II and title IV of the Intercountry Adoption Act of 2000 and related implementing regulations with respect to a person offering or providing such adoption services, irrespective of whether such services are offered or provided in connection with a Convention adoption.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect 18 months after the date of the enactment of this Act.

(c) TRANSITION RULE.—This Act shall not apply to a person offering or providing adoption services as described in subsection (a) in the case of a prospective adoption in which—

(1) an application for advance processing of an orphan petition or petition to classify an orphan as an immediate relative for a child is filed before the date that is 180 days after the date of the enactment of this Act; or

(2) the prospective adoptive parents of a child have initiated the adoption process with the filing of an appropriate application in a foreign country sufficient such that the Secretary of State is satisfied before the date that is 180 days after the date of the enactment of this Act.

Time period.



**SEC. 3. AVAILABILITY OF COLLECTED FEES FOR ACCREDITING ENTITIES.**

(a) Section 403 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14943) is amended by striking subsection (c).

(b) REPORT REQUIREMENT.—Section 202(b) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14922(b)) is amended by adding at the end the following:

“(5) REPORT ON USE OF FEDERAL FUNDING.—Not later than 90 days after an accrediting entity receives Federal funding authorized by section 403, the entity shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that describes—

“(A) the amount of such funding the entity received; and

“(B) how such funding was, or will be, used by the entity.”.

**SEC. 4. DEFINITIONS.**

In this Act, the terms “accrediting entity”, “adoption service”, “Convention adoption”, and “person” have the meanings given those terms in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902).

42 USC 14925  
note.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—S. 3331:**

HOUSE REPORTS: No. 112–234 (Comm. on Foreign Relations).

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Dec. 5, considered and passed Senate.

Dec. 30, considered in House.

Vol. 158 (2013): Jan. 1, considered and passed House.



Public Law 112–277  
112th Congress

An Act

Jan. 14, 2013  
[S. 3454]

Intelligence  
Authorization  
Act for Fiscal  
Year 2013.

To authorize appropriations for fiscal year 2013 for intelligence and intelligence-related activities of the United States Government and the Office of the Director of National Intelligence, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2013”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

**TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS**

Sec. 101. Authorization of appropriations.  
Sec. 102. Classified Schedule of Authorizations.  
Sec. 103. Personnel ceiling adjustments.  
Sec. 104. Intelligence Community Management Account.

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND  
DISABILITY SYSTEM**

Sec. 201. Authorization of appropriations.

**TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS**

Sec. 301. Restriction on conduct of intelligence activities.  
Sec. 302. Increase in employee compensation and benefits authorized by law.  
Sec. 303. Non-reimbursable details.  
Sec. 304. Automated insider threat detection program.  
Sec. 305. Software licensing.  
Sec. 306. Strategy for security clearance reciprocity.  
Sec. 307. Improper Payments Elimination and Recovery Act of 2010 compliance.  
Sec. 308. Subcontractor notification process.  
Sec. 309. Modification of reporting schedule.  
Sec. 310. Repeal of certain reporting requirements.

**TITLE IV—MATTERS RELATING TO THE CENTRAL INTELLIGENCE AGENCY**

Sec. 401. Working capital fund amendments.

**TITLE V—OTHER MATTERS**

Sec. 501. Homeland Security Intelligence Program.  
Sec. 502. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.  
Sec. 503. Protecting the information technology supply chain of the United States.  
Sec. 504. Notification regarding the authorized public disclosure of national intelligence.  
Sec. 505. Technical amendments related to the Office of the Director of National Intelligence.  
Sec. 506. Technical amendment for definition of intelligence agency.  
Sec. 507. Budgetary effects.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term “congressional intelligence committees” means—

(A) the Select Committee on Intelligence of the Senate;  
and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

## **TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS**

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2013 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Office of the Director of National Intelligence.
- (2) The Central Intelligence Agency.
- (3) The Department of Defense.
- (4) The Defense Intelligence Agency.
- (5) The National Security Agency.
- (6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (7) The Coast Guard.
- (8) The Department of State.
- (9) The Department of the Treasury.
- (10) The Department of Energy.
- (11) The Department of Justice.
- (12) The Federal Bureau of Investigation.
- (13) The Drug Enforcement Administration.
- (14) The National Reconnaissance Office.
- (15) The National Geospatial-Intelligence Agency.
- (16) The Department of Homeland Security.

**SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL LEVELS.—The amounts authorized to be appropriated under section 101 and, subject to section 103, the authorized personnel ceilings as of September 30, 2013, for the conduct of the intelligence activities of the elements listed in paragraphs (1) through (16) of section 101, are those specified in the classified Schedule of Authorizations prepared to accompany the bill S. 3454 of the One Hundred Twelfth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—

(1) AVAILABILITY TO COMMITTEES OF CONGRESS.—The classified Schedule of Authorizations referred to in subsection (a) shall be made available to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and to the President.

(2) DISTRIBUTION BY THE PRESIDENT.—Subject to paragraph (3), the President shall provide for suitable distribution of the

classified Schedule of Authorizations, or of appropriate portions of the Schedule, within the executive branch.

(3) LIMITS ON DISCLOSURE.—The President shall not publicly disclose the classified Schedule of Authorizations or any portion of such Schedule except—

(A) as provided in section 601(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (50 U.S.C. 415c);

(B) to the extent necessary to implement the budget; or

(C) as otherwise required by law.

#### **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

Determination.

(a) AUTHORITY FOR INCREASES.—The Director of National Intelligence may authorize the employment of civilian personnel in excess of the number of positions for fiscal year 2013 authorized by the classified Schedule of Authorizations referred to in section 102(a) if the Director of National Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 3 percent of the number of civilian personnel authorized under such section for such element.

Guidelines.

(b) TREATMENT OF CERTAIN PERSONNEL.—The Director of National Intelligence shall establish guidelines that govern, for each element of the intelligence community, the treatment under the personnel levels authorized under section 102(a), including any exemption from such personnel levels, of employment or assignment in—

(1) a student program, trainee program, or similar program;

(2) a reserve corps or as a reemployed annuitant; or

(3) details, joint duty, or long term, full-time training.

Deadline.

(c) NOTICE TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—The Director of National Intelligence shall notify the congressional intelligence committees in writing at least 15 days prior to the initial exercise of an authority described in subsection (a).

#### **SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2013 the sum of \$540,721,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2014.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 835 positions as of September 30, 2013. Personnel serving in such elements may be permanent employees of the Office of the Director of National Intelligence or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are authorized to be appropriated for the Community Management

Account for fiscal year 2013 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for advanced research and development shall remain available until September 30, 2014.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2013, there are authorized such additional personnel for the Community Management Account as of that date as are specified in the classified Schedule of Authorizations referred to in section 102(a).

## **TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DIS- ABILITY SYSTEM**

### **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2013 the sum of \$514,000,000.

## **TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS**

### **SEC. 301. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.**

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

### **SEC. 302. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.**

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

### **SEC. 303. NON-REIMBURSABLE DETAILS.**

Section 113A of the National Security Act of 1947 (50 U.S.C. 404h–1) is amended—

(1) by striking “two years.” and inserting “three years.”; and

(2) by adding at the end “A non-reimbursable detail made under this section shall not be considered an augmentation of the appropriations of the receiving element of the intelligence community.”.

### **SEC. 304. AUTOMATED INSIDER THREAT DETECTION PROGRAM.**

Section 402 of the Intelligence Authorization Act for Fiscal Year 2011 (Public Law 112–18; 50 U.S.C. 403–1 note) is amended—

(1) in subsection (a), by striking “October 1, 2012,” and inserting “October 1, 2013,”; and

(2) in subsection (b), by striking “October 1, 2013,” and inserting “October 1, 2014,”.

**SEC. 305. SOFTWARE LICENSING.**

Deadline.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each chief information officer for an element of the intelligence community, in consultation with the Chief Information Officer of the Intelligence Community, shall—

Inventory.

(1) conduct an inventory of software licenses held by such element, including utilized and unutilized licenses; and

Reports.

(2) report the results of such inventory to the Chief Information Officer of the Intelligence Community.

(b) REPORTING TO CONGRESS.—The Chief Information Officer of the Intelligence Community shall—

(1) not later than 180 days after the date of the enactment of this Act, provide to the congressional intelligence committees a copy of each report received by the Chief Information Officer under subsection (a)(2), along with any comments the Chief Information Officer wishes to provide; and

(2) transmit any portion of a report submitted under paragraph (1) involving a component of a department of the United States Government to the committees of the Senate and of the House of Representatives with jurisdiction over such department simultaneously with submission of such report to the congressional intelligence committees.

President.  
Schedule.  
50 USC 435b  
note.

**SEC. 306. STRATEGY FOR SECURITY CLEARANCE RECIPROCITY.**

(a) STRATEGY.—The President shall develop a strategy and a schedule for carrying out the requirements of section 3001(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b(d)). Such strategy and schedule shall include—

(1) a process for accomplishing the reciprocity required under such section for a security clearance issued by a department or agency of the Federal Government, including reciprocity for security clearances that are issued to both persons who are and who are not employees of the Federal Government; and

(2) a description of the specific circumstances under which a department or agency of the Federal Government may not recognize a security clearance issued by another department or agency of the Federal Government.

Deadline.

(b) CONGRESSIONAL NOTIFICATION.—Not later than 180 days after the date of the enactment of this Act, the President shall inform Congress of the strategy and schedule developed under subsection (a).

Deadlines.

**SEC. 307. IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT OF 2010 COMPLIANCE.**

(a) PLAN FOR COMPLIANCE.—

(1) IN GENERAL.—The Director of National Intelligence, the Director of the Central Intelligence Agency, the Director of the Defense Intelligence Agency, the Director of the National Geospatial-Intelligence Agency, and the Director of the National Security Agency shall each develop a corrective action plan, with major milestones, that delineates how the Office of the Director of National Intelligence and each such Agency will achieve compliance, not later than September 30, 2013, with the Improper Payments Elimination and Recovery Act of 2010

(Public Law 111–204; 124 Stat. 2224), and the amendments made by that Act.

(2) **SUBMISSION TO CONGRESS.**—Not later than 45 days after the date of the enactment of this Act—

(A) each Director referred to in paragraph (1) shall submit to the congressional intelligence committees the corrective action plan required by such paragraph; and

(B) the Director of the Defense Intelligence Agency, the Director of the National Geospatial-Intelligence Agency, and the Director of the National Security Agency shall each submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the corrective action plan required by paragraph (1) with respect to the applicable Agency.

(b) **REVIEW BY INSPECTORS GENERAL.**—

Assessment.

(1) **IN GENERAL.**—Not later than 45 days after the completion of a corrective action plan required by subsection (a)(1), the Inspector General of each Agency required to develop such a plan, and in the case of the Director of National Intelligence, the Inspector General of the Intelligence Community, shall provide to the congressional intelligence committees an assessment of such plan that includes—

(A) the assessment of the Inspector General of whether such Agency or Office is or is not likely to reach compliance with the requirements of the Improper Payments Elimination and Recovery Act of 2010 (Public Law 111–204; 124 Stat. 2224), and the amendments made by that Act, by September 30, 2013; and

(B) the basis of the Inspector General for such assessment.

(2) **ADDITIONAL SUBMISSION OF REVIEWS OF CERTAIN INSPECTORS GENERAL.**—Not later than 45 days after the completion of a corrective action plan required by subsection (a)(1), the Inspector General of the Defense Intelligence Agency, the Inspector General of the National Geospatial-Intelligence Agency, and the Inspector General of the National Security Agency shall each submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the assessment of the applicable plan provided to the congressional intelligence committees under paragraph (1).

#### **SEC. 308. SUBCONTRACTOR NOTIFICATION PROCESS.**

Not later than October 1, 2013, the Director of National Intelligence shall submit to the congressional intelligence committees a report assessing the method by which contractors at any tier under a contract entered into with an element of the intelligence community are granted security clearances and notified of classified contracting opportunities within the Federal Government and recommendations for the improvement of such method. Such report shall include—

Deadline.  
Reports.

(1) an assessment of the current method by which contractors at any tier under a contract entered into with an element of the intelligence community are notified of classified contracting opportunities;

(2) an assessment of any problems that may reduce the overall effectiveness of the ability of the intelligence community

Assessments.  
Recommendations.

to identify appropriate contractors at any tier under such a contract;

(3) an assessment of the role the existing security clearance process has in enhancing or hindering the ability of the intelligence community to notify such contractors of contracting opportunities;

(4) an assessment of the role the current security clearance process has in enhancing or hindering the ability of contractors at any tier under a contract entered into with an element of the intelligence community to execute classified contracts;

(5) a description of the method used by the Director of National Intelligence for assessing the effectiveness of the notification process of the intelligence community to produce a talented pool of subcontractors;

(6) a description of appropriate goals, schedules, milestones, or metrics used to measure the effectiveness of such notification process; and

(7) recommendations for improving such notification process.

#### **SEC. 309. MODIFICATION OF REPORTING SCHEDULE.**

(a) INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.—Section 103H(k)(1)(A) of the National Security Act of 1947 (50 U.S.C. 403–3h(k)(1)(A)) is amended—

(1) by striking “January 31 and July 31” and inserting “October 31 and April 30”; and

(2) by striking “December 31 (of the preceding year) and June 30,” and inserting “September 30 and March 31,”.

(b) INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.—

(1) IN GENERAL.—Section 17(d)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(1)) is amended—

(A) by striking “January 31 and July 31” and inserting “October 31 and April 30”;

(B) by striking “December 31 (of the preceding year) and June 30,” and inserting “September 30 and March 31,”; and

(C) by striking “Not later than the dates each year provided for the transmittal of such reports in section 507 of the National Security Act of 1947,” and inserting “Not later than 30 days after the date of the receipt of such reports,”.

(2) CONFORMING AMENDMENTS.—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 415b(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

#### **SEC. 310. REPEAL OF CERTAIN REPORTING REQUIREMENTS.**

(a) REPEAL OF REPORTING REQUIREMENTS.—

(1) ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.—Section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (50 U.S.C. 2366) is repealed.

(2) SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.—Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

(A) by striking subsections (a) and (d); and



(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(3) INTELLIGENCE COMMUNITY BUSINESS SYSTEMS BUDGET INFORMATION.—Section 506D of the National Security Act of 1947 (50 U.S.C. 415a–6) is amended by striking subsection (e).

(4) MEASURES TO PROTECT THE IDENTITIES OF COVERT AGENTS.—Title VI of the National Security Act of 1947 (50 U.S.C. 421 et seq.) is amended—

(A) by striking section 603; and

50 USC 423.

(B) by redesignating sections 604, 605, and 606 as sections 603, 604, and 605, respectively.

50 USC 424–426.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REPORT SUBMISSION DATES.—Section 507 of the National Security Act of 1947 (50 U.S.C. 415b) is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking subparagraphs (A), (C), and (D);

(II) by redesignating subparagraphs (B), (E), (F), (G), (H), and (I) as subparagraphs (A), (B), (C), (D), (E), and (F), respectively; and

(III) in subparagraph (D), as so redesignated, by striking “section 114(c).” and inserting “section 114(a).”; and

(ii) by amending paragraph (2) to read as follows:

“(2) The date for the submittal to the congressional intelligence committees of the annual report on the threat of attack on the United States from weapons of mass destruction required by section 114(b) shall be the date each year provided in subsection (c)(1)(B).”;

(B) in subsection (c)(1)(B), by striking “each” and inserting “the”; and

(C) in subsection (d)(1)(B), by striking “an” and inserting “the”.

(2) TABLE OF CONTENTS OF THE NATIONAL SECURITY ACT OF 1947.—The table of contents in the first section of the National Security Act of 1947 is amended by striking the items relating to sections 603, 604, 605, and 606 and inserting the following new items:

“Sec. 603. Extraterritorial jurisdiction.

“Sec. 604. Providing information to Congress.

“Sec. 605. Definitions.”.

## TITLE IV—MATTERS RELATING TO THE CENTRAL INTELLIGENCE AGENCY

### SEC. 401. WORKING CAPITAL FUND AMENDMENTS.

Section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended as follows:

(1) In subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C), by striking “program.” and inserting “program; and”; and

(iii) by adding at the end the following:

“(D) authorize such providers to make known their services to the entities specified in section (a) through Government communication channels.”; and

(B) by adding at the end the following:

“(3) The authority in paragraph (1)(D) does not include the authority to distribute gifts or promotional items.”; and

(2) in subsection (c)—

(A) in paragraph (2)(E), by striking “from the sale or exchange of equipment or property of a central service provider” and inserting “from the sale or exchange of equipment, recyclable materials, or property of a central service provider.”; and

(B) in paragraph (3)(B), by striking “subsection (f)(2)” and inserting “subsections (b)(1)(D) and (f)(2)”.

## TITLE V—OTHER MATTERS

6 USC 121a.

### SEC. 501. HOMELAND SECURITY INTELLIGENCE PROGRAM.

There is established within the Department of Homeland Security a Homeland Security Intelligence Program. The Homeland Security Intelligence Program constitutes the intelligence activities of the Office of Intelligence and Analysis of the Department that serve predominantly departmental missions.

### SEC. 502. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

Section 1007(a) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note) is amended by striking “Not later than one year after the date on which all members of the Commission are appointed pursuant to section 701(a)(3) of the Intelligence Authorization Act for Fiscal Year 2010,” and inserting “Not later than March 31, 2013,”.

### SEC. 503. PROTECTING THE INFORMATION TECHNOLOGY SUPPLY CHAIN OF THE UNITED STATES.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report that—

(1) identifies foreign suppliers of information technology (including equipment, software, and services) that are linked directly or indirectly to a foreign government, including—

(A) by ties to the military forces of a foreign government;

(B) by ties to the intelligence services of a foreign government; or

(C) by being the beneficiaries of significant low interest or no interest loans, loan forgiveness, or other support by a foreign government; and

(2) assesses the vulnerability to malicious activity, including cyber crime or espionage, of the telecommunications networks of the United States due to the presence of technology produced by suppliers identified under paragraph (1).

(b) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

Assessment.

(c) **TELECOMMUNICATIONS NETWORKS OF THE UNITED STATES DEFINED.**—In this section, the term “telecommunications networks of the United States” includes—

- (1) telephone systems;
- (2) Internet systems;
- (3) fiber optic lines, including cable landings;
- (4) computer networks; and
- (5) smart grid technology under development by the Department of Energy.

**SEC. 504. NOTIFICATION REGARDING THE AUTHORIZED PUBLIC DISCLOSURE OF NATIONAL INTELLIGENCE.**

(a) **NOTIFICATION.**—In the event of an authorized disclosure of national intelligence or intelligence related to national security to the persons or entities described in subsection (b), the government official responsible for authorizing the disclosure shall submit to the congressional intelligence committees on a timely basis a notification of the disclosure if—

- (1) at the time of the disclosure—
  - (A) such intelligence is classified; or
  - (B) is declassified for the purpose of the disclosure;
- and
- (2) the disclosure will be made by an officer, employee, or contractor of the Executive branch.

(b) **PERSONS OR ENTITIES DESCRIBED.**—The persons or entities described in this subsection are as follows:

- (1) Media personnel.
- (2) Any person or entity, if the disclosure described in subsection (a) is made with the intent or knowledge that such information will be made publicly available.

(c) **CONTENT.**—Each notification required under subsection (a) shall—

- (1) provide the specific title and authority of the individual authorizing the disclosure;
- (2) if applicable, provide the specific title and authority of the individual who authorized the declassification of the intelligence disclosed; and
- (3) describe the intelligence disclosed, including the classification of the intelligence prior to its disclosure or declassification and the rationale for making the disclosure.

(d) **EXCEPTION.**—The notification requirement in this section does not apply to a disclosure made—

- (1) pursuant to any statutory requirement, including to section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”);
- (2) in connection with a civil, criminal, or administrative proceeding;
- (3) as a result of a declassification review process under Executive Order 13526 (50 U.S.C. 435 note) or any successor order; or
- (4) to any officer, employee, or contractor of the Federal government or member of an advisory committee to an element of the intelligence community who possesses an active security clearance and a need to know the specific national intelligence or intelligence related to national security, as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5)).

(e) **SUNSET.**—The notification requirements of this section shall cease to be effective for any disclosure described in subsection (a) that occurs on or after the date that is one year after the date of the enactment of this Act.

**SEC. 505. TECHNICAL AMENDMENTS RELATED TO THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

(a) **PERSONNEL PRACTICES.**—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

“(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

Determination.  
President.

“(II) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, provided that the determination be made prior to a personnel action; or”.

(b) **SENIOR EXECUTIVE SERVICE.**—Section 3132(a)(1)(B) of title 5, United States Code, is amended by inserting “the Office of the Director of National Intelligence,” after “the Central Intelligence Agency,”.

**SEC. 506. TECHNICAL AMENDMENT FOR DEFINITION OF INTELLIGENCE AGENCY.**

Section 606(5) of the National Security Act of 1947 (50 U.S.C. 426) is amended to read as follows:

“(5) The term ‘intelligence agency’ means the elements of the intelligence community, as that term is defined in section 3(4).”.

**SEC. 507. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the

Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Approved January 14, 2013.

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LEGISLATIVE HISTORY—S. 3454:

HOUSE REPORTS: No. 112–192 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 158 (2012):

Dec. 28, considered and passed Senate.

Dec. 31, considered and passed House.



Public Law 112–278  
112th Congress

An Act

Jan. 14, 2013  
[S. 3472]

To amend the Family Educational Rights and Privacy Act of 1974 to provide improvements to such Act.

Uninterrupted  
Scholars  
Act (USA).  
20 USC 1221  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Uninterrupted Scholars Act (USA)”.

**SEC. 2. FAMILY EDUCATIONAL RIGHTS AND PRIVACY.**

Section 444(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)) (commonly known as the “Family Educational Rights and Privacy Act of 1974”) is amended—

(1) in paragraph (1)—

(A) in subparagraph (J)(ii), by striking “and” after the semicolon at the end;

(B) in subparagraph (K)(ii), by striking the period at the end and inserting “; and”; and

(C) by inserting after subparagraph (K), the following:

“(L) an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), who has the right to access a student’s case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student’s education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State or tribal laws applicable to protecting the confidentiality of a student’s education records.”; and

(2) in paragraph (2)(B), by inserting “, except when a parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note)) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the educational agency or

institution is not required” after “educational institution or agency”.

Approved January 14, 2013.

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LEGISLATIVE HISTORY—S. 3472:

CONGRESSIONAL RECORD:

Vol. 158 (2012): Dec. 17, considered and passed Senate.

Dec. 30, considered in House.

Vol. 158 (2013): Jan. 1, considered and passed House.



Public Law 112–279  
112th Congress

An Act

Jan. 14, 2013  
[S. 3630]

To designate the facility of the United States Postal Service located at 218 North Milwaukee Street in Waterford, Wisconsin, as the “Captain Rhett W. Schiller Post Office”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CAPTAIN RHETT W. SCHILLER POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 218 North Milwaukee Street in Waterford, Wisconsin, shall be known and designated as the “Captain Rhett W. Schiller Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Captain Rhett W. Schiller Post Office”.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—S. 3630:**

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Dec. 19, considered and passed Senate.  
Vol. 158 (2013): Jan. 1, considered and passed House.





Public Law 112–280  
112th Congress

An Act

To designate the facility of the United States Postal Service located at 6 Nichols Street in Westminister, Massachusetts, as the “Lieutenant Ryan Patrick Jones Post Office Building”.

Jan. 14, 2013  
[S. 3662]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Lieutenant Ryan Patrick Jones Post Office Designation Act”.

Lieutenant Ryan  
Patrick Jones  
Post Office  
Designation Act.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) First Lieutenant Ryan Patrick Jones volunteered to serve the United States in the Army.

(2) Lieutenant Jones earned his rank, the Army Achievement Medal, the Purple Heart, the Bronze Star, the Iraqi Freedom Medal, the Combat Action Badge, and the War on Terrorism Badge through his dedication to the highest ideals of the United States.

(3) Lieutenant Jones chose from a young age to generously volunteer his talents to his community, and was recognized with academic, social, and athletic leadership positions throughout his life.

(4) Lieutenant Jones committed himself to excellence in all aspects of his life, including earning a Bachelor of Science degree, with honors, in civil and environmental engineering.

(5) While earning his engineering degree at Worcester Polytechnic Institute, Lieutenant Jones was awarded a Reserve Officers’ Training Corps scholarship.

(6) Lieutenant Jones faithfully and expertly led his fellow soldiers as a platoon leader in the Army’s First Infantry Division while deployed to Iraq in 2007.

(7) Lieutenant Jones made the ultimate sacrifice for the United States on May 2, 2007, when he was killed in action by an improvised explosive device set by the enemy.

(8) Lieutenant Jones’ life of service, courage, and honor was made possible by his dedicated parents, Mr. Kevin Jones and Mrs. Elaine Jones, who reside in Westminister, Massachusetts.

(9) Mr. and Mrs. Jones organized the shipment of supplies to soldiers serving alongside their son, thereby supporting the morale of the members of the Armed Forces.

(10) Before entering combat, Lieutenant Jones made arrangements to ensure that his life insurance policy proceeds

would become a scholarship fund to benefit others, a request that Mr. and Mrs. Jones fulfilled.

(11) Lieutenant Jones is remembered by his family, his friends, and the people of the United States as a role model for his fellow citizens to emulate.

(12) Lieutenant Jones' spirit of generosity has been commemorated by organizations ranging from the Commonwealth of Massachusetts to the Boston Celtics.

(13) It is fitting that the life of Lieutenant Jones should be further memorialized for future generations by naming the post office in Westminster, Massachusetts, in his honor.

**SEC. 3. LIEUTENANT RYAN PATRICK JONES POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 6 Nichols Street in Westminster, Massachusetts, shall be known and designated as the “Lieutenant Ryan Patrick Jones Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lieutenant Ryan Patrick Jones Post Office Building”.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—S. 3662:**

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Dec. 19, considered and passed Senate.

Vol. 158 (2013): Jan. 1, considered and passed House.



Public Law 112–281  
112th Congress

An Act

To make a technical correction to the Flood Disaster Protection Act of 1973.

Jan. 14, 2013

[S. 3677]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTION.**

Section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)(A)) is amended by inserting “residential” before “improved real estate” each place that term appears.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—S. 3677:**

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Dec. 12, considered and passed Senate.

Vol. 158 (2013): Jan. 1, considered and passed House.



Public Law 112–282  
112th Congress

Joint Resolution

Jan. 14, 2013  
[S.J. Res. 44]

Granting the consent of Congress to the State and Province Emergency Management Assistance Memorandum of Understanding.

State listing.  
Canada.  
Disaster  
assistance.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONGRESSIONAL CONSENT.**

Congress consents to the State and Province Emergency Management Assistance Memorandum of Understanding entered into between States of Illinois, Indiana, Ohio, Michigan, Minnesota, Montana, North Dakota, Pennsylvania, New York, and Wisconsin, and the Canadian Provinces of Alberta, Manitoba, Ontario, and Saskatchewan. The compact is substantially as follows:

“ARTICLE I—PURPOSE AND AUTHORITIES

Definition.

“The State and Province Emergency Management Assistance Memorandum of Understanding, hereinafter referred to as the ‘compact’, is made and entered into by and among such of the jurisdictions as shall enact or adopt this compact, hereinafter referred to as ‘participating jurisdictions’. For the purposes of this compact, the term ‘jurisdictions’ may include any or all of the States of Illinois, Indiana, Ohio, Michigan, Minnesota, Montana, North Dakota, Pennsylvania, New York, and Wisconsin, and the Canadian Provinces of Alberta, Manitoba, Ontario, and Saskatchewan, and such other States and provinces as may hereafter become a party to this compact. The term ‘States’ means the several States, the Commonwealth of Puerto Rico, the District of Columbia, and all territorial possessions of the United States. The term ‘Province’ means the 10 political units of government within Canada.

“The purpose of this compact is to provide for the possibility of mutual assistance among the participating jurisdictions in managing any emergency or disaster when the affected jurisdiction or jurisdictions ask for assistance, whether arising from natural disaster, technological hazard, manmade disaster or civil emergency aspects of resources shortages.

“This compact also provides for the process of planning mechanisms among the agencies responsible and for mutual cooperation, including civil emergency preparedness exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by participating jurisdictions or subdivisions of participating jurisdictions during emergencies, with such actions occurring outside emergency periods.

## “ARTICLE II—GENERAL IMPLEMENTATION

“Each participating jurisdiction entering into this compact recognizes that many emergencies may exceed the capabilities of a participating jurisdiction and that intergovernmental cooperation is essential in such circumstances. Each participating jurisdiction further recognizes that there will be emergencies that may require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency because few, if any, individual jurisdictions have all the resources they need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

“On behalf of the participating jurisdictions in the compact, the legally designated official who is assigned responsibility for emergency management is responsible for formulation of the appropriate inter-jurisdictional mutual aid plans and procedures necessary to implement this compact, and for recommendations to the participating jurisdiction concerned with respect to the amendment of any statutes, regulations, or ordinances required for that purpose.

## “ARTICLE III—PARTICIPATING JURISDICTION RESPONSIBILITIES

“(a) FORMULATE PLANS AND PROGRAMS.—It is the responsibility of each participating jurisdiction to formulate procedural plans and programs for inter-jurisdictional cooperation in the performance of the responsibilities listed in this section. In formulating and implementing such plans and programs the participating jurisdictions, to the extent practical, may—

“(1) share and review individual jurisdiction hazards analyses that are available and determine all those potential emergencies the participating jurisdictions might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster or emergency aspects of resource shortages;

“(2) share emergency operations plans, procedures, and protocols established by each of the participating jurisdictions before entering into this compact;

“(3) share policies and procedures for resource mobilization, tracking, demobilization, and reimbursement;

“(4) consider joint planning, training, and exercises;

“(5) assist with alerts, notifications, and warnings for communities adjacent to or crossing participating jurisdiction boundaries;

“(6) consider procedures to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment, or other resources into or across boundaries, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating jurisdictions; and

“(7) provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that impeded the implementation of responsibilities described in this section.

“(b) REQUEST ASSISTANCE.—The authorized representative of a participating jurisdiction may request assistance of another participating jurisdiction by contacting the authorized representative of that jurisdiction. These provisions only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request must be confirmed

Applicability.

Deadline.

in writing within 15 days of the verbal request. Requests must provide the following information:

“(1) A description of the emergency service function for which assistance is needed and of the mission or missions, including but not limited to fire services, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

“(2) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed.

“(3) The specific place and time for staging of the assisting participating jurisdictions’s response and a point of contact at the location.

“(c) CONSULTATION AMONG PARTICIPATING JURISDICTION OFFICIALS.—There shall be periodic consultation among the authorized representatives who have assigned emergency management responsibilities.

#### “ARTICLE IV—LIMITATION

“It is recognized that any participating jurisdiction that agrees to render mutual aid or conduct exercises and training for mutual aid will respond as soon as possible. It is also recognized that the participating jurisdiction rendering aid may withhold or recall resources to provide reasonable protection for itself, at its discretion. To the extent authorized by law, each participating jurisdiction will afford to the personnel of the emergency contingent of any other participating jurisdiction while operating within its jurisdiction limits under the terms and conditions of this agreement and under the operational control of an officer of the requesting participating jurisdiction the same treatment as is afforded similar or like human resources of the participating jurisdiction in which they are performing emergency services. Staff comprising the emergency contingent continue under the command and control of their regular leaders but the organizational units come under the operational control of the emergency services authorities of the participating jurisdiction receiving assistance. These conditions may be activated, as needed, by the participating jurisdiction that is to receive assistance or upon commencement of exercises or training for mutual aid and continue as long as the exercises or training for mutual aid are in progress, the emergency or disaster remains in effect or loaned resources remain in the receiving participating jurisdictions, whichever is longer. The receiving participating jurisdiction is responsible for informing the assisting participating jurisdiction when services will no longer be required.

#### “ARTICLE V—LICENSES AND PERMITS

“Whenever a person holds a license, certificate, or other permit issued by any participating jurisdiction evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving participating jurisdiction, such person is deemed to be licensed, certified, or permitted by the jurisdiction requesting assistance to render aid involving such skill to meet an emergency or disaster, subject

to such limitations and conditions as the requesting jurisdiction prescribes by Executive order or otherwise.

“ARTICLE VI—LIABILITY

“Any person or entity of a participating jurisdiction rendering aid in another jurisdiction pursuant to this compact is considered an agent of the requesting jurisdiction for tort liability and immunity purposes. Any person or entity rendering aid in another jurisdiction pursuant to this compact is not liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

“ARTICLE VII—SUPPLEMENTARY AGREEMENTS

“Because it is probable that the pattern and detail of the compact for mutual aid among 2 or more participating jurisdictions may differ from that among the participating jurisdictions that are party to this compact, this compact contains elements of a broad base common to all participating jurisdictions, and nothing in this compact precludes any participating jurisdiction from entering into supplementary agreements with another jurisdiction or affects any other agreements already in force among participating jurisdictions.

“Supplementary agreements may include, but are not limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, public utility, reconnaissance, welfare, transportation and communications personnel, equipment, and supplies.

“ARTICLE VIII—WORKERS’ COMPENSATION AND DEATH BENEFITS

“Each participating jurisdiction shall provide, in accordance with its own laws, for the payment of workers’ compensation and death benefits to injured members of the emergency contingent of that participating jurisdiction and to representatives of deceased members of those forces if the members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

“ARTICLE IX—REIMBURSEMENT

“Any participating jurisdiction rendering aid in another jurisdiction pursuant to this compact shall, if requested, be reimbursed by the participating jurisdiction receiving such aid for any loss or damage to, or expense incurred in, the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with those requests. An aiding participating jurisdiction may assume in whole or in part any such loss, damage, expense, or other cost or may loan such equipment or donate such services to the receiving participating jurisdiction without charge or cost. Any 2 or more participating jurisdictions may enter into supplementary agreements

establishing a different allocation of costs among those jurisdictions. Expenses under article VIII are not reimbursable under this section.

“ARTICLE X—IMPLEMENTATION

“(a) This compact is effective upon its execution or adoption by any 1 State and 1 province, and is effective as to any other jurisdiction upon its execution or adoption thereby: subject to approval or authorization by the United States Congress, if required, and subject to enactment of provincial or State legislation that may be required for the effectiveness of the Memorandum of Understanding.

“(b) Additional jurisdictions may participate in this compact upon execution or adoption thereof.

Effective date.  
Notification.

“(c) Any participating jurisdiction may withdraw from this compact, but the withdrawal does not take effect until 30 days after the governor or premier of the withdrawing jurisdiction has given notice in writing of such withdrawal to the governors or premiers of all other participating jurisdictions. The action does not relieve the withdrawing jurisdiction from obligations assumed under this compact prior to the effective date of withdrawal.

“(d) Duly authenticated copies of this compact in the French and English languages and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the participating jurisdictions.

“ARTICLE XI—SEVERABILITY

“This compact is construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional or the applicability of the compact to any person or circumstances is held invalid, the validity of the remainder of this compact and the applicability of the compact to other persons and circumstances are not affected.

“ARTICLE XII—CONSISTENCY OF LANGUAGE

“The validity of the arrangements and agreements consented to in this compact shall not be affected by any insubstantial difference in form or language as may be adopted by the various states and provinces.”.

**SEC. 2. INCONSISTENCY OF LANGUAGE.**

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.



**SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.**

The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved January 14, 2013.

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**LEGISLATIVE HISTORY—S.J. Res. 44:**

**CONGRESSIONAL RECORD:**

Vol. 158 (2012): Sept. 13, considered and passed Senate.

Dec. 30, considered in House.

Vol. 158 (2013): Jan. 1, considered and passed House.



Public Law 112–283  
112th Congress

An Act

Jan. 15, 2013  
[S. 2318]

Department of  
State Rewards  
Program Update  
and Technical  
Corrections Act  
of 2012.  
22 USC 2651  
note.  
22 USC 2708  
note.

To authorize the Secretary of State to pay a reward to combat transnational organized crime and for information concerning foreign nationals wanted by international criminal tribunals, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Department of State Rewards Program Update and Technical Corrections Act of 2012”.

**SEC. 2. FINDINGS; SENSE OF CONGRESS.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) The Department of State’s existing rewards programs permit the payment of reward for information leading to the arrest or conviction of—

(A) individuals who have committed, or attempted or conspired to commit, certain acts of international terrorism;

(B) individuals who have committed, or attempted or conspired to commit, certain narcotics-related offenses; and

(C) individuals who have been indicted by certain international criminal tribunals.

(2) The Department of State considers the rewards program to be “one of the most valuable assets the U.S. Government has in the fight against international terrorism”. Since the program’s inception in 1984, the United States Government has rewarded over 60 people who provided actionable information that, according to the Department of State, prevented international terrorist attacks or helped convict individuals involved in terrorist attacks.

(3) The program has been credited with providing information in several high-profile cases, including the arrest of Ramzi Yousef, who was convicted in the 1993 bombing of the World Trade Center, the deaths of Uday and Qusay Hussein, who United States military forces located and killed in Iraq after receiving information about their locations, and the arrests or deaths of several members of the Abu Sayyaf group, believed to be responsible for the kidnappings and deaths of United States citizens and Filipinos in the Philippines.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the rewards program of the Department of State should be expanded in order to—

(1) address the growing threat to important United States interests from transnational criminal activity, such as intellectual property rights piracy, money laundering, trafficking in persons, arms trafficking, and cybercrime; and

(2) target other individuals indicted by international, hybrid, or mixed tribunals for genocide, war crimes, or crimes against humanity.

### SEC. 3. ENHANCED REWARDS AUTHORITY.

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended—

(1) in subsection (a)(2), by inserting “serious violations of international humanitarian law, transnational organized crime,” after “international narcotics trafficking,”;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “Attorney General” and inserting “heads of other relevant departments or agencies”;

(B) in paragraphs (4) and (5), by striking “paragraph (1), (2), or (3)” both places it appears and inserting “paragraph (1), (2), (3), (8), or (9)”;

(C) in paragraph (6)—

(i) by inserting “or transnational organized crime group” after “terrorist organization”; and

(ii) by striking “or” at the end;

(D) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking “, including the use by the organization of illicit narcotics production or international narcotics trafficking” and inserting “or transnational organized crime group, including the use by such organization or group of illicit narcotics production or international narcotics trafficking”;

(ii) in subparagraph (A), by inserting “or transnational organized crime” after “international terrorism”; and

(iii) in subparagraph (B)—

(I) by inserting “or transnational organized crime group” after “terrorist organization”; and

(II) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following new paragraphs:

“(8) the arrest or conviction in any country of any individual for participating in, primarily outside the United States, transnational organized crime;

“(9) the arrest or conviction in any country of any individual conspiring to participate in or attempting to participate in transnational organized crime; or

“(10) the arrest or conviction in any country, or the transfer to or conviction by an international criminal tribunal (including a hybrid or mixed tribunal), of any foreign national accused of war crimes, crimes against humanity, or genocide, as defined under the statute of such tribunal.”;

(3) in subsection (g), by adding at the end the following new paragraph:

“(3) ADVANCE NOTIFICATION FOR INTERNATIONAL CRIMINAL TRIBUNAL REWARDS.—Not less than 15 days before publicly

Deadline.  
Reports.

announcing that a reward may be offered for a particular foreign national accused of war crimes, crimes against humanity, or genocide, the Secretary of State shall submit to the appropriate congressional committees a report, which may be submitted in classified form if necessary, setting forth the reasons why the arrest or conviction of such foreign national is in the national interests of the United States.”; and

(4) in subsection (k)—

(A) by redesignating paragraphs (5) and (6) as paragraphs (7) and (8), respectively; and

(B) by inserting after paragraph (4) the following new paragraphs:

Definition.

“(5) **TRANSNATIONAL ORGANIZED CRIME.**—The term ‘transnational organized crime’ means—

“(A) racketeering activity (as such term is defined in section 1961 of title 18, United States Code) that involves at least one jurisdiction outside the United States; or

“(B) any other criminal offense punishable by a term of imprisonment of at least four years under Federal, State, or local law that involves at least one jurisdiction outside the United States and that is intended to obtain, directly or indirectly, a financial or other material benefit.

Definition.

“(6) **TRANSNATIONAL ORGANIZED CRIME GROUP.**—The term ‘transnational organized crime group’ means a group of persons that includes one or more citizens of a foreign country, exists for a period of time, and acts in concert with the aim of engaging in transnational organized crime.”.

#### **SEC. 4. TECHNICAL CORRECTION.**

Section 36(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended by striking “The Secretary shall authorize a reward of \$50,000,000 for the capture or death or information leading to the capture or death of Osama bin Laden.”.

22 USC 2708  
note.

#### **SEC. 5. RULE OF CONSTRUCTION.**

Nothing in this Act or the amendments made by this Act shall be construed as authorizing the use of activity precluded under the American Servicemembers’ Protection Act of 2002 (title II of Public Law 107–206; 22 U.S.C. 7421 et seq.).

22 USC 2708  
note.

#### **SEC. 6. FUNDING.**

The Secretary of State shall use amounts appropriated or otherwise made available to the Emergencies in the Diplomatic and Consular Services account of the Department of State to pay rewards authorized pursuant to this Act and to carry out other

activities related to such rewards authorized under section 36 of the State Department Basic Authorities Act (22 U.S.C. 2708).

Approved January 15, 2013.

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